
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 short-term rentals in the State that are
3 circumventing applicable laws, with many run by commercial
4 operators. These short-term rentals negatively contribute to
5 the high cost of housing in Hawaii by taking units off the
6 market that would otherwise be available to residents. Hawaii's
7 affordable housing crisis and its extremely high per capita rate
8 of homelessness exemplify the need for more transparency and
9 accountability with respect to short-term rentals.

10 The legislature further finds that, to eliminate illegal
11 short-term rentals by commercial operators, it is necessary to
12 impose limits on the number of short-term rental units that may
13 be registered by any one owner or operator. To ease the burden
14 of tax collection, a hosting platform of short-term rentals
15 should be allowed to collect and remit transient accommodations
16 tax and general excise tax payable on behalf of operators and
17 transient accommodations brokers that furnish short-term rentals



1 through the hosting platform. Hosting platforms acting as tax
2 collectors must provide sufficient and detailed information to
3 the department of taxation about the short-term rental operators
4 on whose behalf they collect taxes, including the operators'
5 registration information, the locations of each short-term
6 rental unit registered, and sufficient and detailed information
7 about the underlying booking transactions. Tax collection by
8 hosting platforms must not compromise the ability of the
9 department to determine whether taxes are being properly
10 remitted and reported, and must not provide a shield for illegal
11 short-term rentals at the expense of Hawaii residents.

12 The purpose of this Act is to hold short-term rentals
13 accountable for applicable taxes in the State, with a particular
14 focus on putting an end to short-term rentals run by commercial
15 operators. Specifically, this Act:

- 16 (1) Limits the number of units that can be registered for
17 short-term rental use by any one operator, capping the
18 number of nights permitted for short-term rental use;
- 19 (2) Requires de-listing from hosting platforms of short-
20 term rentals that fail to comply with local and state
21 laws;



- 1 (3) Provides for greater accountability for hosting
2 platforms that materially contribute to illegal
3 rentals;
- 4 (4) Creates a surcharge on short-term rentals in the State
5 to help fund supportive services for Hawaii's
6 homeless;
- 7 (5) Allows hosting platforms registered with the
8 department of taxation to act as tax collectors on
9 behalf of short-term rental operators with respect to
10 booking transactions made through such hosting
11 platforms, without compromising the ability of the
12 department to verify that taxes are being properly
13 paid and reported; and
- 14 (6) Makes aggregated stay information available to state
15 and local tourism offices.

16 Except as expressly provided, this Act is not intended to
17 preempt or otherwise limit the authority of counties to adopt,
18 monitor, and enforce local land use regulations, nor is this Act
19 intended to transfer the authority to monitor and enforce
20 regulations away from the counties.



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 operators. (a) The director may permit any hosting platform to
7 register with the department for the collection and remission of
8 any state or county tax imposed pursuant to this chapter on any
9 booking transaction facilitated by the hosting platform on
10 behalf of a short-term rental operator within the State and any
11 county or counties within the State so authorized to collect
12 taxes.

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

19 (1) Provide written notice to the operator that the
20 hosting platform has been registered to collect,



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



1 the total number of days rented, and the gross
2 rental or gross rental proceeds.

3 The director may require the hosting platform to provide
4 any additional information required.

5 No operator shall be responsible for collecting or
6 remitting any taxes due under this chapter on any booking
7 transaction if it has received notice from a hosting platform
8 that it will be collecting and remitting the taxes.

9 (c) Information provided to or obtained by the department
10 by a hosting platform pursuant to this chapter, including
11 information contained in a return filed by a hosting platform,
12 information on underlying booking transactions, and information
13 relating to an audit or investigation, shall be considered
14 confidential pursuant to section 237-34 and may not be
15 disclosed; provided that general, aggregated information shall
16 not be considered confidential and may be provided by the
17 department to state and county tourism authorities for the
18 purpose of assisting with tourism promotion.

19 (d) Nothing in this section shall limit the ability of the
20 department, in accordance with section 231-7, to conduct audits,
21 investigations, or hearings, or to issue subpoenas, with respect



1 to any hosting platform, any operator of short-term rental, or
2 any underlying booking transaction.

3 (e) Any hosting platform that fails to file a return
4 required or pay the full amount of applicable tax due as
5 required under this chapter shall be subject to penalties and
6 interest as provided in section 237-32.

7 (f) Registration under this section shall be effective
8 until it is cancelled in writing. A hosting platform may cancel
9 its registration by delivering written notice of cancellation to
10 the director and each of the operators on whose behalf it
11 collects and remits taxes not later than ninety days prior to
12 the effective date of cancellation.

13 The director may cancel a hosting platform's registration
14 under this section for any cause, including any violation of
15 this chapter or rules adopted, or for violation of any
16 applicable agreement with the department, by delivering written
17 notice of cancellation to the hosting platform no later than
18 ninety days prior to the date of cancellation.

19 (g) Registration of a hosting platform shall be separate
20 from registration of a hosting platform under this chapter with
21 respect to its own business activities, and separate licenses



1 shall be issued under this chapter with respect to each such
2 registration.

3 (h) For the purposes of this section:

4 "Booking transaction" has the same meaning as in section
5 237D-1.

6 "Hosting platform" has the same meaning as in section 237D-
7 1.

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

9 "Short-term rental" has the same meaning as in section
10 237D-1."

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

14 "§237D- Collection and remittance of transient
15 accommodations taxes by registered hosting platforms on behalf
16 of short-term rental operators. (a) The director may permit
17 any hosting platform to register with the department for the
18 collection and remission of any state or county tax imposed
19 pursuant to this chapter on any booking transaction facilitated
20 by the hosting platform on behalf of a short-term rental



1 operator within the State and any county or counties within the
2 State so authorized to collect taxes.

3 (b) Any hosting platform shall, with respect to each
4 booking transaction facilitated by the hosting platform on
5 behalf of a short-term rental operator within the State and any
6 county or counties within the State for which the hosting
7 platform has registered to collect and remit the tax imposed
8 pursuant to this chapter:

9 (1) Provide written notice to the operator that the
10 hosting platform has been registered to collect,
11 report, and pay over the tax imposed by this chapter
12 on the operator's behalf;

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

17 (3) File an annual return for the taxes collected and
18 remitted under this section in accordance with section
19 237D-7; and

20 (4) With each return filed pursuant to this subsection,
21 provide a schedule listing:



1 (A) The name, address, and general excise tax number
2 of each operator from whom the hosting platform
3 collected taxes;

4 (B) With respect to each operator, the address of
5 each short-term rental unit for which a booking
6 transaction was facilitated by the hosting
7 platform during the applicable period; and

8 (C) For each short-term rental, for the applicable
9 period, the total number of booking transactions,
10 the total number of days rented, and the gross
11 rental or gross rental proceeds.

12 The director may require the hosting platform to provide
13 any additional information required.

14 No operator shall be responsible for collecting or
15 remitting any taxes due under this chapter on any booking
16 transaction if it has received notice from a hosting platform
17 that it will be collecting and remitting the 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 may not be
3 disclosed; provided that general, aggregated information shall
4 not be considered confidential and may be provided by the
5 department to state and county tourism authorities for the
6 purpose of assisting with tourism promotion.

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

12 (e) Any hosting platform that fails to file a return
13 required or pay the full amount of applicable tax due as
14 required under this chapter shall be subject to penalties and
15 interest as provided in section 237D-6.

16 (f) Registration under this section shall be effective
17 until it is cancelled in writing. A hosting platform may cancel
18 its registration by delivering written notice of cancellation to
19 the director and each of the operators on whose behalf it
20 collects and remits taxes not later than ninety days prior to
21 the effective date of cancellation.



1 The director may cancel a hosting platform's registration
2 under this section for any cause, including any violation of
3 this chapter or rules adopted, or for violation of any
4 applicable agreement with the department, by delivering written
5 notice of cancellation to the hosting platform no later than
6 ninety days prior to the date of cancellation.

7 (g) Registration of a hosting platform shall be separate
8 from registration of a hosting platform under this chapter with
9 respect to its own business activities, and separate licenses
10 shall be issued under this chapter with respect to each such
11 registration."

12 SECTION 4. Section 46-4, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "**§46-4 County zoning.** (a) This section and any
15 ordinance, rule, or regulation adopted in accordance with this
16 section shall apply to lands not contained within the forest
17 reserve boundaries as established on January 31, 1957, or as
18 subsequently amended.

19 Zoning in all counties shall be accomplished within the
20 framework of a long-range, comprehensive general plan prepared
21 or being prepared to guide the overall future development of the



1 county. Zoning shall be one of the tools available to the
2 county to put the general plan into effect in an orderly manner.
3 Zoning in the counties of Hawaii, Maui, and Kauai means the
4 establishment of districts of such number, shape, and area, and
5 the adoption of regulations for each district to carry out the
6 purposes of this section. In establishing or regulating the
7 districts, full consideration shall be given to all available
8 data as to soil classification and physical use capabilities of
9 the land to allow and encourage the most beneficial use of the
10 land consonant with good zoning practices. The zoning power
11 granted herein shall be exercised by ordinance which may relate
12 to:

- 13 (1) The areas within which agriculture, forestry,
14 industry, trade, and business may be conducted;
- 15 (2) The areas in which residential uses may be regulated
16 or prohibited;
- 17 (3) The areas bordering natural watercourses, channels,
18 and streams, in which trades or industries, filling or
19 dumping, erection of structures, and the location of
20 buildings may be prohibited or restricted;



- 1 (4) The areas in which particular uses may be subjected to
2 special restrictions;
- 3 (5) The location of buildings and structures designed for
4 specific uses and designation of uses for which
5 buildings and structures may not be used or altered;
- 6 (6) The location, height, bulk, number of stories, and
7 size of buildings and other structures;
- 8 (7) The location of roads, schools, and recreation areas;
- 9 (8) Building setback lines and future street lines;
- 10 (9) The density and distribution of population;
- 11 (10) The percentage of a lot that may be occupied, size of
12 yards, courts, and other open spaces;
- 13 (11) Minimum and maximum lot sizes; and
- 14 (12) Other regulations the boards or city council find
15 necessary and proper to permit and encourage the
16 orderly development of land resources within their
17 jurisdictions.

18 The council of any county shall prescribe rules,
19 regulations, and administrative procedures and provide personnel
20 it finds necessary to enforce this section and any ordinance
21 enacted in accordance with this section. The ordinances may be



1 enforced by appropriate fines and penalties, civil or criminal,
2 or by court order at the suit of the county or the owner or
3 owners of real estate directly affected by the ordinances.

4 Any civil fine or penalty provided by ordinance under this
5 section may be imposed by the district court, or by the zoning
6 agency after an opportunity for a hearing pursuant to chapter
7 91. The proceeding shall not be a prerequisite for any
8 injunctive relief ordered by the circuit court.

9 Nothing in this section shall invalidate any zoning
10 ordinance or regulation adopted by any county or other agency of
11 government pursuant to the statutes in effect prior to July 1,
12 1957.

13 The powers granted herein shall be liberally construed in
14 favor of the county exercising them, and in such a manner as to
15 promote the orderly development of each county or city and
16 county in accordance with a long-range, comprehensive general
17 plan to ensure the greatest benefit for the State as a whole.
18 This section shall not be construed to limit or repeal any
19 powers of any county to achieve these ends through zoning and
20 building regulations, except insofar as forest and water reserve
21 zones are concerned and as provided in subsections (c) and (d).



1 Neither this section nor any ordinance enacted pursuant to
2 this section shall prohibit the continued lawful use of any
3 building or premises for any trade, industrial, residential,
4 agricultural, or other purpose for which the building or
5 premises is used at the time this section or the ordinance takes
6 effect; provided that a zoning ordinance may provide for
7 elimination of nonconforming uses as the uses are discontinued,
8 or for the amortization or phasing out of nonconforming uses or
9 signs over a reasonable period of time in commercial,
10 industrial, resort, and apartment zoned areas only. In no event
11 shall such amortization or phasing out of nonconforming uses
12 apply to any existing building or premises used for residential
13 (single-family or duplex) or agricultural uses. Nothing in this
14 section shall affect or impair the powers and duties of the
15 director of transportation as set forth in chapter 262.

16 (b) Any final order of a zoning agency established under
17 this section may be appealed to the circuit court of the circuit
18 in which the land in question is found. The appeal shall be in
19 accordance with the Hawaii rules of civil procedure.



1 (c) Each county may adopt reasonable standards to allow
2 the construction of two single-family dwelling units on any lot
3 where a residential dwelling unit is permitted.

4 (d) Neither this section nor any other law, county
5 ordinance, or rule shall prohibit group living in facilities
6 with eight or fewer residents for purposes or functions that are
7 licensed, certified, registered, or monitored by the State;
8 provided that a resident manager or a resident supervisor and
9 the resident manager's or resident supervisor's family shall not
10 be included in this resident count. These group living
11 facilities shall meet all applicable county requirements not
12 inconsistent with the intent of this subsection, including but
13 not limited to building height, setback, maximum lot coverage,
14 parking, and floor area requirements.

15 (e) Neither this section nor any other law, county
16 ordinance, or rule shall prohibit the use of land for employee
17 housing and community buildings in plantation community
18 subdivisions as defined in section 205-4.5(a)(12); in addition,
19 no zoning ordinance shall provide for the elimination,
20 amortization, or phasing out of plantation community
21 subdivisions as a nonconforming use.



1 (f) Neither this section nor any other law, county
2 ordinance, or rule shall prohibit the use of land for medical
3 marijuana production centers or medical marijuana dispensaries
4 established and licensed pursuant to chapter 329D; provided that
5 the land is otherwise zoned for agriculture, manufacturing, or
6 retail purposes.

7 (g) Each county may require nonconforming use
8 certificates, special use permits, conditional use permits, or
9 other approvals for short-term rentals, as defined in section
10 237D-1, as may be determined by each county; provided that as a
11 condition of granting approvals, a county shall require:

12 (1) All short-term rentals to be registered with the
13 county;

14 (2) The operators of short-term rentals to annually
15 provide evidence of collection and remittance of all
16 applicable state and county taxes related to the
17 short-term rentals; and

18 (3) Penalties for failure to register short-term rentals
19 with the county; provided that the short-term rental
20 shall not exceed sixty calendar days total per year
21 for each dwelling unit in the State.



1 The counties may establish more stringent caps on the
2 number of days for which a unit may be used for short-term
3 rental within each county zoning district as the counties may
4 determine and with respect to multi-family buildings, such as
5 caps on the number of rooms or portion of the building that may
6 be used for short-term rentals as the counties may determine.
7 Only units that are in compliance with applicable county
8 ordinances may be advertised or used as transient
9 accommodations, as defined in section 237D-1.

10 (h) If the owner or occupant of a dwelling has received
11 affordable housing funds from the federal, state, or county
12 government, including section 8 housing assistance, housing
13 choice vouchers or rent supplements pursuant to chapter 356D,
14 low or moderate income homeowners loans for home repair,
15 rehabilitation, down payments, solar installation, or other
16 similar programs, then the dwelling shall not be advertised or
17 used as transient accommodations, as defined in section 237D-1,
18 unless the owner or occupant is residing in a residential
19 dwelling unit while renting out other bedrooms in the dwelling."

20 SECTION 5. Section 235-20.5, Hawaii Revised Statutes, is
21 amended by amending subsection (a) to read as follows:



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

3 (1) Fees collected under sections 235-20, 235-110.9, and
4 235-110.91;

5 (2) Revenues collected by the special enforcement section
6 pursuant to section 231-85; provided that in each
7 fiscal year, of the total revenues collected by the
8 special enforcement section, all revenues in excess of
9 \$700,000 shall be deposited into the general fund; and

10 (3) Fines and fees assessed pursuant to section 237D-4."

11 SECTION 6. Section 237D-1, Hawaii Revised Statutes, is
12 amended as follows:

13 1. By adding four new definitions to be appropriately
14 inserted and to read:

15 "Booking transaction" means any transaction where there is
16 a charge to an occupant or short-term lodger by an operator.

17 "Dwelling unit" has the same meaning as in section 521-8.

18 "Hosting platform" means any person or entity that
19 facilitates reservations or collects payments for a booking
20 transaction on behalf of or for an operator or transient
21 accommodations broker through an online digital platform.



1 "Short-term rental" means the furnishing of a room,
2 apartment, suite, single family dwelling, or the like to a
3 transient for no more than sixty consecutive days for each
4 letting in an apartment hotel, motel, condominium property
5 regime or apartment as defined in chapter 514A or unit as
6 defined in chapter 514B, cooperative apartment, dwelling unit,
7 or rooming house that provides living quarters, sleeping, or
8 housekeeping accommodations, or other place in which lodgings
9 are regularly furnished to transients. "Short-term rental"
10 shall be subject to the taxes imposed by this chapter."

11 2. By amending the definitions of "local contact" and
12 "transient accommodations broker" to read:

13 "Local contact" means an individual residing on the same
14 island as the transient accommodation, short-term rental, or
15 resort time share vacation unit or an entity with a place of
16 business and at least one employee, officer, partner, member, or
17 other person working on behalf of the company who is residing on
18 the same island as the transient accommodation, short-term
19 rental, or resort time share vacation unit.

20 "Transient accommodations broker" means any person or
21 entity, including but not limited to persons who operate online



1 websites, online travel agencies, hosting platforms, or online
2 booking agencies, that offers, lists, advertises, or accepts
3 reservations or collects whole or partial payment for transient
4 accommodations or resort time share vacation interests, units,
5 or plans."

6 SECTION 7. Section 237D-2, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "§237D-2 **Imposition and rates.** (a) There is levied and
9 shall be assessed and collected each month a tax of:

- 10 (1) Five per cent for the period beginning on January 1,
11 1987, to June 30, 1994;
- 12 (2) Six per cent for the period beginning on July 1, 1994,
13 to December 31, 1998;
- 14 (3) 7.25 per cent for the period beginning on January 1,
15 1999, to June 30, 2009;
- 16 (4) 8.25 per cent for the period beginning on July 1,
17 2009, to June 30, 2010; and
- 18 (5) 9.25 per cent for the period beginning on July 1,
19 2010, and thereafter;

20 on the gross rental or gross rental proceeds derived from
21 furnishing transient accommodations.



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

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

6 (1) 7.25 per cent on the fair market rental value until
7 December 31, 2015;

8 (2) 8.25 per cent on the fair market rental value for the
9 period beginning on January 1, 2016, to December 31,
10 2016; and

11 (3) 9.25 per cent on the fair market rental value for the
12 period beginning on January 1, 2017, and thereafter.

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

18 (e) In addition to any other taxes imposed by this
19 section, there shall be imposed upon each booking transaction
20 for a short-term rental in the State a surcharge of four per
21 cent of the gross rental or leasing charge; provided that up to



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

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

8 "§237D-4 **Certificate of registration.** (a) Each operator
9 or plan manager as a condition precedent to engaging or
10 continuing in the business of furnishing transient
11 accommodations or in business as a resort time share vacation
12 plan shall register with the director the name and address of
13 each place of business within the State subject to this
14 chapter[-] and shall indicate whether the registration is for
15 short-term rental; provided that an operator of short-term
16 rentals shall provide the director with the address of each unit
17 covered. No operator shall be permitted to register more than
18 two short-term rentals; provided that an operator may supplement
19 its registration to add or remove short-term rentals so long as
20 the total number of short-term rentals registered to an operator
21 does not exceed two short-term rentals. The operator or plan



1 manager registering pursuant to this section shall make a one-
2 time payment as 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 this
4 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, short-term rental, or resort
20 time share vacation interest, plan, or unit shall conspicuously
21 provide:



1 (1) The registration identification number or an
2 electronic link to the registration identification
3 number of the short-term rental unit operator or plan
4 manager issued pursuant to this section; and

5 (2) The local contact's name, phone number, and electronic
6 mail address, provided that this paragraph shall be
7 considered satisfied if this information is provided
8 to the transient or occupant prior to the furnishing
9 of the transient accommodation, short-term rental, or
10 resort time share vacation unit.

11 No short-term rental shall be listed on a hosting platform
12 unless the operator demonstrates and attests to the hosting
13 platform that the operator and the short-term rental are in
14 compliance with this chapter and other applicable land use,
15 zoning, and tax requirements, including by providing the hosting
16 platform with the registration identification number as required
17 by this subsection.

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, plan managers, and transient
21 accommodations brokers, who violates subsection (c). A citation



1 issued pursuant to this subsection for each transient
2 accommodation or resort time share vacation interest, plan, or
3 unit in violation of subsection (c) shall include a monetary
4 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) Any monetary fine assessed under this section shall be
2 due and payable thirty days after issuance of the citation,
3 subject to appeal rights provided under this subsection.
4 Citations may be appealed to the director of taxation or the
5 director's designee.

6 (i) A hosting platform shall remove any listing for a
7 short-term rental unit located in the State that fails to comply
8 with subsection (c) or upon written notice from the State or
9 county that the operator or short-term rental has failed to
10 comply with applicable land use, zoning, or tax requirements.
11 The department may issue citations to any hosting platform that
12 violates this subsection. A citation issued pursuant to this
13 subsection for each failure of a hosting platform to remove a
14 listing in violation of this subsection shall include a monetary
15 fine of not less than:

- 16 (1) \$500 per day, for a first violation for which a
17 citation is issued;
18 (2) \$1,000 per day, for a second violation for which a
19 citation is issued; and
20 (3) \$5,000 per day, for a third violation for which a
21 citation is issued.



1 (j) In addition to any other registration costs imposed
2 under this chapter or chapter 237, a hosting platform shall be
3 assessed an annual fee of \$10,000 for the right to do business
4 in the State as a hosting platform. All fees collected under
5 this subsection shall be deposited in the tax administration
6 special fund pursuant to section 235-20.5."

7 SECTION 9. Section 237D-12, Hawaii Revised Statutes, is
8 amended to read as follows:

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

19 (b) In addition to the records required to be kept under
20 subsection (a), every short-term rental operator shall keep
21 within the State, and preserve for a period of three years,



1 suitable records in the English language of the dates of any
2 short-term rental use, along with information regarding each
3 booking transaction, including the number of occupants and
4 number of days associated with each booking transaction and the
5 rental charged. All records shall be open for examination at
6 any time by the department or the multistate tax commission
7 pursuant to section 255-1."

8 SECTION 10. By January 1, 2018, the director of taxation
9 shall make available to hosting platforms a form of application
10 for registration for collection and remittance of taxes on
11 behalf of short-term rental operators under the new section of
12 chapter 237, Hawaii Revised Statutes, added by section 2 of this
13 Act, and under the new section of chapter 237D, Hawaii Revised
14 Statutes, added by section 3 of this Act.

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



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1 SECTION 12. Statutory material to be repealed is bracketed
 2 and stricken. New statutory material is underscored.

3 SECTION 13. This Act, upon its approval, shall apply to
 4 taxable years beginning after December 31, 2016.
 5

INTRODUCED BY:

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H.B. NO. 1242

Report Title:

Transient Accommodations; Transient Accommodations Tax; General Excise Tax; Taxation

Description:

Ensures that property that is used for short-term rental transient accommodations in the State is subject to and in compliance with applicable State and county laws.

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

