
A BILL FOR AN ACT

RELATING TO TRANSIENT ACCOMMODATIONS.

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

PART I

1
2 SECTION 1. (a) Notwithstanding any provision of section
3 237D-6.5, Hawaii Revised Statutes, to the contrary, a county
4 shall be eligible to receive \$ from the State for the
5 purpose of enforcing all applicable laws and ordinances relating
6 to transient accommodations and short-term vacation rentals;
7 provided that no funds shall be released to a county until it
8 has:

9 (1) Established a real property tax rate that applies only
10 to:

11 (A) Transient accommodations; or

12 (B) Short-term vacation rentals occupied for a period
13 of one hundred eighty consecutive days or less;

14 (2) Developed a process to expediently issue zoning
15 permits pursuant to the respective county zoning
16 ordinances to, and collect all applicable taxes from,
17 qualifying properties that are proposed for use as:



- 1 (A) Transient accommodations; or
- 2 (B) Short-term vacation rentals occupied for a period
- 3 of one hundred eighty consecutive days or less;
- 4 (3) Established a registry to track compliance by, and any
- 5 complaints concerning, permittees who receive zoning
- 6 permits issued pursuant to the respective county
- 7 zoning ordinances pursuant to paragraph (2);
- 8 (4) Established an expedited process for addressing
- 9 alleged violations of zoning and zoning permits issued
- 10 pursuant to the respective county zoning ordinances by
- 11 operators of:
- 12 (A) Transient accommodations; or
- 13 (B) Short-term vacation rentals occupied for a period
- 14 of one hundred eighty consecutive days or less;
- 15 (5) Established an expedited process for addressing an
- 16 appeal filed by a party that was denied a zoning
- 17 permit issued pursuant to the respective county zoning
- 18 ordinances pursuant to paragraph (2); provided that a
- 19 county that has not established an expedited process
- 20 by December 31, 2019, shall establish a process that
- 21 is functionally equivalent to the contested case



1 hearing process described in section 91-9, Hawaii
2 Revised Statutes;

3 (6) Enacted legislation that implements the conditions
4 described in paragraphs (1) through (5); and

5 (7) Through its mayor, notified the governor in writing
6 that it has complied with the conditions described in
7 paragraphs (1) through (6).

8 (b) Within thirty days of receiving written notification
9 from the mayor of a county that it has complied with the
10 conditions described in subsection (a)(1) through (6), the
11 governor shall instruct the director of finance to review
12 whether the county is in compliance with the required
13 conditions. If the director's review indicates that the county
14 is in compliance, the director of finance shall release to the
15 county the funds authorized in section 2 of this Act; provided
16 that the funds have not lapsed. If the director's review
17 indicates that the county is not in compliance with the required
18 conditions, the director shall communicate to the mayor of the
19 county the results of the review and shall specify the actions
20 that the county is required to take to achieve compliance with
21 the required conditions. The release of funds to a county under



1 this Act shall not be contingent upon another county having
2 complied with the conditions described in subsection (a)(1)
3 through (6).

4 (c) As used in this section, "transient accommodations"
5 has the same meaning as in section 237D-1, Hawaii Revised
6 Statutes.

7 SECTION 2. There is allocated out of the revenues
8 collected under chapter 237D, Hawaii Revised Statutes, before
9 any distribution to the counties under section 237D-6.5, Hawaii
10 Revised Statutes, the sum of \$ or so much thereof as
11 may be necessary for fiscal year 2019-2020 for the city and
12 county of Honolulu and the counties of Maui, Hawaii, and Kauai
13 to enforce all applicable laws and ordinances relating to
14 transient accommodations and short-term vacation rentals as
15 established in this Act; provided that no respective county
16 shall receive more than \$ from this allocation.

17 The sum allocated shall be expended by the respective
18 counties for the purposes of this Act.

19 SECTION 3. Each county receiving an allocation for the
20 enforcement of all applicable laws and ordinances relating to
21 transient accommodations and short-term vacation rentals as



1 established in this Act shall submit an interim report to the
2 legislature no later than twenty days prior to the convening of
3 the regular session of 2020 and a final report within twenty
4 days after the close of the 2019-2020 fiscal year. The reports
5 shall include all enforcement actions taken by the respective
6 county wherein the county expended any funds allocated by this
7 Act.

8 **PART II**

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



1 The legislature also finds that hosting platforms should be
2 subject to fines if the hosting platform collects a booking
3 service fee for a transient accommodation that is located in the
4 State and if the operator or plan manager of the transient
5 accommodation is not registered with the director of taxation
6 under section 237D-4, Hawaii Revised Statutes.

7 The legislature additionally finds that transient
8 accommodations brokers, hosting platforms, and booking services
9 should regularly provide data on transient accommodations
10 listings in Hawaii, for greater transparency and data sharing
11 purposes.

12 The purpose of this part is to:

- 13 (1) Amend the definition of "transient accommodations" to
14 include other forms of transient accommodations and
15 other terms that the counties may have defined;
- 16 (2) Make it unlawful for a hosting platform to provide,
17 and collect a fee for, booking services in connection
18 with transient accommodations located in the State if
19 the operator or plan manager is not registered with
20 the director of taxation as required under section
21 237D-4, Hawaii Revised Statutes;



1 (3) Require anonymous, periodic reports by transient
2 accommodations brokers, hosting platforms, and booking
3 services to the department of business, economic
4 development, and tourism of transient accommodations
5 listings;

6 (4) Enable a transient accommodations broker to register
7 as a tax collection agent with respect to transient
8 accommodations taxes and general excise taxes for its
9 operators and plan managers; and

10 (5) Require operators and plan managers to remove a
11 transient accommodation advertisement upon notice that
12 the property is not in compliance with state law or
13 county ordinance.

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

19 **SUBPART A. DEFINITIONS**

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



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

3 "Booking service" means any reservation or payment service
4 provided by a person or entity that facilitates a transient
5 accommodation transaction between an operator and a prospective
6 transient or occupant, and for which the person or entity
7 collects or receives, directly, or indirectly through an agent
8 or intermediary, a fee in connection with the reservation or
9 payment services provided for the transient accommodation
10 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 or plan manager may offer a
15 transient accommodation. Hosting platforms usually, though not
16 necessarily, provide booking services through an online platform
17 that allows an operator or plan manager to advertise the
18 transient accommodations through a website provided by the
19 hosting platform and the hosting platform conducts a transaction
20 by which potential renters arrange, use, pay, whether the renter



1 pays rent directly to the operator, plan manager, or to the
2 hosting platform."

3 2. By amending the definition of "transient
4 accommodations" to read:

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



1 SUBPART B. HOSTING PLATFORM LIABILITY; TRANSIENT ACCOMMODATIONS

2 INDUSTRY TRANSPARENCY

3 SECTION 6. Chapter 201, Hawaii Revised Statutes, is
4 amended by adding a new section to part I to be appropriately
5 designated and to read as follows:

6 "§201- Each transient accommodations broker, hosting
7 platform, and booking service shall electronically transmit a
8 quarterly report of Hawaii listing data by the fifth day of each
9 March, June, September, and December with the previous quarter's
10 data to the department of business, economic development, and
11 tourism. Listing data shall be submitted through an online
12 process, using a reporting template and appropriate calculation
13 guidelines developed by, and made publicly available on the
14 website of, the department of business, economic development,
15 and tourism. Reported data shall be anonymized and aggregated
16 by zip code, by the reporting party, and shall include all of
17 the following fields:

- 18 (1) Total number of available units;
19 (2) Total number of available rooms;
20 (3) Total available room nights;
21 (4) Total occupied room nights;



1 (5) Average daily rate;

2 (6) Number of nights stayed per booking; and

3 (7) Total revenue.

4 Any transient accommodations broker, hosting platform, or
5 booking service who fails to provide a quarterly report to the
6 department of business, economic development, and tourism shall
7 be subject to penalties of \$100 per day for non-compliance."

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

11 "§237D- Booking services. (a) It shall be unlawful for
12 a hosting platform to provide and collect a fee for booking
13 services provided in connection with a transient accommodation
14 located in the State if the operator or plan manager of the
15 transient accommodation is not registered with the director as
16 required under section 237D-4. This section shall not apply to
17 booking services provided in connection with a transient
18 accommodation that is a hotel.

19 (b) A hosting platform that violates this section shall be
20 subject to a penalty of \$1,000 per booking service transaction
21 from which fees were collected in violation of subsection (a).



1 Each reservation or payment service for the letting of a
2 transient accommodation shall be a separate booking service
3 transaction.

4 (c) As used in this section:

5 "Booking service" shall have the same meaning as in section
6 237D-1.

7 "Hosting platform" shall have the same meaning as in
8 237D-1.

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

17 (d) The department may require, by subpoena, a hosting
18 platform to provide the names and registration identification
19 numbers for all operators and plan managers for whom the hosting
20 platform provided booking services and for all operators and



1 plan managers for whose property or transient accommodations the
2 hosting platform provided booking services.

3 (e) The department shall not impose penalties under this
4 section if the hosting platform obtains the registration
5 identification number issued under section 237D-4 of the
6 operators or plan managers described in subsection (d), in the
7 format in which the numbers are issued by the department.

8 (f) Any monetary penalty assessed under this section shall
9 be due and payable thirty days after the hosting platform is
10 notified of the imposition of the penalty. Penalties assessed
11 under this section may be appealed to the director of taxation
12 or the director's designee."

13 SECTION 8. Section 237D-4, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "**§237D-4 Certificate of registration.** (a) Each operator
16 or plan manager as a condition precedent to engaging or
17 continuing in the business of furnishing transient
18 accommodations or in business as a resort time share vacation
19 plan shall register with the director the name and address of
20 each place of business within the State subject to this chapter.



1 The operator or plan manager shall make a one-time payment as
2 follows:

3 (1) \$5 for each registration for transient accommodations
4 consisting of one to five units;

5 (2) \$15 for each registration for transient accommodations
6 consisting of six or more units; and

7 (3) \$15 for each resort time share vacation plan within
8 the State;

9 upon receipt of which the director shall issue a certificate of
10 registration in such form as the director determines, attesting
11 that the registration has been made. The registration shall not
12 be transferable and shall be valid only for the operator or plan
13 manager in whose name it is issued and for the transaction of
14 business at the place designated therein. Acquisition of
15 additional transient accommodation units after payment of the
16 one-time fee shall not result in additional fees.

17 (b) The registration, or in lieu thereof a notice stating
18 where the registration may be inspected and examined, shall at
19 all times be conspicuously displayed at the place for which it
20 is issued. The name, phone number, and electronic mail address
21 of the local contact shall at all times be conspicuously



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

- 12 (1) \$500 per day, for a first violation for which a
13 citation is issued;
- 14 (2) \$1,000 per day, for a second violation for which a
15 citation is issued; and
- 16 (3) \$5,000 per day, for a third and any subsequent
17 violation for which a citation is issued.
- 18 (c) Any advertisement, including an online advertisement,
19 for any transient accommodation or resort time share vacation
20 interest, plan, or unit shall conspicuously provide:



- 1 (1) ~~[The registration identification number or an~~
2 ~~electronic link to the registration identification~~
3 ~~number of the]~~ The operator or plan [manager issued
4 ~~pursuant to this section; and]~~ manager's transient
5 accommodations tax registration identification number;
- 6 (2) The local contact's name, phone number, and electronic
7 mail address, provided that this paragraph shall be
8 considered satisfied if this information is provided
9 to the transient or occupant prior to the furnishing
10 of the transient accommodation or resort time share
11 vacation unit ~~[-]; and~~
- 12 (3) The applicable land use permit or registration
13 identification number of each advertised unit as
14 provided by the county having jurisdiction.

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

- 18 (d) Failure to meet the requirements of subsection (c)
19 shall be unlawful. The department may issue citations to any
20 ~~[person, including] operators [-] or plan managers [-, and~~
21 ~~transient accommodations brokers, who violates]~~ who violate



1 subsection (c). A citation issued pursuant to this subsection
2 for each transient accommodation or resort time share vacation
3 interest, plan, or unit in violation of subsection (c) shall
4 include a monetary fine of not less than:

5 (1) \$500 per day, for a first violation for which a
6 citation is issued;

7 (2) \$1,000 per day, for a second violation for which a
8 citation is issued; and

9 (3) \$5,000 per day, for a third and any subsequent
10 violation for which a citation is issued.

11 (e) The registration provided for by this section shall be
12 effective until canceled in writing. Any application for the
13 reissuance of a previously canceled registration identification
14 number shall be regarded as a new registration application and
15 shall be subject to the payment of the one-time registration
16 fee. The director may revoke or cancel any license issued under
17 this chapter for cause as provided by rule under chapter 91.

18 (f) If the license fee is paid, the department shall not
19 refuse to issue a registration or revoke or cancel a
20 registration for the exercise of a privilege protected by the
21 First Amendment of the Constitution of the United States, or for



1 the carrying on of interstate or foreign commerce, or for any
2 privilege the exercise of which, under the Constitution and laws
3 of the United States, cannot be restrained on account of
4 nonpayment of taxes, nor shall section 237D-14 be invoked to
5 restrain the exercise of such a privilege, or the carrying on of
6 such commerce.

7 ~~[(g) Any person who may lawfully be required by the State,~~
8 ~~and who is required by this chapter, to register as a condition~~
9 ~~precedent to engaging or continuing in the business of~~
10 ~~furnishing transient accommodations or as a plan manager subject~~
11 ~~to taxation under this chapter, who engages or continues in the~~
12 ~~business without registering in conformity with this chapter,~~
13 ~~shall be guilty of a misdemeanor. Any director, president,~~
14 ~~secretary, or treasurer of a corporation who permits, aids, or~~
15 ~~abets such corporation to engage or continue in business without~~
16 ~~registering in conformity with this chapter, shall likewise be~~
17 ~~guilty of a misdemeanor. The penalty for the misdemeanors shall~~
18 ~~be the same as that prescribed by section 231-35 for~~
19 ~~individuals, corporations, or officers of corporations, as the~~
20 ~~case may be, for violation of that section.~~



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

6 (h) Any person who is required by this section to register
7 as a condition precedent to engaging or continuing in the
8 business of furnishing transient accommodations or as a plan
9 manager subject to taxation under this chapter, who engages or
10 continues in the business without registering in conformity with
11 this section, shall be subject to the citation process and
12 monetary fines under section 237D-4(d).

13 (i) For purposes of this section, "engaging or continuing
14 in the business of furnishing transient accommodations" includes
15 posting any advertisement for the furnishing of a transient
16 accommodation."

17 **SUBPART C. TRANSIENT ACCOMMODATIONS BROKERS AS TAX COLLECTION**

18 **AGENTS**

19 SECTION 9. Chapter 237, Hawaii Revised Statutes, is
20 amended by adding a new section to be appropriately designated
21 and to read as follows:



1 "§237- Transient accommodations broker as tax collection
2 agent; operator and plan manager. (a) The director may permit
3 a transient accommodations broker to register as a tax
4 collection agent on behalf of all of its operators and plan
5 managers by entering into a tax collection agreement with the
6 director or by submitting a tax collection agent registration
7 statement to the director; provided that the transient
8 accommodations broker agrees in writing:

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



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

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

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



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

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

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



1 subsection (h). For purposes of any other business activity,
2 the operators and plan managers shall be subject to all
3 requirements of title 14 and all county ordinances and rules
4 regulating transient accommodations, regardless of the terms
5 used by the county to refer to transient accommodations, as if
6 this section did not exist.

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



1 registration until the registration is canceled as provided in
2 subsection (h).

3 (e) A tax collection agent shall be liable for the taxes
4 imposed by this chapter that are due and collected on behalf of
5 operators and plan managers, if taxes are collected, but not
6 reported or paid, together with penalties and interest as
7 provided by law.

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

18 (g) A registered tax collection agent shall file periodic
19 returns in accordance with section 237-30 and annual returns in
20 accordance with section 237-33. Each periodic return required
21 under section 237-30 shall be accompanied by an electronic cover



1 sheet, in a form prescribed by the department that includes the
2 following information:

3 (1) For each operator and plan manager on whose behalf the
4 tax collection agent is required to report, collect,
5 and pay over taxes due under this chapter, the
6 operator's or plan manager's name, address, and
7 general excise tax license number; and

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

14 (A) The address of the transient accommodation;

15 (B) The number of nights that each transient
16 accommodation was rented and the rate or price at
17 which each transient accommodation was rented;
18 and

19 (C) The amount of tax being remitted pursuant to this
20 chapter and the amount of any federal form 1099



1 income that was derived from each transient
2 accommodation.

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

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

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



1 State no later than ninety days prior to the effective date of
2 cancellation.

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

10 (i) When conducting business with an operator or plan
11 manager with respect to a property for lease or rent, transient
12 accommodations brokers, hosting platforms, and booking services
13 shall:

14 (1) Notify the operator or plan manager that the subject
15 property is required to be in compliance with
16 applicable state and county land use laws and
17 ordinances prior to retaining the services of the
18 transient accommodations broker, hosting platform, or
19 booking service;

20 (2) Require the operator or plan manager to provide the
21 transient accommodations broker, hosting platform, or



1 booking service with the operator's or plan manager's
2 transient accommodations tax identification number and
3 local contact information and shall notify the
4 operator or plan manager that this information is
5 required in advertisements for transient
6 accommodations or resort time share vacation
7 interests, plans, or units under section 237D-4;

8 (3) Require the operator or plan manager to provide the
9 transient accommodation broker, hosting platform, and
10 booking service with the county non-conforming use
11 registration number, or other unit-specific transient
12 accommodation registration number as issued by the
13 appropriate county agency, and verification of
14 compliance with state and county land use laws in the
15 form of a written certification, verification, or
16 permit, as applicable, issued by the appropriate
17 county agency; and

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

20 An operator or plan manager shall remove any advertisement,
21 including an online advertisement, for a transient accommodation



1 located in the State for which the operator or plan manager
 2 fails to comply with paragraph (2), (3), or (4) or for which the
 3 operator or plan manager has received written notice from a
 4 state or county governmental authority that the property is not
 5 in compliance with state law or county ordinance, as applicable.
 6 The state or county governmental authority shall provide a copy
 7 of the written notice to the transient accommodations broker,
 8 hosting platform, or booking service.

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

16 (k) For the purposes of this section:

17 "Booking service" has the same meaning as in section
 18 237D-1.

19 "Director" means the director of taxation.

20 "Hosting platform" has the same meaning as in section
 21 237D-1.



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

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

3 "Transient accommodations" has the same meaning as in
4 section 237D-1.

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

7 SECTION 10. Chapter 237D, Hawaii Revised Statutes, is
8 amended by adding a new section to be appropriately designated
9 and to read as follows:

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

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



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

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

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

17 The director shall deny an application for registration as
18 a tax collection agent under this section for violations of this
19 subsection and may deny an application for any other cause
20 authorized by law, including any violation of this chapter or
21 rules adopted pursuant thereto, violation of any prior tax



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

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

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

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



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

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



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

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

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



1 subsection shall prevent public disclosure of information about
2 registered agents as provided in subsection 92F-12(a)(13) or of
3 aggregated information not identifiable to a specific tax
4 collection agent.

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

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

17 (2) For each transient accommodation rented through the
18 registered tax collection agent or the website or
19 hosting platform designated in the certificate of
20 registration issued pursuant to subsection (a), for



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

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



1 tax laws and ordinances, and any applicable land use laws and
2 ordinances.

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

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

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

18 (i) When conducting business with an operator or plan
19 manager with respect to a property for lease or rent, transient
20 accommodations brokers, hosting platforms, and booking services
21 shall:



- 1 (1) Notify the operator or plan manager that the subject
2 property is required to be in compliance with
3 applicable state land use laws and county land use
4 ordinances prior to retaining the services of the
5 transient accommodations broker, hosting platform, or
6 booking service;

- 7 (2) Require the operator or plan manager to provide the
8 transient accommodations broker, hosting platform, or
9 booking service with the operator or plan manager's
10 transient accommodations tax registration
11 identification number and local contact information
12 and shall notify the operator or plan manager that
13 this information is required in advertisements for
14 transient accommodations or resort time share vacation
15 interests, plans, or units under section 237D-4;

- 16 (3) Require the operator or plan manager to provide the
17 transient accommodations broker with verification of
18 compliance with state land use laws and county land
19 use ordinances in the form of a written certification,
20 verification, or permit, as applicable, issued by the
21 appropriate county agency;



1 (4) Require the operator or plan manager to provide a
2 statement to the transient accommodations broker
3 confirming compliance with all land use laws and
4 ordinances; and

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

7 An operator or plan manager shall remove any advertisement,
8 including an online advertisement, for a transient accommodation
9 located in the State for which the operator or plan manager
10 fails to comply with paragraph (2), (3), (4), or (5) or for
11 which the operator or plan manager has received written notice
12 from a state or local governmental authority that the property
13 is not in compliance with state law or county ordinance, as
14 applicable. The state or county governmental authority shall
15 provide a copy of the written notice to the transient
16 accommodations broker, hosting platform, or booking service.

17 (j) Nothing in this section shall be construed to preempt
18 or prohibit the authority of a unit of local government in the
19 State, including counties and any other political subdivisions
20 of the State, to adopt, monitor, and enforce local land use
21 ordinances, rules, or regulations, nor to transfer the authority



1 to monitor and enforce these ordinances, rules, or regulations
2 away from the counties."

3 SECTION 11. Section 237D-4.5, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "[+]§237D-4.5[+] Certificate of registration for transient
6 accommodations broker, travel agency, and tour packager. (a)

7 Each transient accommodations broker, travel agency, or tour
8 packager, as a condition precedent to entering into an
9 arrangement to furnish transient accommodations at
10 noncommissioned negotiated contract rates, shall register with
11 the director. The transient accommodations broker, travel
12 agency, or tour packager shall make a one-time payment of \$15
13 for each registration, upon receipt of which the director shall
14 issue a certificate of registration in a form as the director
15 determines, attesting that the registration has been made. The
16 registration shall not be transferable and shall be valid only
17 for the transient accommodations broker, travel agency, or tour
18 packager in whose name it is issued.

19 (b) The registration shall be effective until canceled in
20 writing. Any application for the reissuance of a previously
21 canceled registration identification number shall be regarded as



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

5 (c) Any person who enters into an arrangement to furnish
6 transient accommodations without registering in conformity with
7 this section shall be subject to the citation process and
8 monetary fines under section 237D-4(d)."

9 **PART III**

10 SECTION 12. If any provision of this Act, or the
11 application thereof to any person or circumstance, is held
12 invalid, the invalidity does not affect other provisions or
13 applications of the Act that can be given effect without the
14 invalid provision or application, and to this end the provisions
15 of this Act are severable.

16 SECTION 13. Statutory material to be repealed is bracketed
17 and stricken. New statutory material is underscored.

18 SECTION 14. This Act shall take effect on January 1, 2020.

19



Report Title:

Transient Accommodations; Vacation Rentals; Counties; Enforcement; Hosting Platform Liability; Transparency; Data Sharing; Transient Accommodations Brokers; Tax Collection Agents

Description:

Part I: Makes a county eligible to receive TAT revenue allocations for the purpose of enforcing all applicable laws and ordinances relating to transient accommodations, under specified conditions. Requires reports from counties receiving funds for enforcement of transient accommodations and short-term vacation rentals ordinances. Part II: Amends the definition of "transient accommodations" to include additional forms of transient accommodations. Requires each transient accommodations broker, hosting platform, and booking service to submit to DBEDT quarterly reports of statistical data relating to transient accommodations listings. Makes it unlawful for a hosting platform to provide, and collect a fee for, booking services regarding transient accommodations if the operator or plan manager is not registered with the Director of Taxation. Amends requirements relating to transient accommodations tax certificates of registration to ensure greater transparency. Allows a transient accommodations broker to register as a GET and TAT tax collection agent for its operators and plan managers. Takes effect on 1/1/2020. (SD1)

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

