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# A BILL FOR AN ACT

RELATING TO TRANSIENT ACCOMMODATIONS.

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

1 **PART I**

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

15 The legislature also finds that hosting platforms, such as  
16 Airbnb, should be subject to fines if the hosting platform  
17 collects a booking service fee for posting online a transient



1 accommodations unit rental that is not registered with its  
2 respective county in Hawaii and the transient accommodations  
3 broker does not post the transient accommodations' registration  
4 identification number in the rental listing.

5 The legislature additionally finds that transient  
6 accommodations operators or plan managers should provide a  
7 monthly report of transient accommodations listings in Hawaii by  
8 zip code to the department of taxation, and maintain records  
9 that should be made available upon lawful request to enforcement  
10 authorities, for greater transparency and data sharing purposes.

11 The purpose of this Act is to:

- 12 (1) Amend the definition of "transient accommodations" to  
13 include other forms of transient accommodations and  
14 other terms that the counties may have defined;
- 15 (2) Make it unlawful for transient accommodations brokers  
16 to engage in business with operators or plan managers  
17 or property managers or activity providers that are  
18 not in compliance with all state laws and county  
19 ordinances;
- 20 (3) Make it unlawful for a hosting platform to provide,  
21 and collect a fee for, booking services regarding



1 transient accommodations that are not lawfully  
2 certified, registered, or permitted under applicable  
3 county ordinance;

4 (4) Require anonymous, periodic reports by operators and  
5 plan managers to the department of taxation of  
6 transient accommodations listings;

7 (5) Require hosting platforms to maintain identifying  
8 information on all transient accommodations and to  
9 make the information available to enforcement  
10 officials upon request;

11 (6) Enable a transient accommodations broker to register  
12 as a tax collection agent with respect to transient  
13 accommodations taxes and general excise taxes for its  
14 operators and plan managers; and

15 (7) Require an operator or plan manager to remove a  
16 transient accommodation advertisement upon notice that  
17 the property is not in compliance with state law or  
18 county ordinance.

19 This Act is not intended to preempt or otherwise limit the  
20 authority of counties to adopt, monitor, and enforce local land  
21 use regulations, and this Act is not intended to transfer the



1 authority to monitor and enforce such regulations away from the  
2 counties.

3 PART II

4 DEFINITIONS

5 SECTION 2. Section 237D-1, Hawaii Revised Statutes, is  
6 amended as follows:

7 1. By adding two new definitions to be appropriately  
8 inserted and to read:

9 "Booking service" means any reservation or payment service  
10 provided by a person or entity that facilitates a transient  
11 accommodation transaction between an operator and a prospective  
12 transient or occupant, and for which the person or entity  
13 collects or receives, directly or indirectly, through an agent  
14 or intermediary, a fee in connection with the reservation or  
15 payment services provided for the transient accommodation  
16 transaction.

17 "Hosting platform" means a person or entity that  
18 participates in the transient accommodations business by  
19 providing, and collecting or receiving a fee for, booking  
20 services through which an operator may offer a transient  
21 accommodation. Hosting platforms usually, though not



1 necessarily, provide booking services through an online platform  
2 that allows an operator to advertise the transient  
3 accommodations through a website provided by the hosting  
4 platform and the hosting platform conducts a transaction by  
5 which potential renters arrange, use, pay, whether the renter  
6 pays rent directly to the operator or to the hosting platform."

7       2. By amending the definition of "transient  
8 accommodations" to read:

9       "Transient accommodations" means the furnishing of a room,  
10 apartment, suite, single family dwelling, or the like to a  
11 transient for less than one hundred eighty consecutive days for  
12 each letting in a hotel, apartment hotel, motel, condominium or  
13 unit as defined in chapter 514B, cooperative apartment, dwelling  
14 unit, or rooming house that provides living quarters, sleeping,  
15 or housekeeping accommodations, or other place in which lodgings  
16 are regularly furnished to transients. "Transient  
17 accommodations" includes "transient accommodations units",  
18 "transient vacation rentals", "transient vacation units",  
19 transient vacation use", or any similar term that may be defined  
20 by county ordinance to mean a room, apartment, house,  
21 condominium, beach house, hotel room, suite, or similar living



1 accommodation rented to a transient person for less than one  
2 hundred eighty consecutive days in exchange for payment in cash,  
3 goods, or services."

4 **PART III**

5 **HOSTING PLATFORM LIABILITY**

6 SECTION 3. The Hawaii Revised Statutes is amended by  
7 adding a new chapter to be appropriately designated and to read  
8 as follows:

9 **"CHAPTER**

10 **TRANSIENT ACCOMMODATIONS**

11 § -1 **Definitions.** As used in this chapter:

12 "Activity provider" has the same meaning as in section  
13 468M-1.

14 "Booking service" means any reservation or payment service  
15 provided by a person or entity that facilitates a transient  
16 accommodation transaction between an operator and a prospective  
17 transient or occupant, and for which the person or entity  
18 collects or receives, directly or indirectly, through an agent  
19 or intermediary, a fee in connection with the reservation or  
20 payment services provided for the transient accommodation  
21 transaction.



1 "County" means the city and county of Honolulu and the  
2 counties of Hawaii, Kauai, and Maui; provided that the county of  
3 Maui shall include the county of Kalawao for the purposes of  
4 this chapter.

5 "Hosting platform" has the same meaning as in section  
6 237D-1.

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

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

9 "Transient accommodations" has the same meaning as in  
10 section 237D-1.

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

13 **§ -2 Transient accommodations brokers.** (a) It shall be  
14 unlawful for a person acting as, or on behalf of, a transient  
15 accommodations broker to engage in business with an operator or  
16 plan manager, including any person or entity employed,  
17 contracted, or otherwise engaged by the operator or plan manager  
18 for property management or as an activity provider, who is not  
19 in compliance with all state laws and county ordinances,  
20 including any laws and ordinances regarding land use, taxes, and  
21 professional licenses.



1           (b) It shall be unlawful for a person acting as, or on  
2 behalf of, a transient accommodations broker, to act on behalf  
3 of an operator or plan manager, to employ, contract, or  
4 otherwise engage in business with any person or entity to manage  
5 any property of the operator or plan manager or to act as an  
6 activity provider for transients served by the operator or plan  
7 manager if the person or entity is not in compliance with all  
8 state laws and county ordinances, including laws and ordinances  
9 regarding land use, taxes, and professional licenses.

10           § -3 **Booking services.** It shall be unlawful for a  
11 person acting as, or on behalf of, a hosting platform to  
12 provide, and collect a fee for, booking services in connection  
13 with transient accommodations located in the State if those  
14 transient accommodations are not lawfully certified, registered,  
15 or permitted as transient accommodations under applicable county  
16 ordinance at the time the transient accommodations are rented.

17           § -4 **Penalties.** Violations of this chapter may result  
18 in a civil penalty of a minimum of \$                   per day of  
19 violation.

20           § -5 **Enforcement.** The appropriate county officer or  
21 agency may enforce this chapter within each county."





PART IV

HOSTING PLATFORM TRANSPARENCY AND DATA SHARING

SECTION 4. Section 237D-4, Hawaii Revised Statutes, is amended to read as follows:

"§237D-4 Certificate of registration. (a) Each operator or plan manager as a condition precedent to engaging or continuing in the business of furnishing transient accommodations or in business as a resort time share vacation plan shall register with the director the name and address of each place of business within the State subject to this chapter. The operator or plan manager shall make a one-time payment as follows:

- (1) \$5 for each registration for transient accommodations consisting of one to five units;
- (2) \$15 for each registration for transient accommodations consisting of six or more units; and
- (3) \$15 for each resort time share vacation plan within the State;

upon receipt of which the director shall issue a certificate of registration in such form as the director determines, attesting that the registration has been made. The registration shall not



1 be transferable and shall be valid only for the operator or plan  
2 manager in whose name it is issued and for the transaction of  
3 business at the place designated therein. Acquisition of  
4 additional transient accommodation after payment of the one-time  
5 fee shall not result in additional fees.

6 (b) The registration, or in lieu thereof a notice stating  
7 where the registration may be inspected and examined, shall at  
8 all times be conspicuously displayed at the place for which it  
9 is issued. The name, phone number, and electronic mail address  
10 of the local contact shall at all times be conspicuously  
11 displayed in the same place as the registration or the same  
12 place as the notice stating where the registration may be  
13 inspected and examined. Failure to meet the requirements of  
14 this subsection shall be unlawful. The department may issue  
15 citations to any person who fails to conspicuously display the  
16 registration or notice, or the local contact's name, phone  
17 number, or electronic mail address as required by this  
18 subsection. A citation issued pursuant to this subsection for  
19 each transient accommodation or resort time share vacation  
20 interest, plan, or unit in violation of this subsection shall  
21 include a monetary fine of not less than:



- 1           (1) \$500 per day, for a first violation for which a
- 2           citation is issued;
- 3           (2) \$1,000 per day, for a second violation for which a
- 4           citation is issued; and
- 5           (3) \$5,000 per day, for a third and any subsequent
- 6           violation for which a citation is issued.
- 7           (c) Any advertisement, including an online advertisement,
- 8 for any transient accommodation or resort time share vacation
- 9 interest, plan, or unit shall conspicuously provide:
- 10          (1) The registration identification number or an
- 11          electronic link to the registration identification
- 12          number of ~~the~~ either:
- 13            (A) The operator or plan manager issued pursuant to
- 14            this section; ~~and~~ or
- 15            (B) The transient accommodations broker tax
- 16            collection agent registered under section
- 17            237D- , if applicable; and
- 18          (2) The local contact's name, phone number, and electronic
- 19          mail address, provided that this paragraph shall be
- 20          considered satisfied if this information is provided
- 21          to the transient or occupant prior to the furnishing



1 of the transient accommodation or resort time share  
2 vacation unit.

3 Upon notice that the property is not in compliance with  
4 state law or county ordinance, an operator or plan manager shall  
5 remove the transient accommodations unit advertisement.

6 (d) Failure to meet the requirements of subsection (c)  
7 shall be unlawful. The department may issue citations to any  
8 person, including operators, plan managers, and transient  
9 accommodations brokers, who violates subsection (c). A citation  
10 issued pursuant to this subsection for each transient  
11 accommodations or resort time share vacation interest, plan, or  
12 unit in violation of subsection (c) shall include a monetary  
13 fine of not less than:

- 14 (1) \$500 per day, for a first violation for which a  
15 citation is issued;
- 16 (2) \$1,000 per day, for a second violation for which a  
17 citation is issued; and
- 18 (3) \$5,000 per day, for a third and any subsequent  
19 violation for which a citation is issued.

20 (e) The registration provided for by this section shall be  
21 effective until canceled in writing. Any application for the



1 reissuance of a previously canceled registration identification  
2 number shall be regarded as a new registration application and  
3 shall be subject to the payment of the one-time registration  
4 fee. The director may revoke or cancel any license issued under  
5 this chapter for cause as provided by rule under chapter 91.

6 (f) If the license fee is paid, the department shall not  
7 refuse to issue a registration or revoke or cancel a  
8 registration for the exercise of a privilege protected by the  
9 First Amendment of the Constitution of the United States, or for  
10 the carrying on of interstate or foreign commerce, or for any  
11 privilege the exercise of which, under the Constitution and laws  
12 of the United States, cannot be restrained on account of  
13 nonpayment of taxes, nor shall section 237D-14 be invoked to  
14 restrain the exercise of such a privilege, or the carrying on of  
15 such commerce.

16 (g) Any person who may lawfully be required by the State,  
17 and who is required by this chapter, to register as a condition  
18 precedent to engaging or continuing in the business of  
19 furnishing transient accommodations or as a plan manager subject  
20 to taxation under this chapter, who engages or continues in the  
21 business without registering in conformity with this chapter,



1 shall be guilty of a misdemeanor. Any director, president,  
2 secretary, or treasurer of a corporation who permits, aids, or  
3 abets such corporation to engage or continue in business without  
4 registering in conformity with this chapter, shall likewise be  
5 guilty of a misdemeanor. The penalty for the misdemeanors shall  
6 be the same as that prescribed by section 231-35 for  
7 individuals, corporations, or officers of corporations, as the  
8 case may be, for violation of that section.

9 (h) Any monetary fine assessed under this section shall be  
10 due and payable thirty days after issuance of the citation,  
11 subject to appeal rights provided under this subsection.  
12 Citations may be appealed to the director of taxation or the  
13 director's designee.

14 (i) Each operator and plan manager shall provide an  
15 anonymous monthly report of listings in Hawaii, aggregated by  
16 zip code, to the department of taxation by the fifth day of each  
17 month with the previous month's data. Any operator or plan  
18 manager who fails to provide a monthly report to the department  
19 of taxation shall be subject to the citation process and  
20 penalties listed in subsection (d).



1        (j) Hosting platforms shall maintain identifying  
2 information on all transient accommodations while used as  
3 transient accommodations and for at least three years from the  
4 last rental date. The identifying information for all transient  
5 accommodations shall be made available to enforcement officials  
6 upon lawful request and shall include:

- 7        (1) The name of the owner;
- 8        (2) The name of the operator;
- 9        (3) The address of the transient accommodation;
- 10       (4) The dates on which the transient accommodation was  
11 leased, let, or rented as a transient accommodation;  
12        and
- 13       (5) Any other information as may be required by rules  
14 adopted by the department of taxation."

PART V

TRANSIENT ACCOMMODATIONS BROKERS AS TAX COLLECTION AGENTS

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

20       "§237-        Transient accommodations broker as tax collection  
21 agent; operator and plan manager. (a) The director may permit



1 a transient accommodations broker to register as a tax  
2 collection agent on behalf of all of its operators and plan  
3 managers by entering into a tax collection agreement with the  
4 director or by submitting a tax collection agent registration  
5 statement to the director; provided that the transient  
6 accommodations broker agrees in writing:

- 7       (1) To obtain written consent from all of its operators  
8             and plan managers for the disclosure of periodic  
9             returns and information required under subsection (g);  
10       (2) To furnish information to the counties as required in  
11             subsection (g); and  
12       (3) That continuing to collect fees for booking services  
13             in connection with a transient accommodation, seven  
14             days after receiving written notice from a state or  
15             county governmental authority that the subject  
16             property is not in compliance with state law or county  
17             ordinance, is a violation of the tax collection  
18             agreement.

19       Any tax collection agreement entered into pursuant to this  
20 section shall be subject to and in accordance with all  
21 applicable provisions of state law and county ordinances and





1 shall not permit a tax collection agent, nor any operator or  
2 plan manager conducting business through the tax collection  
3 agent, to opt out of any requirements or obligations under state  
4 law or county ordinance.

5 The director shall deny an application for registration as  
6 a tax collection agent under this section for violations of this  
7 subsection and may deny an application for any other cause  
8 authorized by law, including any violation of this chapter or  
9 rules adopted pursuant thereto, violation of any prior tax  
10 collection agreement, or failure to meet minimum criteria that  
11 may be set forth by the department in rules adopted pursuant to  
12 chapter 91.

13 The director shall issue a certificate of registration or  
14 letter of denial within thirty days after a transient  
15 accommodations broker submits to the director a completed and  
16 signed tax collection agent registration statement, in a form  
17 prescribed by the department.

18 The registration shall be valid only for the tax collection  
19 agent in whose name it is issued, and for the website or hosting  
20 platform designated therein, and shall not be transferable.



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

11        (c) The registered tax collection agent's operators and  
12 plan managers shall obtain licensure under this chapter and  
13 remain subject to the requirements of title 14; provided that  
14 the registered tax collection agent shall report, collect, and  
15 pay the taxes under this chapter on behalf of the operators and  
16 plan managers for business activity conducted directly through  
17 the agent, as set forth in this section, from the date of  
18 registration until the registration is canceled as provided in  
19 subsection (h). For purposes of any other business activity,  
20 the operators and plan managers shall be subject to all  
21 requirements of title 14 and all county ordinances and rules



1 regulating transient accommodations, regardless of the terms  
2 used by the county to refer to transient accommodations, as if  
3 this section did not exist.

4 A registered tax collection agent shall be issued separate  
5 licenses under this chapter with respect to taxes payable on  
6 behalf of its operators and plan managers in its capacity as a  
7 registered tax collection agent and, if applicable, with respect  
8 to any taxes payable under this chapter for its own business  
9 activities.

10 (d) If the registered tax collection agent fails to report  
11 or pay the taxes under this chapter on behalf of the operators  
12 and plan managers, as set forth in this section, the registered  
13 tax collection agent and the operator or plan manager shall be  
14 jointly and severally liable for the taxes due under this  
15 chapter, including penalties and interest as provided by law,  
16 with respect to their business activities conducted directly  
17 through the registered tax collection agent from the date of  
18 registration until the registration is canceled as provided in  
19 subsection (h).

20 (e) A tax collection agent shall be personally liable for  
21 the taxes imposed by this chapter that are due and collected on



1 behalf of operators and plan managers, if taxes are collected,  
2 but not reported or paid, together with penalties and interest  
3 as provided by law. If the tax collection agent is an entity,  
4 the personal liability under this subsection shall apply to any  
5 officer, member, manager, or other person who has control or  
6 supervision over amounts collected to pay the taxes or who is  
7 charged with the responsibility for the filing of returns or the  
8 payment of taxes.

9 (f) Except as provided in subsection (g), all returns and  
10 other information provided by a registered tax collection agent,  
11 including the application for registration as a tax collection  
12 agent or any tax collection agreement, shall be confidential,  
13 and disclosure thereof shall be prohibited as provided in  
14 section 237-34.

15 (g) A registered tax collection agent shall file periodic  
16 returns in accordance with section 237-30 and annual returns in  
17 accordance with section 237-33. Each periodic return required  
18 under section 237-30 shall be accompanied by an electronic cover  
19 sheet, in a form prescribed by the department that includes the  
20 following information:



- 1        (1) For each operator and plan manager on whose behalf the  
2        tax collection agent is required to report, collect,  
3        and pay over taxes due under this chapter, the  
4        operator's or plan manager's name, address, and  
5        general excise tax license number; and
- 6        (2) For each transient accommodation rented through the  
7        registered tax collection agent or the website or  
8        hosting platform designated in the certificate of  
9        registration issued pursuant to chapter 237D, for  
10       which taxes are being remitted pursuant to this  
11       chapter:
- 12       (A) The address of the transient accommodation;  
13       (B) The number of nights that each transient  
14       accommodation was rented and the rate or price at  
15       which each transient accommodation was rented;  
16       and
- 17       (C) The amount of tax being remitted pursuant to this  
18       chapter and the amount of any federal form 1099  
19       income that was derived from each transient  
20       accommodation.



1        Upon request by the planning director or mayor of the  
2 applicable county, a registered tax collection agent shall  
3 disclose any of the information contained in the returns or  
4 cover sheets required by this subsection to the planning  
5 director or any county official designated by the mayor to  
6 receive the information. Notwithstanding any law to the  
7 contrary, including section 237-34, the planning director and  
8 county official designated to receive the information pursuant  
9 to this subsection may examine and copy the returns and cover  
10 sheets to ensure compliance with this section, state tax laws  
11 and county tax ordinances, and any applicable land use laws and  
12 ordinances.

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

15        A registered tax collection agent may cancel its  
16 registration under this section by delivering written notice of  
17 cancellation to the director and each of its operators and plan  
18 managers furnishing transient accommodations in the State no  
19 later than ninety days prior to the effective date of  
20 cancellation.



1       The director may cancel a tax collection agent's  
2 registration under this section for any cause, including any  
3 violation of this chapter or rules adopted pursuant thereto, or  
4 for violation of any applicable tax collection agreement, by  
5 delivering written notice of cancellation to the tax collection  
6 agent no later than ninety days prior to the effective date of  
7 cancellation.

8       (i) When conducting business with an operator or plan  
9 manager with respect to a property for lease or rent, a  
10 transient accommodations broker:

11       (1) Shall notify the operator or plan manager that the  
12 subject property is required to be in compliance with  
13 applicable state and county land use laws and  
14 ordinances prior to retaining the services of the  
15 transient accommodations broker;

16       (2) Shall require the operator or plan manager to provide  
17 the transient accommodations broker with the  
18 operator's or plan manager's transient accommodations  
19 registration identification number and local contact  
20 information and shall notify the operator or plan  
21 manager that this information is required in



1 advertisements for transient accommodations or resort  
2 time share vacation interests, plans, or units under  
3 section 237D-4;

4 (3) Shall require the operator or plan manager to provide  
5 the transient accommodations broker with verification  
6 of compliance with state and county land use laws in  
7 the form of a written certification, verification, or  
8 permit, as applicable, issued by the appropriate  
9 county agency;

10 (4) Shall require the operator or plan manager to provide  
11 a statement to the transient accommodations broker  
12 confirming compliance with all applicable land use  
13 laws and ordinances; and

14 (5) Shall require the operator or plan manager to provide  
15 any other information as may be required by  
16 rulemaking.

17 An operator or plan manager shall remove any advertisement  
18 published through the transient accommodations broker, including  
19 an online advertisement, for a transient accommodation located  
20 in the State for which the operator or plan manager fails to  
21 comply with paragraph (2), (3), (4), or (5) or for which the





1 operator or plan manager has received written notice from a  
2 state or county governmental authority that the property is not  
3 in compliance with state law or county ordinance, as applicable.  
4 The state or county governmental authority shall provide a copy  
5 of the written notice to the transient accommodations broker.

6 (j) Nothing in this section shall be construed to preempt  
7 or prohibit the authority of a unit of local government in the  
8 State, including counties and any other political subdivisions  
9 of the State, to adopt, monitor, and enforce local land use  
10 ordinances, rules, or regulations, nor to transfer the authority  
11 to monitor and enforce these ordinances, rules, or regulations  
12 away from the counties.

13 (k) For the purposes of this section:

14 "Booking service" has the same meaning as in section  
15 237D-1.

16 "Director" means the director of taxation.

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

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

19 "Transient accommodations" has the same meaning as in  
20 section 237D-1.



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

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

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

- 14       (1) To obtain written consent from all of its operators  
15       and plan managers for the disclosure of periodic  
16       returns and information required under subsection (g);  
17       (2) To furnish information to the counties as required in  
18       subsection (g); and  
19       (3) That continuing to collect fees for booking services  
20       in connection with a transient accommodation, seven  
21       days after receiving written notice from a state or



1           county governmental authority that the subject  
2           property is not in compliance with state law or county  
3           ordinance, is a violation of the tax collection  
4           agreement.

5           Any tax collection agreement entered into pursuant to this  
6           section shall be subject to and in accordance with all  
7           applicable provisions of state law and county ordinances and  
8           shall not permit a tax collection agent, nor any operator or  
9           plan manager conducting business through the tax collection  
10          agent, to opt out of any requirements or obligations under state  
11          law or county ordinance.

12          The director shall deny an application for registration as  
13          a tax collection agent under this section for violations of this  
14          subsection and may deny an application for any other cause  
15          authorized by law, including any violation of this chapter or  
16          rules adopted pursuant thereto, violation of any prior tax  
17          collection agreement, or failure to meet minimum criteria that  
18          may be set forth by the department in rules adopted pursuant to  
19          chapter 91.

20          The director shall issue a certificate of registration or  
21          letter of denial within thirty days after a transient



1 accommodations broker submits to the director a completed and  
2 signed tax collection agent registration statement, in a form  
3 prescribed by the department. The registration shall be valid  
4 only for the tax collection agent in whose name it is issued,  
5 and for the website or hosting platform designated therein, and  
6 shall not be transferable.

7 A registered tax collection agent shall be issued separate  
8 certificates of registration under this chapter with respect to  
9 taxes payable on behalf of its operators and plan managers in  
10 its capacity as a registered tax collection agent and, if  
11 applicable, with respect to any taxes payable under this chapter  
12 for its own business activities.

13 (b) In addition to its own responsibilities under this  
14 chapter, a registered tax collection agent shall report,  
15 collect, and pay over the taxes due under this chapter on behalf  
16 of all of its operators and plan managers from the date of  
17 registration until the registration is canceled as provided in  
18 subsection (h); provided that the registered tax collection  
19 agent's obligation to report, collect, and pay taxes on behalf  
20 of all of its operators and plan managers shall apply solely to



1 transient accommodations in the State arranged or booked  
2 directly through the registered tax collection agent.

3 (c) The registered tax collection agent's operators and  
4 plan managers shall obtain registration under this chapter and  
5 remain subject to the requirements of title 14; provided that  
6 the registered tax collection agent shall report, collect, and  
7 pay the taxes under this chapter on behalf of the operators and  
8 plan managers for business activity conducted directly through  
9 the registered tax collection agent, as set forth in this  
10 section, from the date of registration until the registration is  
11 canceled as provided in subsection (h). For purposes of any  
12 other business activity, the operators and plan managers shall  
13 be subject to all requirements of title 14 and all applicable  
14 ordinances and rules regulating accommodations, regardless of  
15 the terms used by the county to refer to transient  
16 accommodations, as if this section did not exist.

17 (d) If the registered tax collection agent fails to report  
18 or pay the taxes under this chapter on behalf of the operators  
19 and plan managers, as set forth in this section, the registered  
20 tax collection agent and the operator or plan manager shall be  
21 jointly and severally liable for the taxes due under this



1 chapter, including penalties and interest as provided by law,  
2 with respect to their business activities conducted directly  
3 through the registered tax collection agent from the date of  
4 registration until the registration is canceled as provided in  
5 subsection (h).

6 (e) A tax collection agent shall be personally liable for  
7 the taxes imposed by this chapter that are due and collected on  
8 behalf of operators and plan managers, if taxes are collected,  
9 but not reported or paid, together with penalties and interest  
10 as provided by law. If the tax collection agent is an entity,  
11 the personal liability under this subsection shall apply to any  
12 officer, member, manager, or other person who has control or  
13 supervision over amounts collected to pay the taxes or who is  
14 charged with the responsibility for the filing of returns or the  
15 payment of taxes.

16 (f) Except as provided in subsection (g), all returns and  
17 other information provided by a registered tax collection agent,  
18 including the application for registration as a tax collection  
19 agent or any tax collection agreement, shall be confidential,  
20 and disclosure thereof shall be prohibited as provided in  
21 section 237D-13.



1        (g) A registered tax collection agent shall file periodic  
2 returns in accordance with section 237D-6 and annual returns in  
3 accordance with section 237D-7. Each periodic return required  
4 under section 237D-6 shall be accompanied by an electronic cover  
5 sheet, in a form prescribed by the department that includes the  
6 following information:

7        (1) For each operator and plan manager on whose behalf the  
8 tax collection agent is required to report, collect,  
9 and pay over taxes due under this chapter, the  
10 operator's or plan manager's name, address, and  
11 transient accommodations registration identification  
12 number; and

13        (2) For each transient accommodation rented through the  
14 registered tax collection agent or the website or  
15 hosting platform designated in the certificate of  
16 registration issued pursuant to subsection (a), for  
17 which taxes are being remitted pursuant to this  
18 chapter:

19        (A) The address of the transient accommodation;

20        (B) The number of nights that each transient  
21 accommodation was rented and the rate or price at



1                   which each transient accommodation was rented;  
2                   and

3                   (C) The amount of tax being remitted pursuant to this  
4                   chapter and the amount of any federal form 1099  
5                   income that was derived from each transient  
6                   accommodation.

7                   Upon request by the planning director or mayor of the  
8                   applicable county, a registered tax collection agent shall  
9                   disclose any of the information contained in the returns or  
10                   cover sheets required by this subsection to the planning  
11                   director or any county official designated by the mayor to  
12                   receive the information. Notwithstanding any law to the  
13                   contrary, including section 237D-13, the planning director and  
14                   county official designated to receive the information pursuant  
15                   to this subsection may examine and copy the returns and cover  
16                   sheets to ensure compliance with this section, state and county  
17                   tax laws and ordinances, and any applicable land use laws and  
18                   ordinances.

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





1       A registered tax collection agent may cancel its  
2 registration under this section by delivering written notice of  
3 cancellation to the director and each of its operators and plan  
4 managers furnishing transient accommodations in the State no  
5 later than ninety days prior to the effective date of  
6 cancellation.

7       The director may cancel a tax collection agent's  
8 registration under this section for any cause, including any  
9 violation of this chapter or rules adopted pursuant thereto, or  
10 for violation of any applicable tax collection agreement, by  
11 delivering written notice of cancellation to the tax collection  
12 agent no later than ninety days prior to the effective date of  
13 cancellation.

14       (i) When conducting business with an operator or plan  
15 manager with respect to a property for lease or rent, a  
16 transient accommodations broker:

17       (1) Shall notify the operator or plan manager that the  
18 subject property is required to be in compliance with  
19 applicable state land use laws and county land use  
20 ordinances prior to retaining the services of the  
21 transient accommodations broker;



- 1        (2) Shall require the operator or plan manager to provide  
2        the transient accommodations broker with the operator  
3        or plan manager's transient accommodations  
4        registration identification number and local contact  
5        information and shall notify the operator or plan  
6        manager that this information is required in  
7        advertisements for transient accommodations or resort  
8        time share vacation interests, plans, or units under  
9        section 237D-4;
- 10       (3) Shall require the operator or plan manager to provide  
11       the transient accommodations broker with verification  
12       of compliance with state land use laws and county land  
13       use ordinances in the form of a written certification,  
14       verification, or permit, as applicable, issued by the  
15       appropriate county agency;
- 16       (4) Shall require the operator or plan manager to provide  
17       a statement to the transient accommodations broker  
18       confirming compliance with all land use laws and  
19       ordinances; and





# S.B. NO. 1292

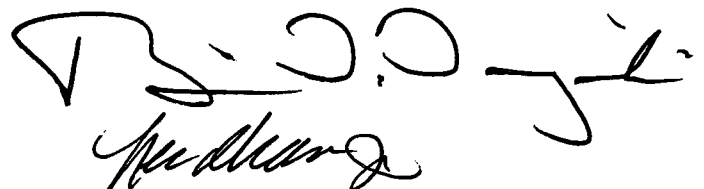
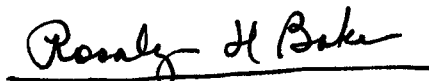
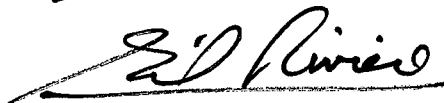
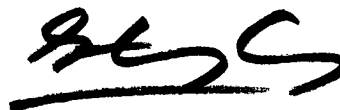
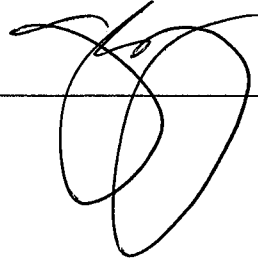
1 SECTION 7. If any provision of this Act, or the  
2 application thereof to any person or circumstance, is held  
3 invalid, the invalidity does not affect other provisions or  
4 applications of the Act that can be given effect without the  
5 invalid provision or application, and to this end the provisions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

7 SECTION 8. Statutory material to be repealed is bracketed  
8 and stricken. New statutory material is underscored.

9 SECTION 9. This Act shall take effect on July 1, 2019.

10

INTRODUCED BY: \_\_\_\_\_



# S.B. NO. 1292

**Report Title:**

Transient Accommodations; Hosting Platform Liability; Hosting Platform Transparency; Data Sharing; Transient Accommodations Brokers; Tax Collection Agents

**Description:**

Part II: Adds definitions to the TAT law. Amends the definition of "transient accommodations" to include additional forms of transient accommodations. Part III: Makes it unlawful for transient accommodations brokers to engage in business with operators or plan managers or property managers or activity providers that are not in compliance with all state laws and county ordinances. Makes it unlawful for a hosting platform to provide, and collect a fee for, booking services regarding transient vacation rentals that are not lawfully certified, registered, or permitted under applicable county ordinance. Part IV: Requires operators and plan managers to provide a monthly report of transient accommodations listings in Hawaii by zip code to the department of taxation and maintain records to be made available upon lawful request. Part V: Allows a transient accommodations broker to register as a tax collection agent for its operators and plan managers. Requires an operator or plan manager to remove a transient accommodation advertisement upon notice that the property is not in compliance with state law or county ordinance.

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

