
A BILL FOR AN ACT

RELATING TO TAXATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that, under certain
2 circumstances, allowing a private person to act as a tax
3 collection agent is likely to ease the burden of collecting
4 taxes. Section 237-9, Hawaii Revised Statutes, allows a person
5 engaged in network marketing, multi-level marketing, or other
6 similar business to enter into an agreement with the department
7 of taxation to act as a tax collection agent on behalf of its
8 direct sellers. The legislature finds that similarly allowing a
9 transient accommodations broker to act as a tax collection agent
10 on behalf of providers of transient accommodations that utilize
11 the services of the transient accommodations broker may
12 facilitate the collection of transient accommodations taxes and
13 general excise taxes.

14 The purpose of this Act is to allow a transient
15 accommodations broker to register to act as a tax collection
16 agent with respect to transient accommodations taxes and general
17 excise taxes for its operators and plan managers in a manner



1 that recognizes the dynamic changes that are occurring in the
2 transient accommodations business.

3 SECTION 2. Chapter 237, Hawaii Revised Statutes, is
4 amended by adding a new section to be appropriately designated
5 and to read as follows:

6 "§237- Transient accommodations broker as tax collection
7 agent. (a) The director may permit a transient accommodations
8 broker to register as a tax collection agent on behalf of all of
9 its operators and plan managers by entering into a tax
10 collection agreement with the director or by submitting a
11 transient accommodations broker tax collection agent
12 registration statement to the director.

13 The director may deny an application for registration as a
14 transient accommodations broker tax collection agent under this
15 section for any cause authorized by law, including but not
16 limited to any violation of this chapter or rules adopted
17 pursuant thereto, violation of any prior tax collection
18 agreement, or failure to meet minimum criteria that may be set
19 forth by the department in rules adopted pursuant to chapter 91.

20 Execution of a tax collection agreement shall not be a
21 requirement for registration as a transient accommodations



1 broker tax collection agent, but the director may enter into a
2 tax collection agreement that waives or modifies the duties and
3 responsibilities of the transient accommodations broker tax
4 collection agent under this section.

5 The director shall issue a certificate of registration or
6 letter of denial within thirty days after a transient
7 accommodations broker submits to the director a completed and
8 signed transient accommodations broker tax collection agent
9 registration statement, in a form prescribed by the department.

10 The registration shall be valid only for the transient
11 accommodations broker tax collection agent in whose name it is
12 issued, and for the website or platform designated therein, and
13 shall not be transferable.

14 A registered transient accommodations broker tax collection
15 agent shall be issued separate licenses under this chapter with
16 respect to taxes payable on behalf of its operators and plan
17 managers in its capacity as a registered transient
18 accommodations broker tax collection agent and, if applicable,
19 with respect to any taxes payable under this chapter for its own
20 business activities.



1 (b) In addition to its own responsibilities under this
2 chapter, a registered transient accommodations broker tax
3 collection agent shall report, collect, and pay over the taxes
4 due under this chapter on behalf of all of its operators and
5 plan managers from the date of registration until the
6 registration is canceled as provided in subsection (h); provided
7 that the registered transient accommodations broker tax
8 collection agent's obligation to report, collect, and pay taxes
9 on behalf of all of its operators and plan managers shall apply
10 solely to transient accommodations in the State arranged or
11 booked directly through the registered transient accommodations
12 broker tax collection agent.

13 (c) The registered transient accommodations broker tax
14 collection agent's operators and plan managers shall be deemed
15 licensed under this chapter; provided that the licensure shall
16 apply solely to the business activity conducted directly through
17 the registered transient accommodations broker tax collection
18 agent from the date of registration until the registration is
19 canceled as provided in subsection (h). For purposes of any
20 other business activity, the operators and plan managers are



1 subject to all requirements of title 14 as if this section did
2 not exist.

3 (d) Under this section, a registered transient
4 accommodations broker tax collection agent shall assume all
5 obligations, rights, and responsibilities imposed by this
6 chapter upon its operators and plan managers with respect to
7 their business activities conducted directly through the
8 registered transient accommodations broker tax collection agent
9 from the date of registration until the registration is canceled
10 as provided in subsection (h).

11 (e) A transient accommodations broker tax collection agent
12 shall be personally liable for the taxes imposed by this chapter
13 that are due and collected on behalf of operators and plan
14 managers, if taxes are collected, but not reported or paid,
15 together with penalties and interest as provided by law.

16 (f) All returns and other information provided by a
17 registered transient accommodations broker tax collection agent,
18 including the application for registration as a transient
19 accommodations broker tax collection agent or any tax collection
20 agreement, shall be confidential and disclosure thereof shall be
21 prohibited as provided in section 237-34; provided that no



1 disclosure of returns or information provided by the transient
2 accommodations broker tax collection agent with respect to its
3 operators and plan managers shall be made pursuant to section
4 237-34(b)(9), (10) or (11).

5 (g) A registered transient accommodations broker tax
6 collection agent shall not be required to disclose to the
7 director the names or addresses of any of its operators and plan
8 managers in connection with any return, reconciliation, payment,
9 or other filing by the registered transient accommodations
10 broker tax collection agent under this chapter; provided that
11 the name and address of an operator or plan manager shall be
12 disclosed in response to a lawful and valid subpoena or upon
13 waiver by the operator or plan manager.

14 (h) The registration provided for under this section shall
15 be effective until canceled in writing.

16 A registered transient accommodations broker tax collection
17 agent may cancel its registration under this section by
18 delivering written notice of cancellation to the director and
19 each of its operators and plan managers furnishing transient
20 accommodations in the State not later than ninety days prior to
21 the effective date of cancellation.



1 The director may cancel a transient accommodations broker
2 tax collection agent's registration under this section for any
3 cause, including but not limited to any violation of this
4 chapter or rules adopted pursuant thereto, or for violation of
5 any applicable tax collection agreement, by delivering written
6 notice of cancellation to the transient accommodations broker
7 tax collection agent not later than ninety days prior to the
8 effective date of cancellation.

9 (i) For the purposes of this section:

10 "Operator" has the same meaning as in section 237D-1.

11 "Plan manager" has the same meaning as in section 237D-1.

12 "Transient accommodations broker" has the same meaning as
13 in section 237D-1.

14 (j) All registered transient accommodations broker tax
15 collection agents shall:

16 (1) Prior to placing an advertisement, including an online
17 advertisement, on the availability of a property for
18 lease or rent on behalf of an operator or plan
19 manager, notify the operator or plan manager that the
20 subject property is required to be in compliance with



1 applicable land use laws prior to retaining the
 2 services of the transient accommodations broker; and
 3 (2) Require the operator or plan manager to attest that
 4 the subject property is in compliance with applicable
 5 land use laws."

6 SECTION 3. Chapter 237D, Hawaii Revised Statutes, is
 7 amended by adding a new section to be appropriately designated
 8 and to read as follows:

9 "§237D- Transient accommodations broker as tax
 10 collection agent. (a) The director may permit a transient
 11 accommodations broker to register as a tax collection agent on
 12 behalf of all of its operators and plan managers by entering
 13 into a tax collection agreement with the director or by
 14 submitting a transient accommodations broker tax collection
 15 agent registration statement to the director.

16 The director may deny an application for registration as a
 17 transient accommodations broker tax collection agent under this
 18 section for any cause authorized by law, including but not
 19 limited to any violation of this chapter or rules adopted
 20 pursuant thereto, violation of any prior tax collection



1 agreement, or failure to meet minimum criteria that may be set
2 forth by the department in rules adopted pursuant to chapter 91.

3 Execution of a tax collection agreement shall not be a
4 requirement for registration as a transient accommodations
5 broker tax collection agent, but the director may enter into a
6 tax collection agreement that waives or modifies the duties and
7 responsibilities of the transient accommodations broker tax
8 collection agent under this section.

9 The director shall issue a certificate of registration or
10 letter of denial within thirty days after a transient
11 accommodations broker submits to the director a completed and
12 signed transient accommodations broker tax collection agent
13 registration statement, in a form prescribed by the department.
14 The registration shall be valid only for the transient
15 accommodations broker tax collection agent in whose name it is
16 issued, and for the website or platform designated therein, and
17 shall not be transferable.

18 A registered transient accommodations broker tax collection
19 agent shall be issued separate certificates of registration
20 under this chapter with respect to taxes payable on behalf of
21 its operators and plan managers in its capacity as a registered



1 transient accommodations broker tax collection agent and, if
2 applicable, with respect to any taxes payable under this chapter
3 for its own business activities.

4 (b) In addition to its own responsibilities under this
5 chapter, a registered transient accommodations broker tax
6 collection agent shall report, collect, and pay over the taxes
7 due under this chapter on behalf of all of its operators and
8 plan managers from the date of registration until the
9 registration is canceled as provided in subsection (h); provided
10 that the registered transient accommodations broker tax
11 collection agent's obligation to report, collect, and pay taxes
12 on behalf of all of its operators and plan managers shall apply
13 solely to transient accommodations in the State arranged or
14 booked directly through the registered transient accommodations
15 broker tax collection agent.

16 (c) The registered transient accommodations broker tax
17 collection agent's operators and plan managers shall be deemed
18 registered under this chapter; provided that the registration
19 shall apply solely to the business activity conducted directly
20 through the registered transient accommodations broker tax
21 collection agent from the date of registration until the



1 registration is canceled as provided in subsection (h). For
2 purposes of any other business activity, the operators and plan
3 managers are subject to all requirements of title 14 as if this
4 section did not exist.

5 (d) Under this section, a registered transient
6 accommodations broker tax collection agent shall assume all
7 obligations, rights, and responsibilities imposed by this
8 chapter upon its operators and plan managers with respect to
9 their business activities conducted directly through the
10 registered transient accommodations broker tax collection agent
11 from the date of registration until the registration is canceled
12 as provided in subsection (h).

13 (e) A transient accommodations broker tax collection agent
14 shall be personally liable for the taxes imposed by this chapter
15 that are due and collected on behalf of operators and plan
16 managers, if taxes are collected, but not reported or paid,
17 together with penalties and interest as provided by law.

18 (f) All returns and other information provided by a
19 registered transient accommodations broker tax collection agent,
20 including the application for registration as a transient
21 accommodations broker tax collection agent or any tax collection



1 agreement, shall be confidential and disclosure thereof shall be
2 prohibited as provided in section 237D-13; provided that no
3 disclosure of returns or information provided by the transient
4 accommodations broker tax collection agent with respect to its
5 operators and plan managers shall be made pursuant to section
6 237D-13(a)(9), (10) or (11).

7 (g) A registered transient accommodations broker tax
8 collection agent shall not be required to disclose to the
9 director the names or addresses of any of its operators and plan
10 managers in connection with any return, reconciliation, payment,
11 or other filing by the registered transient accommodations
12 broker tax collection agent under this chapter; provided that
13 the name and address of an operator or plan manager shall be
14 disclosed in response to a lawful and valid subpoena or upon
15 waiver by the operator or plan manager.

16 (h) The registration provided for under this section shall
17 be effective until canceled in writing.

18 A registered transient accommodations broker tax collection
19 agent may cancel its registration under this section by
20 delivering written notice of cancellation to the director and
21 each of its operators and plan managers furnishing transient



1 accommodations in the State not later than ninety days prior to
2 the effective date of cancellation.

3 The director may cancel a transient accommodations broker
4 tax collection agent's registration under this section for any
5 cause, including but not limited to any violation of this
6 chapter or rules adopted pursuant thereto, or for violation of
7 any applicable tax collection agreement, by delivering written
8 notice of cancellation to the transient accommodations broker
9 tax collection agent not later than ninety days prior to the
10 effective date of cancellation.

11 (i) All registered transient accommodations broker tax
12 collection agents shall:

13 (1) Prior to placing an advertisement, including an online
14 advertisement, on the availability of a property for
15 lease or rent on behalf of an operator or plan
16 manager, notify the operator or plan manager that the
17 subject property is required to be in compliance with
18 applicable land use laws prior to retaining the
19 services of the transient accommodations broker; and



1 (2) Require the operator or plan manager to attest that
2 the subject property is in compliance with applicable
3 land use laws."

4 SECTION 4. Section 237-30.5, Hawaii Revised Statutes, is
5 amended by amending subsection (a) to read as follows:

6 "(a) Every person authorized under an agreement by the
7 owner of real property located within this State to collect rent
8 on behalf of [~~sueh~~] the owner, other than a transient
9 accommodations broker tax collection agent registered under
10 section 237- , shall be subject to this section."

11 SECTION 5. Section 237D-4, Hawaii Revised Statutes, is
12 amended by amending subsection (c) to read as follows:

13 "(c) Any advertisement, including an online advertisement,
14 for any transient accommodation or resort time share vacation
15 interest, plan, or unit shall conspicuously provide:

16 (1) The registration identification number or an
17 electronic link to the registration identification
18 number of [~~the~~] either:

19 (A) The operator or plan manager issued pursuant to
20 this section; or



1 (B) The transient accommodations broker tax
2 collection agent registered under section
3 237D- , if applicable; and

4 (2) The local contact's name, phone number, and electronic
5 mail address, provided that this paragraph shall be
6 considered satisfied if this information is provided
7 to the transient or occupant prior to the furnishing
8 of the transient accommodation or resort time share
9 vacation unit."

10 SECTION 6. Section 237D-8.5, Hawaii Revised Statutes, is
11 amended by amending subsection (a) to read as follows:

12 "(a) Every person authorized under an agreement by the
13 owner of transient accommodations located within this State to
14 collect rent on behalf of [~~such~~] the owner, other than a
15 transient accommodations broker tax collection agent registered
16 under section 237D- , shall be subject to this section."

17 SECTION 7. By January 1, 2017, the director of taxation
18 shall make available to transient accommodations brokers a form
19 of application for registration as a transient accommodations
20 broker tax collection agent under the new section of chapter
21 237, Hawaii Revised Statutes, added by section 2 of this Act,



1 and under the new section of chapter 237D, Hawaii Revised
2 Statutes, added by section 3 of this Act.

3 SECTION 8. If any provision of this Act, or the
4 application thereof to any person or circumstance, is held
5 invalid, the invalidity does not affect other provisions or
6 applications of the Act that can be given effect without the
7 invalid provision or application, and to this end the provisions
8 of this Act are severable.

9 SECTION 9. Statutory material to be repealed is bracketed
10 and stricken. New statutory material is underscored.

11 SECTION 10. This Act, upon its approval, shall apply to
12 taxable years beginning after December 31, 2016.



Report Title:

Taxation; Transient Accommodations Brokers; Tax Collection Agents; General Excise Tax; Transient Accommodations Tax

Description:

Allows transient accommodations brokers to register as tax collection agents to collect and remit general excise and transient accommodations taxes on behalf of operators and plan managers using their services. Ensures that the subject property is in compliance with applicable land use laws. (SD2)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

