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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.

3 The legislature additionally finds that transient  
4 accommodations transient accommodations brokers, platform hosts,  
5 and booking services should provide a monthly report of  
6 transient accommodations listings in Hawaii by zip code to the  
7 department of taxation, and maintain records that should be made  
8 available upon lawful request to enforcement authorities, for  
9 greater transparency and data sharing purposes.

10 The purpose of this Act is to:

- 11 (1) Amend the definition of "transient accommodations" to  
12 include other forms of transient accommodations and  
13 other terms that the counties may have defined;
- 14 (2) Make it unlawful for a hosting platform to provide,  
15 and collect a fee for, booking services regarding  
16 transient accommodations that are not lawfully  
17 certified, registered, or permitted under applicable  
18 county ordinance;
- 19 (3) Require anonymous, periodic reports by transient  
20 accommodations brokers, platform hosts, and booking



- 1 services to the department of taxation of transient  
2 accommodations listings;
- 3 (4) Enable a transient accommodations broker to register  
4 as a tax collection agent with respect to transient  
5 accommodations taxes and general excise taxes for its  
6 operators and plan managers; and
- 7 (5) Require a transient accommodations broker, platform  
8 host, and booking service to remove a transient  
9 accommodation advertisement upon notice that the  
10 property is not in compliance with state law or county  
11 ordinance.

12 This Act is not intended to preempt or otherwise limit the  
13 authority of counties to adopt, monitor, and enforce local land  
14 use regulations, and this Act is not intended to transfer the  
15 authority to monitor and enforce such regulations away from the  
16 counties.

17 **PART II**

18 **DEFINITIONS**

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



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

3           "Booking service" means any advertising, reservation, or  
4 payment service provided by a person or entity that facilitates  
5 a transient accommodation transaction between an operator and a  
6 prospective transient or occupant, and for which the person or  
7 entity collects or receives, directly, or indirectly through an  
8 agent or intermediary, a fee in connection with the advertising,  
9 reservation, or payment services provided for the transient  
10 accommodation transaction.

11           "Hosting platform" means a person or entity that  
12 participates in the transient accommodations business by  
13 providing, and collecting or receiving a fee for, booking  
14 services through which an operator may offer a transient  
15 accommodation. Hosting platforms usually, though not  
16 necessarily, provide booking services through an online platform  
17 that allows an operator to advertise the transient  
18 accommodations through a website provided by the hosting  
19 platform and the hosting platform conducts a transaction by  
20 which potential renters arrange, use, pay, whether the renter  
21 pays rent directly to the operator or to the hosting platform."





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

4 "§237D- Booking services. (a) It shall be unlawful for  
5 a hosting platform to provide booking services and collect a fee  
6 for such booking services provided in connection with transient  
7 accommodations located in the State if the operator of the  
8 transient accommodation is not registered with the department as  
9 required under section 237D-4. This section shall not apply to  
10 booking services provided in connection with a transient  
11 accommodation that is a hotel.

12 (b) A hosting platform or transient accommodation broker  
13 that violates this section shall be subject to a penalty of  
14 \$1,000 per booking service transaction from which fees were  
15 collected in violation of subsection (a). The following  
16 transactions shall be deemed to be separate booking services  
17 transactions:

18 (1) Each reservation for the letting of a transient  
19 accommodation;

20 (2) Each pay-per-listing agreement between a hosting  
21 platform and an operator;



1       (3) A single calendar month of a subscription-based  
2       listing agreement between a hosting platform and an  
3       operator;

4       (4) Each instance of an operator registering with a  
5       hosting platform; and

6       (5) Other transactions set forth by administrative rule.

7       (c) As used in this section:

8       "Booking service" shall have the same meaning as in section  
9       237D-1.

10       "Hotel" means an establishment consisting of any building,  
11       structure, or portion thereof containing more than nine rooming  
12       units that, as part of its routine operations, furnishes  
13       transient accommodations and provides one or more additional  
14       customary lodging services other than the living accommodations  
15       and the use of furniture, fixtures, and appliances, such as room  
16       attendant, room service, bell service laundering service,  
17       concierge service or daily housekeeping services.

18       "Hosting platform" shall have the same meaning as in  
19       237D-1.

20       "Service business" shall have the same meaning as in  
21       section 237-7.







1           "§237D-4 Certificate of registration. (a) Each operator  
2 or plan manager as a condition precedent to engaging or  
3 continuing in the business of furnishing transient  
4 accommodations or in business as a resort time share vacation  
5 plan shall register with the director the name and address of  
6 each place of business within the State subject to this chapter.  
7 The operator or plan manager shall make a one-time payment as  
8 follows:

- 9           (1) \$5 for each registration for transient accommodations  
10           consisting of one to five units;
- 11           (2) \$15 for each registration for transient accommodations  
12           consisting of six or more units; and
- 13           (3) \$15 for each resort time share vacation plan within  
14           the State;
- 15 upon receipt of which the director shall issue a certificate of  
16 registration in such form as the director determines, attesting  
17 that the registration has been made. The registration shall not  
18 be transferable and shall be valid only for the operator or plan  
19 manager in whose name it is issued and for the transaction of  
20 business at the place designated therein. Acquisition of



1 additional transient accommodation units after payment of the  
2 one-time fee shall not result in additional fees.

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

19 (1) \$500 per day, for a first violation for which a  
20 citation is issued;



1 (2) \$1,000 per day, for a second violation for which a  
2 citation is issued; and

3 (3) \$5,000 per day, for a third and any subsequent  
4 violation for which a citation is issued.

5 (c) Any advertisement, including an online advertisement,  
6 for any transient accommodation or resort time share vacation  
7 interest, plan, or unit shall conspicuously provide:

8 (1) ~~[The registration identification number or an~~  
9 ~~electronic link to the registration identification~~  
10 ~~number of the] The operator or plan [manager issued~~  
11 ~~pursuant to this section; and] manager's transient~~  
12 ~~accommodations tax registration identification number;~~

13 (2) The local contact's name, phone number, and electronic  
14 mail address, provided that this paragraph shall be  
15 considered satisfied if this information is provided  
16 to the transient or occupant prior to the furnishing  
17 of the transient accommodation or resort time share  
18 vacation unit ~~[~~]; and

19 (3) The county-level transient accommodations tax  
20 registration identification number of each advertised  
21 unit as provided by the county having jurisdiction.



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

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

- 13        (1) \$500 per day, for a first violation for which a  
14                citation is issued;
- 15        (2) \$1,000 per day, for a second violation for which a  
16                citation is issued; and
- 17        (3) \$5,000 per day, for a third and any subsequent  
18                violation for which a citation is issued.

19        (e) The registration provided for by this section shall be  
20 effective until canceled in writing. Any application for the  
21 reissuance of a previously canceled registration identification



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

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

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



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

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

13       (h) Each transient accommodations broker, platform host,  
14 and booking service shall provide a monthly report of listings  
15 in Hawaii by the fifth day of each month with the previous  
16 month's data. Listing data shall be submitted through an online  
17 process with a reporting template and appropriate calculation  
18 guidelines developed by, and made publically available on the  
19 website of, the department of business, economic development,  
20 and tourism. Reported data shall be anonymized and aggregated  
21 by zip code and shall include all of the following fields:





1 statement to the director; provided that the transient  
2 accommodations broker agrees in writing:

3       (1) To obtain written consent from all of its operators  
4       and plan managers for the disclosure of periodic  
5       returns and information required under subsection (g);

6       (2) To furnish information to the counties as required in  
7       subsection (g); and

8       (3) That continuing to collect fees for booking services  
9       in connection with a transient accommodation, seven  
10       days after receiving written notice from a state or  
11       county governmental authority that the subject  
12       property is not in compliance with state law or county  
13       ordinance, is a violation of the tax collection  
14       agreement.

15       Any tax collection agreement entered into pursuant to this  
16       section shall be subject to and in accordance with all  
17       applicable provisions of state law and county ordinances and  
18       shall not permit a tax collection agent, nor any operator or  
19       plan manager conducting business through the tax collection  
20       agent, to opt out of any requirements or obligations under state  
21       law or county ordinance.





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

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 tax collection agent registration statement, in a form  
13 prescribed by the department.

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

17       (b) In addition to its own responsibilities under this  
18 chapter, a registered tax collection agent shall report,  
19 collect, and pay over the taxes due under this chapter on behalf  
20 of all of its operators and plan managers from the date of  
21 registration until the registration is canceled as provided in



1 subsection (h); provided that the registered tax collection  
2 agent's obligation to report, collect, and pay taxes on behalf  
3 of all of its operators and plan managers shall apply solely to  
4 transient accommodations in the State arranged or booked  
5 directly through the registered tax collection agent.

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

20 A registered tax collection agent shall be issued separate  
21 certificates of registration under this chapter with respect to



1 taxes payable on behalf of its operators and plan managers in  
2 its capacity as a registered tax collection agent and, if  
3 applicable, with respect to any taxes payable under this chapter  
4 for its own business activities.

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

15 (e) A tax collection agent shall be personally liable for  
16 the taxes imposed by this chapter that are due and collected on  
17 behalf of operators and plan managers, if taxes are collected,  
18 but not reported or paid, together with penalties and interest  
19 as provided by law. If the tax collection agent is an entity,  
20 the personal liability under this subsection shall apply to any  
21 officer, member, manager, or other person who has control or



1 supervision over amounts collected to pay the taxes or who is  
2 charged with the responsibility for the filing of returns or the  
3 payment of taxes.

4 (f) Except as otherwise provided in this subsection and  
5 subsection (g), all returns and other information provided by a  
6 registered tax collection agent, including the application for  
7 registration as a tax collection agent or any tax collection  
8 agreement, shall be confidential, and disclosure thereof shall  
9 be prohibited as provided in section 237-34. Nothing in this  
10 subsection shall prevent public disclosure of information about  
11 registered agents as provided in subsection 92F-12(a)(13) or of  
12 aggregated information not identifiable to a specific tax  
13 collection agent.

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

20 (1) For each operator and plan manager on whose behalf the  
21 tax collection agent is required to report, collect,



1           and pay over taxes due under this chapter, the  
2           operator's or plan manager's name, address, and  
3           general excise tax license number; and

4           (2) For each transient accommodation rented through the  
5           registered tax collection agent or the website or  
6           hosting platform designated in the certificate of  
7           registration issued pursuant to chapter 237D, for  
8           which taxes are being remitted pursuant to this  
9           chapter:

10           (A) The address of the transient accommodation;  
11           (B) The number of nights that each transient  
12           accommodation was rented and the rate or price at  
13           which each transient accommodation was rented;  
14           and

15           (C) The amount of tax being remitted pursuant to this  
16           chapter and the amount of any federal form 1099  
17           income that was derived from each transient  
18           accommodation.

19           Upon request by the planning director or mayor of the  
20           applicable county, a registered tax collection agent shall  
21           disclose any of the information contained in the returns or



1 cover sheets required by this subsection to the planning  
2 director or any county official designated by the mayor to  
3 receive the information. Notwithstanding any law to the  
4 contrary, including section 237-34, the planning director and  
5 county official designated to receive the information pursuant  
6 to this subsection may examine and copy the returns and cover  
7 sheets to ensure compliance with this section, state tax laws  
8 and county tax ordinances, and any applicable land use laws and  
9 ordinances.

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

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

18 The director may cancel a tax collection agent's  
19 registration under this section for any cause, including any  
20 violation of this chapter or rules adopted pursuant thereto, or  
21 for violation of any applicable tax collection agreement, by



1 delivering written notice of cancellation to the tax collection  
2 agent no later than ninety days prior to the effective date of  
3 cancellation.

4 (i) When conducting business with an operator or plan  
5 manager with respect to a property for lease or rent, transient  
6 accommodations brokers, platform hosts, and booking services  
7 shall:

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

13 (2) Require the operator or plan manager to provide the  
14 transient accommodations broker, platform host, or  
15 booking service with the operator's or plan manager's  
16 transient accommodations tax identification number and  
17 local contact information and shall notify the  
18 operator or plan manager that this information is  
19 required in advertisements for transient  
20 accommodations or resort time share vacation  
21 interests, plans, or units under section 237D-4;



1       (3) Require the operator or plan manager to provide the  
2       transient accommodation broker, platform host, and  
3       booking service with the county non-conforming use  
4       registration number, or other unit-specific transient  
5       accommodation registration number as issued by the  
6       appropriate county agency, and verification of  
7       compliance with state and county land use laws in the  
8       form of a written certification, verification, or  
9       permit, as applicable, issued by the appropriate  
10       county agency; and

11       (4) Require the operator or plan manager to provide any  
12       other information as may be required by rulemaking.

13       An operator or plan manager shall remove any advertisement  
14       published through the transient accommodations broker, including  
15       an online advertisement, for a transient accommodation located  
16       in the State for which the operator or plan manager fails to  
17       comply with paragraph (2), (3), or (4) or for which the operator  
18       or plan manager has received written notice from a state or  
19       county governmental authority that the property is not in  
20       compliance with state law or county ordinance, as applicable.





1 The state or county governmental authority shall provide a copy  
2 of the written notice to the transient accommodations broker.

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

10 (k) For the purposes of this section:

11 "Booking service" has the same meaning as in section  
12 237D-1.

13 "Director" means the director of taxation.

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

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

16 "Transient accommodations" has the same meaning as in  
17 section 237D-1.

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



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

4 "§237D- Transient accommodations broker as tax  
5 collection agent; operator and plan manager. (a) The director  
6 may permit a transient accommodations broker to register as a  
7 tax collection agent on behalf of all of its operators and plan  
8 managers by entering into a tax collection agreement with the  
9 director or by submitting a tax collection agent registration  
10 statement to the director; provided that the transient  
11 accommodations broker agrees in writing:

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



1 ordinance, is a violation of the tax collection  
2 agreement.

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

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

18 The director shall issue a certificate of registration or  
19 letter of denial within thirty days after a transient  
20 accommodations broker submits to the director a completed and  
21 signed tax collection agent registration statement, in a form



1 prescribed by the department. The registration shall be valid  
2 only for the tax collection agent in whose name it is issued,  
3 and for the website or hosting platform designated therein, and  
4 shall not be transferable.

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

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



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

15       (d) If the registered tax collection agent fails to report  
16 or pay the taxes under this chapter on behalf of the operators  
17 and plan managers, as set forth in this section, the registered  
18 tax collection agent and the operator or plan manager shall be  
19 jointly and severally liable for the taxes due under this  
20 chapter, including penalties and interest as provided by law,  
21 with respect to their business activities conducted directly



1 through the registered tax collection agent from the date of  
2 registration until the registration is canceled as provided in  
3 subsection (h).

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

14 (f) Except as otherwise provided in this subsection and  
15 subsection (g), all returns and other information provided by a  
16 registered tax collection agent, including the application for  
17 registration as a tax collection agent or any tax collection  
18 agreement, shall be confidential, and disclosure thereof shall  
19 be prohibited as provided in section 237-34. Nothing in this  
20 subsection shall prevent public disclosure of information about  
21 registered agents as provided in subsection 92F-12(a)(13) or of



1 aggregated information not identifiable to a specific tax  
2 collection agent.

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

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

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

21 (A) The address of the transient accommodation;



- 1           (B) The number of nights that each transient
- 2                   accommodation was rented and the rate or price at
- 3                   which each transient accommodation was rented;
- 4                   and
- 5           (C) The amount of tax being remitted pursuant to this
- 6                   chapter and the amount of any federal form 1099
- 7                   income that was derived from each transient
- 8                   accommodation.

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





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

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

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

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

19       (1) Notify the operator or plan manager that the subject  
20 property is required to be in compliance with  
21 applicable state land use laws and county land use



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





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 March 15, 2094.



**Report Title:**

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

**Description:**

Part I: Describes the purpose of this Act. 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 a hosting platform to provide, and collect a fee for, booking services regarding transient accommodations if the operator is not registered with the Department of Taxation. Part IV: Amends requirements relating to transient accommodations tax certificates of registration to ensure greater transparency. Part V: Allows a transient accommodations broker to register as a GET and TAT tax collection agent for its operators and plan managers. Effective 3/15/2094. (SD2)

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

