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# A BILL FOR AN ACT

RELATING TO TAXATION.

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

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

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



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

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

6 "§237- Transient accommodations broker as tax  
7 collection agent. (a) The director of taxation may permit a  
8 transient accommodations broker to register as a tax collection  
9 agent on behalf of all of its operators and plan managers by  
10 entering into a tax collection agreement with the director or by  
11 submitting a transient accommodations broker tax collection  
12 agent registration statement to the director. The director may  
13 deny an application for registration as a transient  
14 accommodations broker tax collection agent under this section  
15 for cause, including but not limited to any violation of this  
16 chapter or rules adopted pursuant thereto, violation of any  
17 prior tax collection agreement, or failure to meet minimum  
18 criteria that may be set forth by the department in rules  
19 adopted pursuant to chapter 91.

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



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

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

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

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



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

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



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

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

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

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



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

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

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

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



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

9       (i) For the purposes of this section:

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

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

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

14       (j) Acting as a registered transient accommodations broker  
15 tax collection agent under this section shall not cause a  
16 transient accommodations broker to be, or to assume the duties,  
17 obligations, or liabilities of, an operator, plan manager, or  
18 provider of transient accommodations under any other law of this  
19 State or of any county."



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- Transient accommodations broker as tax  
5 collection agent. (a) The director may permit a transient  
6 accommodations broker to register as a tax collection agent on  
7 behalf of all of its operators and plan managers by entering  
8 into a tax collection agreement with the director or by  
9 submitting a transient accommodations broker tax collection  
10 agent registration statement to the director. The director may  
11 deny an application for registration as a transient  
12 accommodations broker tax collection agent under this section  
13 for cause, including but not limited to any violation of this  
14 chapter or rules adopted pursuant thereto, violation of any  
15 prior tax collection agreement, or failure to meet minimum  
16 criteria that may be set forth by the department in rules  
17 adopted pursuant to chapter 91.

18 Execution of a tax collection agreement shall not be a  
19 requirement for registration as a transient accommodations  
20 broker tax collection agent, but the director may enter into a  
21 tax collection agreement that waives or modifies the duties and





1 responsibilities of the transient accommodations broker tax  
2 collection agent under this section.

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

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

19 (b) In addition to its own responsibilities under this  
20 chapter, a registered transient accommodations broker tax  
21 collection agent shall report, collect, and pay over the taxes



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

10 (c) The registered transient accommodations broker tax  
11 collection agent's operators and plan managers shall be deemed  
12 registered under this chapter; provided that the registration  
13 shall apply solely to the business activity conducted directly  
14 through the registered transient accommodations broker tax  
15 collection agent from the date of registration until the  
16 registration is canceled as provided in subsection (h). For  
17 purposes of any other business activity, the operators and plan  
18 managers are subject to all requirements of title 14 as if this  
19 section did not exist.

20 (d) Under this section, a registered transient  
21 accommodations broker tax collection agent shall assume all



1 obligations, rights, and responsibilities imposed by this  
2 chapter upon its operators and plan managers with respect to  
3 their business activities conducted directly through the  
4 registered transient accommodations broker tax collection agent  
5 from the date of registration until the registration is canceled  
6 as provided in subsection (h).

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

12 (f) All returns and other information provided by a  
13 registered transient accommodations broker tax collection agent,  
14 including the application for registration as a transient  
15 accommodations broker tax collection agent or any tax collection  
16 agreement, shall be confidential and disclosure thereof shall be  
17 prohibited as provided in section 237D-13; provided that no  
18 disclosure of returns or information provided by the transient  
19 accommodations broker tax collection agent with respect to its  
20 operators and plan managers shall be made pursuant to section  
21 237D-13(a)(9), (10) or (11).



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

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

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

18       The director may cancel a transient accommodations broker  
19 tax collection agent's registration under this section for any  
20 cause, including but not limited to any violation of this  
21 chapter or rules adopted pursuant thereto, or for violation of



1 any applicable tax collection agreement, by delivering written  
2 notice of cancellation to the transient accommodations broker  
3 tax collection agent not later than ninety days prior to the  
4 effective date of cancellation.

5 (i) Acting as a registered transient accommodations broker  
6 tax collection agent under this section shall not cause a  
7 transient accommodations broker to be, or to assume the duties,  
8 obligations, or liabilities of, an operator, plan manager, or  
9 provider of transient accommodations under any other law of this  
10 State or of any county."

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

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

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





1 collect rent on behalf of [~~sueh~~] the owner, other than a  
2 transient accommodations broker tax collection agent registered  
3 under section 237D- , shall be subject to this section."

4 SECTION 7. Within ninety days after the effective date of  
5 this Act, the director of taxation shall make available to  
6 transient accommodations brokers a form of application for  
7 registration as a transient accommodations broker tax collection  
8 agent under the new section of chapter 237, Hawaii Revised  
9 Statutes, added by section 2 of this Act, and under the new  
10 section of chapter 237D, Hawaii Revised Statutes, added by  
11 section 3 of this Act.

12 SECTION 8. If any provision of this Act, or the  
13 application thereof to any person or circumstance, is held  
14 invalid, the invalidity does not affect other provisions or  
15 applications of the Act that can be given effect without the  
16 invalid provision or application, and to this end the provisions  
17 of this Act are severable.

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

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



**Report Title:**

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

**Description:**

Allows transient accommodations brokers to register as tax collection agents to collect and remit general excise and transient accommodations taxes on behalf of operators and plan managers using their services. Applies to taxable years beginning after 12/31/2016. (SD2)

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

