

JAN 25 2017

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 there is a
2 proliferation of illegal short-term rental lodging in the State,
3 much of which is being run by commercial operators. Such
4 illegal short-term rentals materially contribute to the high
5 cost of housing in Hawaii by taking units off the market that
6 would otherwise be available to residents. Hawaii's affordable
7 housing crisis and its extremely high per capita rate of
8 homelessness require, among other things, more transparency and
9 accountability with respect to short-term rental lodging.

10 The legislature further finds that pursuant to chapter 237,
11 Hawaii Revised Statutes, every person engaging or continuing any
12 business in the State, casual sales excluded, is required to
13 register with the state department of taxation and pay general
14 excise tax. There is no carve out for owners or operators of
15 short-term rental lodging or other home-based businesses. In
16 addition, section 237D-4, Hawaii Revised Statutes, expressly
17 requires that operators of short-term rental lodging, as



1 transient accommodations, register with the director of
2 taxation. Section 237D-2, Hawaii Revised Statutes, imposes a
3 transient accommodations tax on such operators based on a
4 percentage of gross rental or gross rental proceeds derived from
5 furnishing short-term rental lodging.

6 The legislature finds that, in conjunction with the
7 existing registration and taxation requirements, allowing a
8 hosting platform for short-term rental lodging to collect and
9 remit transient accommodations tax and general excise tax
10 payable on behalf of operators that furnish short-term rental
11 lodging through the hosting platform would ease the burden of
12 tax collection. Section 237-9(e), Hawaii Revised Statutes,
13 already permits similar arrangements with respect to persons
14 engaged in network marketing, multi-level marketing, and other
15 similar businesses, on behalf of their direct sellers.

16 The legislature further finds that, in order for the
17 department to verify the taxes collected, hosting platforms
18 acting as tax collectors must provide sufficient and detailed
19 information to the department about the short-term rental
20 lodging operators on whose behalf they collect taxes. The
21 provided information must include the operators' registration



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1 information and the addresses and locations of each short-term
2 rental lodging unit registered. The information must also
3 provide detailed information about the underlying booking
4 transactions. Tax collection by hosting platforms must not
5 compromise the ability of the department to determine whether
6 taxes are being properly remitted and reported, and must not
7 provide a shield for illegal short-term rental lodging at the
8 expense of Hawaii residents.

9 The legislature further finds that, to eliminate illegal
10 short-term rental lodging by commercial operators, it is
11 necessary to impose limits on the number of units that may be
12 registered by any one owner or operator for short-term rental
13 lodging.

14 The purpose of this Act is to:

- 15 (1) Eliminate illegal short-term rental lodging and
16 provide for greater accountability for hosting
17 platforms that materially contribute to illegal
18 rentals;
- 19 (2) Allow hosting platforms registered with the department
20 of taxation to act as tax collectors on behalf of the
21 short-term rental lodging operators with respect to



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- 1 booking transactions made through such hosting
2 platforms;
- 3 (3) Increase tax revenues through a general excise tax on
4 short-term rental lodging operators;
- 5 (4) Require that hosting platforms report detailed
6 operator information, including addresses and number
7 of booking transactions, in tax returns;
- 8 (5) Limit the number of units that can be registered for
9 short-term rental use by any one operator and cap the
10 number of nights permitted for short-term rental
11 lodging use;
- 12 (6) Require the advertisement de-listing from hosting
13 platforms of short-term rental lodging that fails to
14 comply with local and state laws;
- 15 (7) Create a surcharge on short-term rental lodging in the
16 State to fund supportive services for Hawaii's
17 homeless; and
- 18 (8) Require every short-term rental lodging operator to
19 keep records of any short-term rental lodging use,
20 along with information regarding each booking
21 transaction, for a period of three years.



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

4 "§237- Collection and remittance of general excise taxes
5 by registered hosting platforms on behalf of short-term rental
6 lodging operators. (a) The director may permit any hosting
7 platform to register with the department for the collection and
8 remission of any tax imposed pursuant to this chapter on any
9 booking transaction facilitated by the hosting platform on
10 behalf of a short-term rental lodging operator within the State
11 and any county so authorized to collect such taxes.

12 (b) Any hosting platform that has registered with the
13 department pursuant to subsection (a) shall, with respect to
14 each booking transaction facilitated by the hosting platform on
15 behalf of a short-term rental lodging operator within the State
16 and any county for which the hosting platform has registered to
17 collect and remit the tax imposed pursuant to this chapter:

18 (1) Provide written notice to such operator that the
19 hosting platform has been registered to collect,
20 report, and pay the tax imposed by this chapter on the
21 operator's behalf;



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- 1 (2) Collect any taxes due under this chapter and remit the
2 total amount collected to the department on a monthly
3 or other periodic basis, together with a return, as
4 required under section 237-30;
- 5 (3) File an annual return for the taxes collected and
6 remitted under this section in accordance with section
7 237-33; and
- 8 (4) With each return filed pursuant to paragraphs (2) and
9 (3), provide a schedule listing:
- 10 (A) The name, address, and general excise tax number
11 of each operator for whom the hosting platform
12 collected taxes;
- 13 (B) With respect to each operator, the address of
14 each short-term rental lodging unit for which a
15 booking transaction was facilitated by the
16 hosting platform during the applicable period;
17 and
- 18 (C) For each such short-term rental lodging unit, for
19 the applicable period, the total number of
20 booking transactions, the total number of days



1 rented, and the gross rental or gross rental
2 proceeds.

3 The director may require the hosting platform to provide
4 any additional information required to ensure proper payment of
5 taxes under title 14.

6 No operator shall be responsible for collecting or
7 remitting any taxes due under this chapter on any booking
8 transaction for which it has received notice from a hosting
9 platform that the hosting platform has or will be collecting and
10 remitting such taxes. Any notice shall itself be sufficient
11 proof regarding any liability of an operator for such taxes.

12 (c) Information provided to or obtained by the department
13 by a hosting platform pursuant to this chapter, including
14 information contained in a return filed by a hosting platform,
15 information on underlying booking transactions, and information
16 relating to an audit or investigation, shall be considered
17 confidential pursuant to section 237-34 and shall not be
18 disclosed except as provided therein; provided however that
19 general, aggregated information shall not be considered
20 confidential and may be provided by the department to state



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1 tourism authorities for the purpose of assisting with tourism
2 promotion.

3 (d) Nothing in this section shall limit the ability of the
4 department, in accordance with section 231-7, to conduct audits,
5 investigations, or hearings, or to issue subpoenas, with respect
6 to any hosting platform registered under subsection (a), any
7 operator of short-term rental lodging, or any underlying booking
8 transaction.

9 Pursuant to this section, the director of finance, director
10 of budget and fiscal services, or other similar collector of
11 county taxes may conduct an audit of any hosting platform
12 registered under subsection (a) or of any operator of short-term
13 rental lodging, to the extent that such hosting platform or
14 operator is subject to the county surcharge on state tax
15 pursuant to section 237-8.6.

16 (e) Any hosting platform that has registered with the
17 department pursuant to subsection (a) and that fails to file a
18 required return or pay the full amount of applicable tax due as
19 required under this chapter shall be subject to penalties and
20 interest as provided in section 237-32.



1 (f) Registration under this section shall be effective
2 until it is canceled in writing.

3 A hosting platform registered under subsection (a) may
4 cancel its registration by delivering written notice of
5 cancellation to the director and each of the operators on whose
6 behalf it collects and remits taxes no later than ninety days
7 prior to the effective date of cancellation.

8 The director may cancel a hosting platform's registration
9 under this section for any cause, including but not limited to
10 any violation of this chapter or rules adopted pursuant thereto,
11 or for violation of any applicable agreement with the
12 department, by delivering written notice of cancellation to the
13 hosting platform no later than ninety days prior to the
14 effective date of cancellation.

15 (g) Registration of a hosting platform under subsection
16 (a) shall be separate from registration of a hosting platform
17 under this chapter with respect to its own business activities,
18 and separate licenses shall be issued under this chapter with
19 respect to each such registration.

20 (h) For the purposes of this section:



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1 "Booking transaction" has the same meaning as in section
2 237D-1.

3 "Hosting platform" has the same meaning as in section 237D-
4 1.

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

6 "Short-term rental lodging" has the same meaning as in
7 section 237D-1."

8 SECTION 3. 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- Collection and remittance of transient
12 accommodations taxes by registered hosting platform on behalf of
13 short-term rental lodging operators. (a) The director may
14 permit any hosting platform to register with the department for
15 the collection and remission of any tax imposed pursuant to this
16 chapter on any booking transaction facilitated by the hosting
17 platform on behalf of a short-term rental lodging operator
18 within the State.

19 (b) Any hosting platform that has registered with the
20 department pursuant to subsection (a) shall, with respect to



1 each booking transaction facilitated by the hosting platform on
2 behalf of a short-term rental lodging operator within the State:

3 (1) Provide written notice to such operator that the
4 hosting platform has been registered to collect,
5 report and pay over the tax imposed by this chapter on
6 the operator's behalf;

7 (2) Collect any taxes due under this chapter and remit the
8 total amount collected to the department on a monthly
9 or other periodic basis, together with a return, as
10 required under section 237D-6;

11 (3) File an annual return for the taxes collected and
12 remitted under this section in accordance with section
13 237D-7; and

14 (4) With each return filed pursuant to paragraphs (2) and
15 (3), provide a schedule listing:

16 (A) The name, address, and general excise tax number
17 of each operator from whom the hosting platform
18 collected taxes;

19 (B) With respect to each such operator, the address
20 of each short-term rental lodging unit for which
21 a booking transaction was facilitated by the



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1 hosting platform during the applicable period;

2 and

3 (C) For each such short-term rental lodging unit, for

4 the applicable period, the total number of

5 booking transactions, the total number of days

6 rented, and the gross rental or gross rental

7 proceeds.

8 The director may require the hosting platform to provide

9 any additional information required to ensure proper payment of

10 taxes under title 14.

11 No operator shall be responsible for collecting or

12 remitting any applicable taxes due under this chapter on any

13 booking transaction or which it has received notice from a

14 hosting platform that the hosting platform has or will be

15 collecting and remitting such taxes. Any such notice shall

16 itself be sufficient proof regarding any liability of an

17 operator for such taxes.

18 (c) Information provided to or obtained by the department

19 by a hosting platform pursuant to this chapter, including

20 information contained in a return filed by a hosting platform,

21 information on underlying booking transactions, and information



1 relating to an audit or investigation, shall be considered
2 confidential pursuant to section 237D-13 and shall not be
3 disclosed except as provided therein; provided however that
4 general, aggregated information shall not be considered
5 confidential and may be provided by the department to state
6 tourism authorities for the purpose of assisting with tourism
7 promotion.

8 (d) Nothing in this section shall limit the ability of the
9 department, in accordance with section 231-7, to conduct audits,
10 investigations, or hearings, or to issue subpoenas, with respect
11 to any hosting platform registered under subsection (a), any
12 operator of short-term rental lodging, or any underlying booking
13 transaction.

14 (e) Any hosting platform that has registered with the
15 department pursuant to subsection (a) and that fails to file a
16 required return or pay the full amount of applicable tax due as
17 required under this chapter shall be subject to penalties and
18 interest as provided in section 237D-6.

19 (f) Registration under this section shall be effective
20 until it is canceled in writing.



1 A hosting platform registered under subsection (a) may
2 cancel its registration by delivering written notice of
3 cancellation to the director and each of the operators on whose
4 behalf it collects and remits taxes no later than ninety days
5 prior to the effective date of cancellation.

6 The director may cancel a hosting platform's registration
7 under this section for any cause, including but not limited to
8 any violation of this chapter or rules adopted pursuant thereto,
9 or for violation of any applicable agreement with the
10 department, by delivering written notice of cancellation to the
11 hosting platform no later than ninety days prior to the
12 effective date of cancellation.

13 (g) Registration of a hosting platform under subsection
14 (a) shall be separate from registration of a hosting platform
15 under this chapter with respect to its own business activities,
16 and separate certificates of registration shall be issued under
17 this chapter with respect to each such registration."

18 SECTION 4. Section 235-20.5, Hawaii Revised Statutes, is
19 amended by amending subsection (a) to read as follows:

20 "(a) There is established a tax administration special
21 fund, into which shall be deposited:



- 1 (1) Fees collected under sections 235-20, 235-110.9, and
2 235-110.91;
- 3 (2) Revenues collected by the special enforcement section
4 pursuant to section 231-85; provided that in each
5 fiscal year, of the total revenues collected by the
6 special enforcement section, all revenues in excess of
7 \$700,000 shall be deposited into the general fund; and
- 8 (3) Fines and fees assessed pursuant to section 237D-4~~(-)~~,
9 which funds shall be used specifically by the special
10 enforcement section for enforcing compliance with
11 section 237D-4."

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

14 1. By adding six new definitions to be appropriately
15 inserted and to read:

16 "Booking transaction" means any transaction in which there
17 is a charge to a short-term lodger by an operator for any short-
18 term rental lodging.

19 "Control" means the possession, direct or indirect, of the
20 power to direct or cause the direction of the management and



1 policies of an operator, whether through the ownership of voting
2 securities, by contract, or otherwise.

3 "Dwelling unit" shall have the same meaning as in section
4 521-8.

5 "Hosting platform" means any person or entity that
6 facilitates reservations or collects payments for a booking
7 transaction on behalf of or for an operator through an online
8 digital platform.

9 "Short-term lodger" means a person who occupies any
10 residential or commercial unit for the purpose of short-term
11 rental lodging.

12 "Short-term rental lodging" means the accessory or
13 secondary use of a residential dwelling unit or portion thereof
14 by an operator to provide room or space to short-term lodgers
15 for less than one hundred eighty consecutive days for each
16 letting."

17 2. By amending the definition of "local contact" to read:

18 ""Local contact" means an individual residing on the same
19 island as the transient accommodation [~~e~~], resort time share
20 vacation unit, short-term rental lodging, or an entity with a
21 place of business and at least one employee, officer, partner,



1 member, or other person working on behalf of the company who is
2 residing on the same island as the transient accommodation [øx],
3 resort time share vacation unit[-], or short-term rental
4 lodging."

5 3. By amending the definition of "transient
6 accommodations" to read:

7 "Transient accommodations" means the furnishing of a room,
8 apartment, suite, single family dwelling, or the like to a
9 transient for less than one hundred eighty consecutive days for
10 each letting in a hotel, apartment hotel, motel, condominium
11 property regime or apartment as defined in chapter 514A or unit
12 as defined in chapter 514B, cooperative apartment, dwelling
13 unit, or rooming house that provides living quarters, sleeping,
14 or housekeeping accommodations, or other place in which lodgings
15 are regularly furnished to transients. "Transient
16 accommodations" includes short-term rental lodgings."

17 4. By deleting the definition "transient accommodations
18 broker":

19 [~~"Transient accommodations broker" means any person or~~
20 ~~entity, including but not limited to persons who operate online~~
21 ~~websites, online travel agencies, or online booking agencies,~~



1 ~~that offers, lists, advertises, or accepts reservations or~~
2 ~~collects whole or partial payment for transient accommodations~~
3 ~~or resort time share vacation interests, units, or plans."]~~

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

6 **"§237D-2 Imposition and rates.** (a) There is levied and
7 shall be assessed and collected each month a tax of:

8 (1) Five per cent for the period beginning on January 1,
9 1987, to June 30, 1994;

10 (2) Six per cent for the period beginning on July 1, 1994,
11 to December 31, 1998;

12 (3) 7.25 per cent for the period beginning on January 1,
13 1999, to June 30, 2009;

14 (4) 8.25 per cent for the period beginning on July 1,
15 2009, to June 30, 2010; and

16 (5) 9.25 per cent for the period beginning on July 1,
17 2010, and thereafter;

18 on the gross rental or gross rental proceeds derived from
19 furnishing transient accommodations.

20 (b) Every operator shall pay to the State the tax imposed
21 by subsection (a), as provided in this chapter.



1 (c) There is levied and shall be assessed and collected
2 each month, on the occupant of a resort time share vacation
3 unit, a transient accommodations tax of:

4 (1) 7.25 per cent on the fair market rental value until
5 December 31, 2015;

6 (2) 8.25 per cent on the fair market rental value for the
7 period beginning on January 1, 2016, to December 31,
8 2016; and

9 (3) 9.25 per cent on the fair market rental value for the
10 period beginning on January 1, 2017, and thereafter.

11 (d) Every plan manager shall be liable for and pay to the
12 State the transient accommodations tax imposed by subsection (c)
13 as provided in this chapter. Every resort time share vacation
14 plan shall be represented by a plan manager who shall be subject
15 to this chapter.

16 (e) In addition to any other taxes imposed by this
17 section, there is imposed upon each booking transaction for
18 short-term rental lodging in the State a surcharge of four per
19 cent of the gross annual or leasing charge. The purpose of this
20 surcharge is to fund supportive services attached to permanent
21 housing for homeless families and to fund supportive services



1 and housing for chronically homeless. Up to eight per cent of
2 the revenue from the surcharge shall be used for the
3 administration and enforcement of the surcharge. The surcharge
4 is a part of the tax imposed by this chapter, and all references
5 to the tax shall be deemed to include the surcharge, to the
6 extent applicable."

7 SECTION 7. Section 237D-4, Hawaii Revised Statutes, is
8 amended to read as follows:

9 **"§237D-4 Certificate of registration.** (a) Each operator
10 or plan manager as a condition precedent to engaging or
11 continuing in the business of furnishing transient
12 accommodations or in business as a resort time share vacation
13 plan shall register with the director the name and address of
14 each place of business within the State subject to this
15 chapter[-], and shall indicate whether the registration is for
16 short-term rental lodging. With respect to short-term rental
17 lodging, the operator shall provide the director with the
18 address of the short-term rental lodging unit covered by the
19 registration. No operator shall be permitted to register more
20 than one short-term rental lodging unit; provided that an
21 operator may supplement its registration to change the specific



1 short-term rental lodging unit registered to the operator;
2 provided further that any other operator controlling, controlled
3 by, or under common control, as defined in section 237D-1, with
4 such operator shall be deemed to be one and the same operator,
5 and such operators may not register more than one short-term
6 rental lodging unit between them. The operator or plan manager
7 registering pursuant to this section shall make a one-time
8 payment as follows:

- 9 (1) \$5 for each registration for transient accommodations
10 consisting of one to five units;
11 (2) \$15 for each registration for transient accommodations
12 consisting of six or more units; and
13 (3) \$15 for each resort time share vacation plan within
14 the State;

15 upon receipt of which the director shall issue a certificate of
16 registration in such form as the director determines, attesting
17 that the registration has been made. The registration shall not
18 be transferable and shall be valid only for the operator or plan
19 manager in whose name it is issued and for the transaction of
20 business at the place designated therein. Acquisition of



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

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

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



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

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

5 (c) Any advertisement, including an online advertisement,
6 for any transient accommodation [~~or~~]; resort time share vacation
7 interest, plan, or unit; or short-term rental lodging unit shall
8 conspicuously provide:

9 (1) The registration identification number or an
10 electronic link to the registration identification
11 number of the short-term rental lodging operator [~~or~~
12 ~~plan manager~~] issued pursuant to this section; and

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

19 No short-term rental lodging unit shall be listed on a hosting
20 platform unless the operator first demonstrates to the hosting
21 platform that the operator and the short-term rental lodging



1 unit are in compliance with this chapter and other applicable
2 land use, zoning, and tax requirements, including any and all
3 applicable county ordinances and requirements, and including,
4 without limitation, by providing the hosting platform with the
5 registration number described in subsection (c)(1) and by
6 attesting that the operator and the short-term rental lodging
7 unit are in compliance with applicable land use, zoning, and tax
8 requirements, including any and all applicable county ordinances
9 and requirements.

10 (d) Failure to meet the requirements of subsection (c)
11 shall be unlawful. The department may issue citations to any
12 person, including short-term rental lodging operators~~[, plan~~
13 ~~managers, and transient accommodations brokers]~~, who violates
14 subsection (c). A citation issued pursuant to this subsection
15 for each transient accommodation [~~or~~]; resort time share
16 vacation interest, plan, or unit; or short-term rental lodging
17 unit in violation of subsection (c) shall include a monetary
18 fine of not less than:

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



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

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

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

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



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

15 (h) Any monetary fine assessed under this section shall be
16 due and payable thirty days after issuance of the citation,
17 subject to appeal rights provided under this subsection.
18 Citations may be appealed to the director of taxation or the
19 director's designee.

20 (i) A hosting platform shall remove any listing for a
21 short-term rental lodging unit located in the State:



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- 1 (1) That fails to list the registration number for the
2 short-term rental lodging unit described in section
3 (c)(1);
- 4 (2) If the operator fails to attest to compliance with
5 applicable land use, zoning, and tax requirements,
6 including any and all applicable county ordinances and
7 requirements; or
- 8 (3) If the hosting platform has received written notice
9 from a state or local governmental authority that the
10 operator or short-term rental lodging unit has failed
11 to comply with applicable land use, zoning, or tax
12 requirements.
- 13 (j) The department may issue citations to any hosting
14 platform that violates subsection (i). A citation issued
15 pursuant to this subsection for each failure of a hosting
16 platform to remove a listing in violation of subsection (i)
17 shall include a monetary fine of not less than:
- 18 (1) \$500 per day, for a first violation for which a
19 citation is issued;.
- 20 (2) \$1,000 per day, for a second violation for which a
21 citation is issued; and



1 (3) \$5,000 per day, for a third violation for which a
2 citation is issued.

3 (k) In addition to any other registration costs imposed
4 under this chapter or chapter 237, a hosting platform shall be
5 assessed, and pay, an annual fee of \$10,000 for the right to do
6 business in the State as a hosting platform. All fees collected
7 under this subsection shall be deposited in the tax
8 administration special fund and used for the enforcement of this
9 section.

10 (l) Short-term rental lodging use shall not exceed sixty
11 calendar days total per year for each registered short-term
12 rental lodging unit in the State.

13 (m) Unless the owner or occupant is residing in a
14 residential dwelling unit while renting out other bedrooms in
15 the dwelling, such dwelling shall not be advertised or used as
16 short-term rental lodging, if the owner or occupant of such
17 dwelling has received affordable housing funds with respect to
18 such dwelling from the federal, state, or local government,
19 including, without limitation, section 8 housing assistance,
20 housing choice vouchers or rent supplements pursuant to chapter
21 356D, low or moderate income homeowners loans for home repair,



1 rehabilitation, down payments, solar installation, or other
2 similar programs."

3 SECTION 8. Section 237D-12, Hawaii Revised Statutes, is
4 amended to read as follows:

5 **"§237D-12 Records to be kept; examination.** (a) Every
6 operator and plan manager shall keep in the English language
7 within the State, and preserve for a period of three years,
8 suitable records of gross rental, gross rental proceeds, or fair
9 market rental value relating to the business taxed under this
10 chapter, and such other books, records of account, and invoices
11 as may be required by the department, and all such books,
12 records, and invoices shall be open for examination at any time
13 by the department or the Multistate Tax Commission pursuant to
14 chapter 255, or the authorized representative thereof.

15 (b) In addition to the records required to be kept under
16 subsection (a), every short-term rental lodging operator shall
17 keep in the English language within the State, and preserve for
18 a period of three years, suitable records of the dates of any
19 short-term rental lodging use, along with information regarding
20 each booking transaction, including the number of occupants and
21 number of days associated with each such booking transaction and



1 the rental charged. All such records shall be open for
2 examination at any time by the department or the multistate tax
3 commission pursuant to chapter 255, or the authorized
4 representative thereof."

5 SECTION 9. Except as expressly provided herein, this Act
6 is not intended to preempt or otherwise limit the authority of
7 counties to adopt, monitor, and enforce local land use
8 regulations, nor is this Act intended to transfer the authority
9 to monitor and enforce such regulations away from the counties.

10 SECTION 10. By January 1, 2019, the director of taxation
11 shall make available to hosting platforms a form of application
12 for registration for collection and remittance of taxes on
13 behalf of short-term rental lodging operators under the new
14 section of chapter 237, Hawaii Revised Statutes, added by
15 section 2 of this Act, and under the new section of chapter
16 237D, Hawaii Revised Statutes, added by section 3 of this Act.

17 SECTION 11. If any provision of this Act, or the
18 application thereof to any person or circumstance, is held
19 invalid, the invalidity does not affect other provisions or
20 applications of this Act that can be given effect without the
21 invalid provision or application, and to this end the provisions



S.B. NO. 1202

1 of this Act are severable. Without limitation of the generality
 2 of the foregoing, this section is expressly intended to apply to
 3 any provision regarding hosting platform liability in section 7
 4 of this Act.

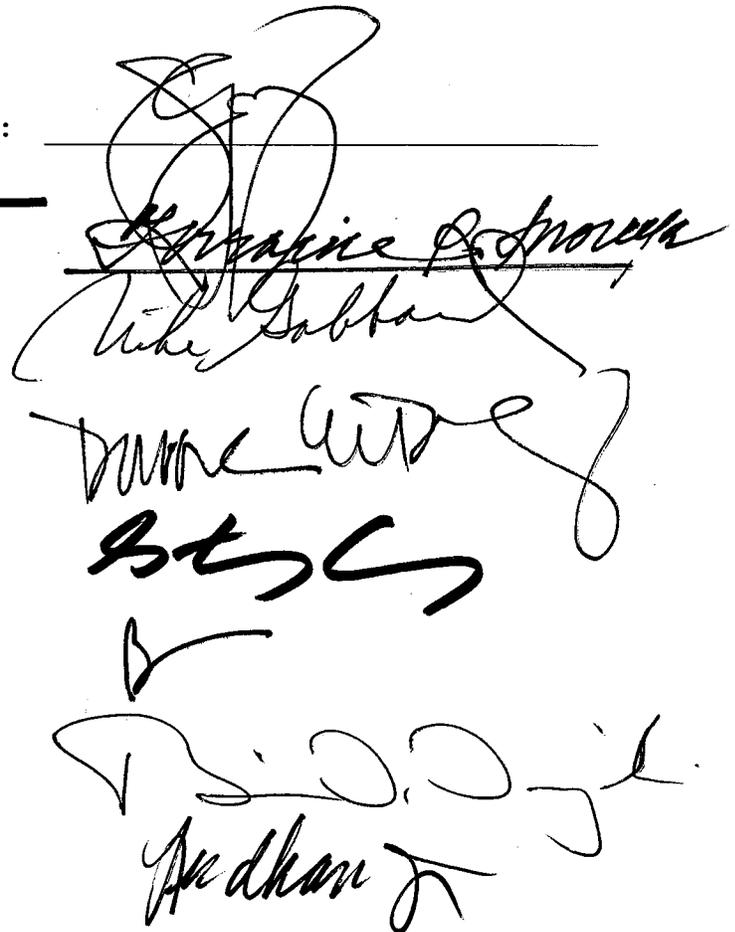
5 SECTION 12. Statutory material to be repealed is bracketed
 6 and stricken. New statutory material is underscored.

7 SECTION 13. This Act, upon its approval, shall apply to
 8 taxable years beginning after December 31, 2018.

9

INTRODUCED BY:

~~RODA AC~~ ~~Gov. Ag~~
 Will Zygo
 Michelle D. Tidani


 A collection of handwritten signatures, including names like Stephanie R. Snow, Mike Sabban, and others, written over a horizontal line.



S.B. NO. 1202

Report Title:

Short-Term Rental Lodging; Hosting Platforms; Transient Accommodations; Reporting Requirements; Taxation; Excise Tax; Counties

Description:

Allows hosting platforms registered with the department of taxation to act as tax collectors on behalf of the short-term rental lodging operators and applies the general excise tax on short-term rental lodging. Requires hosting platforms to report detailed operator information, including addresses and number of booking transactions, with the filing of tax returns and requires short-term rental lodging operators to keep records of each booking transaction for a period of at least three years. Limits the number of short-term rental lodging units that can be registered by any one operator and sets a cap of the number of nights permitted. Creates a surcharge on short-term rental lodging in the State to fund supportive services for Hawaii's homeless.

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

