
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 of taxation may permit a transient
19 accommodations broker to register as a tax collection agent on
20 behalf of all of its operators and plan managers by entering
21 into a tax collection agreement with the director or by



1 submitting a transient accommodations broker tax collection
2 agent 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 A registered transient accommodations broker tax collection
20 agent shall be issued separate certificates of registration
21 under this chapter with respect to taxes payable on behalf of



1 its operators and plan managers in its capacity as a registered
2 transient accommodations broker tax collection agent and, if
3 applicable, with respect to any taxes payable under this chapter
4 for its own business activities. A registered transient
5 accommodations broker tax collection agent shall file periodic
6 returns in accordance with section 237D-6 and annual returns in
7 accordance with section 237D-7. The reporting information shall
8 include but not be limited to the name, address, and transient
9 accommodations tax number of each operator and plan manager
10 during the applicable period.

11 (b) In addition to its own responsibilities under this
12 chapter, a registered transient accommodations broker tax
13 collection agent shall report, collect, and pay over the taxes
14 due under this chapter on behalf of all of its operators and
15 plan managers from the date of registration until the
16 registration is canceled as provided in subsection (h); provided
17 that the registered transient accommodations broker tax
18 collection agent's obligation to report, collect, and pay taxes
19 on behalf of all of its operators and plan managers shall apply
20 solely to transient accommodations in the State arranged or



1 booked directly through the registered transient accommodations
2 broker tax collection agent.

3 (c) The registered transient accommodations broker tax
4 collection agent's operators and plan managers shall obtain
5 licensure under this chapter and remain subject to the
6 requirements of title 14; provided that the registered transient
7 accommodations broker tax collection agent may comply with all
8 requirements of title 14 on behalf of the operators and plan
9 managers for business activity conducted directly through the
10 agent, from the date of registration until the registration is
11 canceled as provided in subsection (h). For purposes of any
12 other business activity, the operators and plan managers are
13 subject to all requirements of title 14 and all county, city,
14 and town laws or ordinances, and rules and regulations
15 thereunder, regulating short-term rentals, vacation rentals, or
16 bed and breakfast lodging within their jurisdictions as if this
17 section did not exist.

18 (d) Under this section, a registered transient
19 accommodations broker tax collection agent shall assume all
20 obligations, rights, and responsibilities imposed by this
21 chapter upon its operators and plan managers with respect to



1 their business activities conducted directly through the
2 registered transient accommodations broker tax collection agent
3 from the date of registration until the registration is canceled
4 as provided in subsection (h).

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

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

16 (g) A registered transient accommodations broker tax
17 collection agent may be required to disclose to the director the
18 names or addresses of any of its operators and plan managers in
19 connection with any return, reconciliation, payment, or other
20 filing by the registered transient accommodations broker tax
21 collection agent under this chapter; provided that such



1 information shall remain confidential and disclosure thereof
2 shall be prohibited as provided in section 237-34.

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

5 A registered transient accommodations broker tax collection
6 agent may cancel its registration under this section by
7 delivering written notice of cancellation to the director and
8 each of its operators and plan managers furnishing transient
9 accommodations in the State not later than ninety days prior to
10 the effective date of cancellation.

11 The director may cancel a transient accommodations broker
12 tax collection agent's registration under this section for any
13 cause, including but not limited to any violation of this
14 chapter or rules adopted pursuant thereto, or for violation of
15 any applicable tax collection agreement, by delivering written
16 notice of cancellation to the transient accommodations broker
17 tax collection agent not later than ninety days prior to the
18 effective date of cancellation.

19 (i) For the purposes of this section:

20 "Director" means the director of taxation.

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



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

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

4 (j) All registered transient accommodations broker tax
5 collection agents shall inquire and ensure that the transient
6 accommodation is in compliance with all pertinent state and
7 county land use laws, including but not limited to:

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

16 (2) Requiring the operator or plan manager to display or
17 make available its transient accommodation tax
18 registration identification number and transient
19 accommodations number, along with other required
20 information in any advertisement, in compliance with
21 section 237D-4; and



1 (3) Requiring the operator or plan manager to provide
2 verification of compliance with county land use laws
3 in the form of a written certification, verification,
4 or permit issued by the appropriate county agency.

5 A transient accommodations broker shall remove any
6 advertisement, including an online advertisement, for a
7 transient accommodation located in the State for which the
8 operator or plan manager fails to comply with paragraph (2) or
9 (3) or for which the transient accommodations broker has
10 received written notice from a state or local governmental
11 authority that the operator or plan manager has failed to comply
12 with applicable land use, zoning, or tax requirements."

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

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



1 submitting a transient accommodations broker tax collection
2 agent 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 A registered transient accommodations broker tax collection
20 agent shall be issued separate certificates of registration
21 under this chapter with respect to taxes payable on behalf of



1 its operators and plan managers in its capacity as a registered
2 transient accommodations broker tax collection agent and, if
3 applicable, with respect to any taxes payable under this chapter
4 for its own business activities. A registered transient
5 accommodations broker tax collection agent shall file periodic
6 returns in accordance with section 237D-6 and annual returns in
7 accordance with section 237D-7. The reporting information shall
8 include but not be limited to the name, address, and transient
9 accommodations tax number of each operator and plan manager
10 during the applicable period.

11 (b) In addition to its own responsibilities under this
12 chapter, a registered transient accommodations broker tax
13 collection agent shall report, collect, and pay over the taxes
14 due under this chapter on behalf of all of its operators and
15 plan managers from the date of registration until the
16 registration is canceled as provided in subsection (h); provided
17 that the registered transient accommodations broker tax
18 collection agent's obligation to report, collect, and pay taxes
19 on behalf of all of its operators and plan managers shall apply
20 solely to transient accommodations in the State arranged or



1 booked directly through the registered transient accommodations
2 broker tax collection agent.

3 (c) The registered transient accommodations broker tax
4 collection agent's operators and plan managers shall obtain
5 registration under this chapter and remain subject to the
6 requirements of title 14; provided that the registered transient
7 accommodations broker tax collection agent may comply with all
8 requirements of title 14 on behalf of the operators and plan
9 managers for business activity conducted directly through the
10 agent, from the date of registration until the registration is
11 canceled as provided in subsection (h). For purposes of any
12 other business activity, the operators and plan managers are
13 subject to all requirements of title 14 and all county, city,
14 and town laws or ordinances, and rules and regulations
15 thereunder, regulating short-term rentals, vacation rentals, or
16 bed and breakfast lodging within their jurisdictions as if this
17 section did not exist.

18 (d) Under this section, a registered transient
19 accommodations broker tax collection agent shall assume all
20 obligations, rights, and responsibilities imposed by this
21 chapter upon its operators and plan managers with respect to



1 their business activities conducted directly through the
2 registered transient accommodations broker tax collection agent
3 from the date of registration until the registration is canceled
4 as provided in subsection (h).

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

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

16 (g) A registered transient accommodations broker tax
17 collection agent may be required to disclose to the director the
18 names or addresses of any of its operators and plan managers in
19 connection with any return, reconciliation, payment, or other
20 filing by the registered transient accommodations broker tax
21 collection agent under this chapter; provided that such



1 information shall remain confidential and disclosure thereof
2 shall be prohibited as provided in section 237D-13.

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

5 A registered transient accommodations broker tax collection
6 agent may cancel its registration under this section by
7 delivering written notice of cancellation to the director and
8 each of its operators and plan managers furnishing transient
9 accommodations in the State not later than ninety days prior to
10 the effective date of cancellation.

11 The director may cancel a transient accommodations broker
12 tax collection agent's registration under this section for any
13 cause, including but not limited to any violation of this
14 chapter or rules adopted pursuant thereto, or for violation of
15 any applicable tax collection agreement, by delivering written
16 notice of cancellation to the transient accommodations broker
17 tax collection agent not later than ninety days prior to the
18 effective date of cancellation.

19 (i) All registered transient accommodations broker tax
20 collection agents shall inquire and ensure that the transient



1 accommodation is in compliance with all pertinent state and
2 county land use 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; and

17 (3) Requiring the operator or plan manager to provide
18 verification of compliance with county land use laws
19 in the form of a written certification, verification,
20 or permit issued by the appropriate county agency.



1 A transient accommodations broker shall remove any
2 advertisement, including an online advertisement, for a
3 transient accommodation located in the State for which the
4 operator or plan manager fails to comply with paragraph (2) or
5 (3) or for which the transient accommodations broker has
6 received written notice from a state or local governmental
7 authority that the operator or plan manager has failed to comply
8 with applicable land use, zoning, or tax requirements."

9 SECTION 4. By January 1, 2018, the director of taxation
10 shall make available to transient accommodations brokers a form
11 of application for registration as a transient accommodations
12 broker tax collection agent under the new section of chapter
13 237, Hawaii Revised Statutes, added by section 2 of this Act,
14 and under the new section of chapter 237D, Hawaii Revised
15 Statutes, added by section 3 of this Act.

16 SECTION 5. If any provision of this Act, or the
17 application thereof to any person or circumstance, is held
18 invalid, the invalidity does not affect other provisions or
19 applications of the Act that can be given effect without the
20 invalid provision or application, and to this end the provisions
21 of this Act are severable.



1 SECTION 6. New statutory material is underscored.

2 SECTION 7. This Act shall take effect upon its approval

3 and shall apply to taxable years beginning after December 31,

4 2017.

5



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 TAT returns. Requires all registered transient accommodations broker tax collection agents to inquire and ensure that the transient accommodation is in compliance with all pertinent state and county land use laws and remove advertisements for transient accommodations for which operators and plan managers failed to comply with land use or tax requirements. Requires the operator or plan manager to provide verification of compliance with county land use laws in the form of a written certification, verification, or permit issued by the appropriate county agency. Applies to taxable years beginning after December 31, 2017. (Proposed SD1)

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

