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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 legislature further finds that, to increase  
15 transparency and ensure the veracity of the taxes being  
16 collected, transient accommodations brokers acting as tax  
17 collectors must provide pertinent information to the department



1 of taxation about the operators and plan managers on whose  
2 behalf they collect taxes:

3 The purpose of this Act is to allow a transient  
4 accommodations broker to register to act as a tax collection  
5 agent with respect to transient accommodations taxes and general  
6 excise taxes for its operators and plan managers in a manner  
7 that recognizes the dynamic changes that are occurring in the  
8 transient accommodations business.

9 This Act is not intended to preempt or otherwise limit the  
10 authority of the counties to adopt, monitor, and enforce local  
11 land use regulations, nor is this Act intended to transfer the  
12 authority to monitor and enforce such regulations away from the  
13 counties.

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

17 "§237- Transient accommodations broker as tax collection  
18 agent. (a) The director may permit a transient accommodations  
19 broker to register as a tax collection agent on behalf of all of  
20 its operators and plan managers by entering into a tax  
21 collection agreement with the director or by submitting a



1 transient accommodations broker tax collection agent  
2 registration statement to the director.

3 The director may deny an application for registration as a  
4 transient accommodations broker tax collection agent under this  
5 section for any cause authorized by law, including but not  
6 limited to any violation of this chapter or rules adopted  
7 pursuant thereto, violation of any prior tax collection  
8 agreement, or failure to meet minimum criteria that may be set  
9 forth by the department in rules adopted pursuant to chapter 91.

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

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

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



1 rules regulating short-term rentals, vacation rentals, or bed  
2 and breakfast lodging within their jurisdictions as if this  
3 section did not exist.

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

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



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

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

19       (g) A registered transient accommodations broker tax  
20 collection agent shall file periodic returns in accordance with  
21 section 237-30 and annual returns in accordance with section



1 237-33. Each periodic return required pursuant to section  
2 237-30 shall be accompanied by an electronic cover sheet, in a  
3 form prescribed by the department, that includes the following  
4 information:

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

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

16 (A) The address of the transient accommodation;

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

20 and



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

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

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

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



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

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

11 (i) For the purposes of this section:

12 "Director" means the director of taxation.

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

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

15 "Transient accommodation" has the same meaning as in  
16 section 237D-1.

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

19 (j) All registered transient accommodations broker tax  
20 collection agents shall inquire with their operators and plan  
21 managers to determine whether the transient accommodation is in



1 compliance with all pertinent state and county land use and tax  
2 laws, including but not limited to:

- 3       (1) Prior to placing an advertisement, including an online  
4       advertisement, on the availability of a property for  
5       lease or rent on behalf of an operator or plan  
6       manager, notifying the operator or plan manager that  
7       the subject property is required to be in compliance  
8       with applicable state and county land use laws prior  
9       to retaining the services of the transient  
10       accommodations broker;
- 11       (2) Requiring the operator or plan manager to display or  
12       make available its transient accommodation tax  
13       registration identification number and transient  
14       accommodations number, along with other required  
15       information in any advertisement, in compliance with  
16       section 237D-4;
- 17       (3) Requiring the operator or plan manager to provide  
18       verification of compliance with state and county land  
19       use laws in the form of a written certification,  
20       verification, or permit, as applicable, issued by the  
21       appropriate county agency; and



1       (4) Requiring the operator or plan manager to provide a  
2           statement confirming compliance with all applicable  
3           land use laws.

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

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

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

20       The director may deny an application for registration as a  
21 transient accommodations broker tax collection agent under this



1 section for any cause authorized by law, including but not  
2 limited to any violation of this chapter or rules adopted  
3 pursuant thereto, violation of any prior tax collection  
4 agreement, or failure to meet minimum criteria that may be set  
5 forth by the department in rules adopted pursuant to chapter 91.

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

15 A registered transient accommodations broker tax collection  
16 agent shall be issued separate certificates of registration  
17 under this chapter with respect to taxes payable on behalf of  
18 its operators and plan managers in its capacity as a registered  
19 transient accommodations broker tax collection agent and, if  
20 applicable, with respect to any taxes payable under this chapter  
21 for its own 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 obtain  
15 registration under this chapter and remain subject to the  
16 requirements of title 14; provided that the registered transient  
17 accommodations broker tax collection agent shall report,  
18 collect, and pay the taxes under this chapter on behalf of the  
19 operators and plan managers for business activity conducted  
20 directly through the agent as set forth in this section, from  
21 the date of registration until the registration is canceled as



1 provided in subsection (h). For purposes of any other business  
2 activity, the operators and plan managers are subject to all  
3 requirements of title 14 and all local laws, ordinances, and  
4 rules regulating short-term rentals, vacation rentals, or bed  
5 and breakfast lodging within their jurisdictions as if this  
6 section did not exist.

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

18 (e) A transient accommodations broker tax collection agent  
19 shall be personally liable for the taxes imposed by this chapter  
20 that are due and collected on behalf of operators and plan  
21 managers, if taxes are collected, but not reported or paid,



1 together with penalties and interest as provided by law. If the  
2 transient accommodations broker tax collection agent is an  
3 entity, the personal liability under this subsection shall apply  
4 to any officer, member, manager, or other person who has control  
5 or supervision over amounts collected to pay the taxes or who is  
6 charged with the responsibility for the filing of returns or the  
7 payment of taxes.

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

15 (g) A registered transient accommodations broker tax  
16 collection agent shall file periodic returns in accordance with  
17 section 237D-6 and annual returns in accordance with section  
18 237D-7. Each periodic return required pursuant to section  
19 237D-6 shall be accompanied by a mandatory electronic cover  
20 sheet, in a form prescribed by the department, that includes the  
21 following information:



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



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

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

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

20 The director may cancel a transient accommodations broker  
21 tax collection agent's registration under this section for any



1 cause, including but not limited to any violation of this  
2 chapter or rules adopted pursuant thereto, or for violation of  
3 any applicable tax collection agreement, by delivering written  
4 notice of cancellation to the transient accommodations broker  
5 tax collection agent not later than ninety days prior to the  
6 effective date of cancellation.

7 (i) All registered transient accommodations broker tax  
8 collection agents shall inquire with their operators and plan  
9 managers to determine whether the transient accommodation is in  
10 compliance with all pertinent state and county land use and tax  
11 laws, including but not limited to:

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

20 (2) Requiring the operator or plan manager to display or  
21 make available its transient accommodation tax



1           registration identification number and transient  
2           accommodations number, along with other required  
3           information in any advertisement, in compliance with  
4           section 237D-4;

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

10          (4) Requiring the operator or plan manager to provide a  
11          statement confirming compliance with all land use  
12          laws.

13          (j) Nothing in this section shall be construed to preempt  
14          or prohibit the authority of a unit of local government in the  
15          State, including counties and any other political subdivisions  
16          of the State, to adopt, monitor, and enforce local land use  
17          regulations, nor to transfer the authority to monitor and  
18          enforce such regulations away from the counties."

19           SECTION 4. By January 1, 2018, the director of taxation  
20 shall make available to transient accommodations brokers a form  
21 of application for registration as a transient accommodations



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

5 SECTION 5. Upon the establishment by a county of a process  
6 for providing verification of compliance by an operator or plan  
7 manager with that county's land use laws, the director of  
8 taxation shall transfer to that county per cent of the  
9 transient accommodations tax and general excise tax collected  
10 for that fiscal year.

11 SECTION 6. If any provision of this Act, or the  
12 application thereof to any person or circumstance, is held  
13 invalid, the invalidity does not affect other provisions or  
14 applications of the Act that can be given effect without the  
15 invalid provision or application, and to this end the provisions  
16 of this Act are severable.

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

19 SECTION 8. This Act shall take effect on May 22, 2050, and  
20 shall apply to taxable years beginning after December 31, 2017.



**Report Title:**

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

**Description:**

Allows transient accommodations brokers to register as a tax collection agent on behalf of all of its operators and plan managers. Requires registered transient accommodations broker tax collection agent's operators and plan managers to obtain a GET license and TAT registration. Requires registered transient accommodations broker tax collection agents to file periodic and annual GET and TAT returns. Requires that each periodic return be accompanied by an electronic cover sheet containing required information. Requires all registered transient accommodations broker tax collection agents to inquire with their operators and plan managers whether the transient accommodation is in compliance with all pertinent state and county land use and tax laws. Requires the operator or plan manager to provide verification of and a statement confirming compliance with state and county land use laws in the form of a written certification, verification, or permit, as applicable, issued by the appropriate county agency. Allocates an unspecified per cent of GET and TAT taxes to the counties contingent upon establishment of a process to provide verification of compliance by an operator or plan manager with county land use laws. Applies to taxable years beginning after December 31, 2017. Effective date 5/22/2050. (SD2)

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

