
A BILL FOR AN ACT

RELATING TO TRANSIENT ACCOMMODATIONS.

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

1 PART I

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

15 The legislature further finds that, to increase
16 transparency and ensure the veracity of the taxes being
17 collected, transient accommodations brokers acting as tax



1 collection agents must provide pertinent information to the
2 department of taxation regarding the operators and plan managers
3 on whose behalf they collect taxes.

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

10 This part is not intended to:

- 11 (1) Preempt or otherwise limit the authority of the
12 counties to adopt, monitor, and enforce local land use
13 regulations;
- 14 (2) Transfer the authority to monitor and enforce the
15 regulations away from the counties; or
- 16 (3) Violate any federal laws.

17 This part is not intended to create, and does not create,
18 any rights or benefits, whether substantive or procedural, or
19 enforceable at law or in equity, against the State of Hawaii or
20 its agencies, departments, entities, employees, or any other
21 person.



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- Transient accommodations broker as tax
5 collection agent; transient accommodations broker; operator and
6 plan manager. (a) The director may permit a transient
7 accommodations broker to register as a tax collection agent on
8 behalf of all of its operators and plan managers by entering
9 into a tax collection agreement with the director or by
10 submitting a tax collection agent registration statement to the
11 director; provided that the transient accommodations broker
12 agrees in writing:

- 13 (1) To obtain written consent from all of its operators
14 and plan managers for the disclosure of periodic
15 returns and information required under subsection (g);
16 (2) To furnish information to the counties as required in
17 subsection (g); and
18 (3) That continuing to collect fees for booking services
19 in connection with a transient vacation rental, seven
20 days after receiving written notice from a state or
21 county governmental authority that the subject



1 property is not in compliance with state law or county
2 ordinance, is a violation of the tax collection
3 agreement.

4 Any tax collection agreement entered into pursuant to this
5 section shall be subject to and in accordance with all
6 applicable provisions of state law and county ordinances and
7 shall not permit a tax collection agent, nor any operator or
8 plan manager conducting business through the tax collection
9 agent, to opt out of any requirements or obligations under state
10 law or county ordinance.

11 The director shall deny an application for registration as
12 a tax collection agent under this section for violations of this
13 subsection and may deny an application for any other cause
14 authorized by law, including any violation of this chapter or
15 rules adopted pursuant thereto, violation of any prior tax
16 collection agreement, or failure to meet minimum criteria that
17 may be set forth by the department in rules adopted pursuant to
18 chapter 91.

19 The director shall issue a certificate of registration or
20 letter of denial within thirty days after a transient
21 accommodations broker submits to the director a completed and



1 signed tax collection agent registration statement, in a form
2 prescribed by the department.

3 The registration shall be valid only for the tax collection
4 agent in whose name it is issued, and for the website or
5 platform designated therein, and shall not be transferable.

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

16 (c) The registered tax collection agent's operators and
17 plan managers shall obtain licensure under this chapter and
18 remain subject to the requirements of title 14; provided that
19 the registered tax collection agent shall report, collect, and
20 pay the taxes under this chapter on behalf of the operators and
21 plan managers for business activity conducted directly through



1 the agent, as set forth in this section, from the date of
2 registration until the registration is canceled as provided in
3 subsection (h). For purposes of any other business activity,
4 the operators and plan managers shall be subject to all
5 requirements of title 14 and all county ordinances and rules
6 regulating short-term rentals, vacation rentals, or bed and
7 breakfast lodging within their jurisdictions as if this section
8 did not exist.

9 A registered tax collection agent shall be issued separate
10 licenses under this chapter with respect to taxes payable on
11 behalf of its operators and plan managers in its capacity as a
12 registered tax collection agent and, if applicable, with respect
13 to any taxes payable under this chapter for its own business
14 activities.

15 (d) If the registered tax collection agent fails to report
16 or pay the taxes under this chapter on behalf of the operators
17 and plan managers, as set forth in this section, the registered
18 tax collection agent and the operator or plan manager shall be
19 jointly and severally liable for the taxes due under this
20 chapter, including penalties and interest as provided by law,
21 with respect to their business activities conducted directly



1 through the registered tax collection agent from the date of
2 registration until the registration is canceled as provided in
3 subsection (h).

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

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

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



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

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

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

15 (A) The address of the transient accommodation;

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

20 (C) The amount of tax being remitted pursuant to this
21 chapter and the amount of any federal form 1099



1 income that was derived from each transient
2 accommodation.

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

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

17 A registered tax collection agent may cancel its
18 registration under this section by delivering written notice of
19 cancellation to the director and each of its operators and plan
20 managers furnishing transient accommodations in the State no



1 later than ninety days prior to the effective date of
2 cancellation.

3 The director may cancel a tax collection agent's
4 registration under this section for any cause, including any
5 violation of this chapter or rules adopted pursuant thereto, or
6 for violation of any applicable tax collection agreement, by
7 delivering written notice of cancellation to the tax collection
8 agent no later than ninety days prior to the effective date of
9 cancellation.

10 (i) When conducting business with an operator or plan
11 manager with respect to a property for lease or rent, a
12 transient accommodations broker:

13 (1) Shall notify the operator or plan manager that the
14 subject property is required to be in compliance with
15 applicable state and county land use laws and
16 ordinances prior to retaining the services of the
17 transient accommodations broker;

18 (2) Shall require the operator or plan manager to provide
19 the transient accommodations broker with the operator
20 or plan manager's transient accommodations number and
21 local contact information and shall notify the



1 operator or plan manager that this information is
2 required in advertisements for transient
3 accommodations or resort time share vacation
4 interests, plans, or units under section 237D-4;

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

11 (4) Shall require the operator or plan manager to provide
12 a statement to the transient accommodations broker
13 confirming compliance with all applicable land use
14 laws and ordinances.

15 An operator or plan manager shall remove any advertisement
16 published through the transient accommodations broker, including
17 an online advertisement, for a transient accommodation located
18 in the State for which the operator or plan manager fails to
19 comply with paragraph (2), (3), or (4) or for which the operator
20 or plan manager has received written notice from a state or
21 county governmental authority that the property is not in



1 compliance with state law or county ordinance, as applicable.
2 The state or county governmental authority shall provide a copy
3 of the written notice to the transient accommodations broker.

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

11 (k) For the purposes of this section:

12 "Booking service" means any reservation or payment service
13 provided by a person or entity that facilitates a transient
14 vacation rental transaction between a transient vacation rental
15 operator and a prospective renter, and for which the person or
16 entity collects or receives, directly or indirectly, through an
17 agent or intermediary, a fee in connection with the reservation
18 or payment services provided for the transient vacation rental
19 transaction.

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

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

6 "Transient vacation rental" means "transient vacation
7 rental", "transient vacation unit", or transient vacation use",
8 as defined by county ordinance.

9 "Transient vacation rental operator" means any person
10 operating a transient vacation rental, whether as owner or
11 proprietor, or as lessee, sublessee, mortgagee in possession,
12 licensee, or other, or engaging or continuing in any service
13 business that involves the actual furnishing of a transient
14 vacation rental."

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

18 **"§237D- Transient accommodations broker as tax**
19 **collection agent; transient accommodations broker; operator and**
20 **plan manager.** (a) The director may permit a transient
21 accommodations broker to register as a tax collection agent on



1 behalf of all of its operators and plan managers by entering
2 into a tax collection agreement with the director or by
3 submitting a tax collection agent registration statement to the
4 director; provided that the transient accommodations broker
5 agrees in writing:

- 6 (1) To obtain written consent from all of its operators
7 and plan managers for the disclosure of periodic
8 returns and information required under subsection (g);
- 9 (2) To furnish information to the counties as required in
10 subsection (g); and
- 11 (3) That continuing to collect fees for booking services
12 in connection with a transient vacation rental, seven
13 days after receiving written notice from a state or
14 county governmental authority that the subject
15 property is not in compliance with state law or county
16 ordinance, is a violation of the tax collection
17 agreement.

18 Any tax collection agreement entered into pursuant to this
19 section shall be subject to and in accordance with all
20 applicable provisions of state law and county ordinances and
21 shall not permit a tax collection agent, nor any operator or



1 plan manager conducting business through the tax collection
2 agent, to opt out of any requirements or obligations under state
3 law or county ordinance.

4 The director shall deny an application for registration as
5 a tax collection agent under this section for violations of this
6 subsection and may deny an application for any other cause
7 authorized by law, including any violation of this chapter or
8 rules adopted pursuant thereto, violation of any prior tax
9 collection agreement, or failure to meet minimum criteria that
10 may be set forth by the department in rules adopted pursuant to
11 chapter 91.

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

20 A registered tax collection agent shall be issued separate
21 certificates of registration under this chapter with respect to



1 taxes payable on behalf of its operators and plan managers in
2 its capacity as a registered tax collection agent and, if
3 applicable, with respect to any taxes payable under this chapter
4 for its own business activities.

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

15 (c) The registered tax collection agent's operators and
16 plan managers shall obtain registration under this chapter and
17 remain subject to the requirements of title 14; provided that
18 the registered tax collection agent shall report, collect, and
19 pay the taxes under this chapter on behalf of the operators and
20 plan managers for business activity conducted directly through
21 the registered tax collection agent, as set forth in this



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

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

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



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

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

13 (g) A registered tax collection agent shall file periodic
14 returns in accordance with section 237D-6 and annual returns in
15 accordance with section 237D-7. Each periodic return required
16 under section 237D-6 shall be accompanied by an electronic cover
17 sheet, in a form prescribed by the department that includes the
18 following information:

19 (1) For each operator and plan manager on whose behalf the
20 tax collection agent is required to report, collect,
21 and pay over taxes due under this chapter, the



1 operator's or plan manager's name, address, and
2 transient accommodations registration identification
3 number; and

4 (2) For each transient accommodation, rented through the
5 registered tax collection agent or the website or
6 platform designated in the certificate of registration
7 issued pursuant to subsection (a), for which taxes are
8 being remitted pursuant to this chapter:

9 (A) The address of the transient accommodation;

10 (B) The number of nights that each transient
11 accommodation was rented and the rate or price at
12 which each transient accommodation was rented;
13 and

14 (C) The amount of tax being remitted pursuant to this
15 chapter and the amount of any federal form 1099
16 income that was derived from each transient
17 accommodation.

18 Upon request by the planning director or mayor of the
19 applicable county, a registered tax collection agent shall
20 disclose any of the information contained in the returns or
21 cover sheets required by this subsection to the planning



1 director or any county official designated by the mayor to
2 receive the information. Notwithstanding any law to the
3 contrary, including section 237D-13, the planning director and
4 county official designated to receive the information pursuant
5 to this subsection may examine and copy the returns and cover
6 sheets to ensure compliance with this section, state and county
7 tax laws and ordinances, and any applicable land use laws and
8 ordinances.

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

11 A registered tax collection agent may cancel its
12 registration under this section by delivering written notice of
13 cancellation to the director and each of its operators and plan
14 managers furnishing transient accommodations in the State no
15 later than ninety days prior to the effective date of
16 cancellation.

17 The director may cancel a tax collection agent's
18 registration under this section for any cause, including any
19 violation of this chapter or rules adopted pursuant thereto, or
20 for violation of any applicable tax collection agreement, by
21 delivering written notice of cancellation to the tax collection



1 agent no later than ninety days prior to the effective date of
2 cancellation.

3 (i) When conducting business with an operator or plan
4 manager with respect to a property for lease or rent, a
5 transient accommodations broker:

6 (1) Shall notify the operator or plan manager that the
7 subject property is required to be in compliance with
8 applicable state land use laws and county land use
9 ordinances prior to retaining the services of the
10 transient accommodations broker;

11 (2) Shall require the operator or plan manager to provide
12 the transient accommodations broker with the operator
13 or plan manager's transient accommodations number and
14 local contact information and shall notify the
15 operator or plan manager that this information is
16 required in advertisements for transient
17 accommodations or resort time share vacation
18 interests, plans, or units under section 237D-4;

19 (3) Shall require the operator or plan manager to provide
20 the transient accommodations broker with verification
21 of compliance with state land use laws and county land



1 use ordinances in the form of a written certification,
2 verification, or permit, as applicable, issued by the
3 appropriate county agency; and

4 (4) Shall require the operator or plan manager to provide
5 a statement to the transient accommodations broker
6 confirming compliance with all land use laws and
7 ordinances.

8 An operator or plan manager shall remove any advertisement
9 published through the transient accommodations broker, including
10 an online advertisement, for a transient accommodation located
11 in the State for which the operator or plan manager fails to
12 comply with paragraph (2), (3), or (4) or for which the operator
13 or plan manager has received written notice from a state or
14 local governmental authority that the property is not in
15 compliance with state law or county ordinance, as applicable.

16 The state or county governmental authority shall provide a copy
17 of the written notice to the transient accommodations broker.

18 (j) Nothing in this section shall be construed to preempt
19 or prohibit the authority of a unit of local government in the
20 State, including counties and any other political subdivisions
21 of the State, to adopt, monitor, and enforce local land use



1 ordinances, rules, or regulations, nor to transfer the authority
2 to monitor and enforce these ordinances, rules, or regulations
3 away from the counties.

4 (k) For the purposes of this section:

5 "Booking service" means any reservation or payment service
6 provided by a person or entity that facilitates a transient
7 vacation rental transaction between a transient vacation rental
8 operator and a prospective renter, and for which the person or
9 entity collects or receives, directly or indirectly, through an
10 agent or intermediary, a fee in connection with the reservation
11 or payment services provided for the transient vacation rental
12 transaction.

13 "Transient vacation rental" means "transient vacation
14 rental", "transient vacation unit", or transient vacation use",
15 as defined by county ordinance.

16 "Transient vacation rental operator" means any person
17 operating a transient vacation rental, whether as owner or
18 proprietor, or as lessee, sublessee, mortgagee in possession,
19 licensee, or other, or engaging or continuing in any service
20 business that involves the actual furnishing of a transient
21 vacation rental."



1 SECTION 4. The director of taxation shall make available
2 to transient accommodations brokers a form of application for
3 registration as a tax collection agent under the new section of
4 chapter 237, Hawaii Revised Statutes, added by section 2 of this
5 Act, and under the new section of chapter 237D, Hawaii Revised
6 Statutes, added by section 3 of this Act.

7 PART II

8 SECTION 5. **Definitions.** As used in this part:

9 "Accounts receivable" means an amount of transient
10 accommodations tax, general excise tax, penalty, or interest
11 that has been recorded as due and entered in the account records
12 or any ledger maintained in the department or that a taxpayer
13 should reasonably expect to become due.

14 "Department" means the department of taxation.

15 "Director" means the director of taxation.

16 "Final, due, and owing" means an assessment that has become
17 final and is owed to the State, due to either the expiration of
18 a taxpayer's appeal rights or the rendition of the final order
19 by the director or by any court of this State. Assessments that
20 have been appealed shall be final, due, and owing fifteen days
21 after the last unappealed or unappealable order sustaining the



1 assessment or any part thereof has become final. Assessments
2 that have not been appealed shall be final, due, and owing
3 thirty days after service of notice of assessment.

4 "General excise tax" means the tax imposed under chapter
5 237, Hawaii Revised Statutes, including revenues collected
6 pursuant to sections 46-16.8 and 237-8.6, Hawaii Revised
7 Statutes.

8 "Taxpayer" means any individual, partnership, joint
9 venture, association, corporation, receiver, trustee, guardian,
10 executor, administrator, fiduciary, or any other entity of any
11 kind subject to both the general excise tax and the transient
12 accommodations tax, or any person required to collect and remit
13 to the State the general excise tax and transient accommodations
14 tax.

15 "Transient accommodations tax" means the tax imposed under
16 chapter 237D, Hawaii Revised Statutes.

17 SECTION 6. **Tax amnesty program; applicable time period.**

18 (a) The director shall develop and administer a one-time tax
19 amnesty program as provided in this part. The director, upon
20 the voluntary return and remission of transient accommodations
21 or general excise taxes and interest owed by any taxpayer, shall



1 waive all penalties that are assessed or subject to being
2 assessed for outstanding liabilities for taxable periods ending
3 or transactions occurring on or before December 31, 2017.

4 The director shall:

5 (1) Provide any forms and instructions necessary for the
6 filing of amnesty applications and returns; and

7 (2) Take all actions necessary to implement this part.

8 (b) Notwithstanding any other law to the contrary, the
9 director shall accept applications for the tax amnesty program
10 from October 31, 2018, to January 1, 2019, and the program shall
11 be completed by June 30, 2019, and shall apply to all eligible
12 taxpayers owing taxes, penalties, or interest administered by
13 the director under chapters 237 and 237D, Hawaii Revised
14 Statutes.

15 (c) The director may allow the waiver of a portion of the
16 interest due; provided that the portion waived shall not exceed
17 fifty per cent of the interest due.

18 SECTION 7. **Application; eligibility requirements.** (a)

19 This part shall apply to any taxpayer who files an application
20 for amnesty within the time prescribed by the director and who:



1 (1) Files all returns as may be required by the director
2 for all years or tax reporting periods as stated on
3 the application:

4 (A) For which returns have not previously been filed;
5 and

6 (B) For which returns were filed but the tax
7 liability was underreported; and

8 (2) Pays in full the taxes due, including interest
9 thereon, for the years and tax reporting periods
10 stated on the application, at the time the application
11 is made or amnesty tax returns are filed within the
12 designated amnesty program period.

13 In addition to the requirements set forth in paragraphs (1) and
14 (2), the director may impose, by rule, the further condition
15 that any eligible taxpayer pay in full, within the amnesty
16 period, all taxes previously assessed by the director, including
17 interest thereon, that are final, due, and owing at the time the
18 application or amnesty tax returns are filed.

19 (b) An eligible taxpayer may participate in the amnesty
20 program to the extent of the uncontested portion of any assessed
21 liability. However, participation in the program shall be



1 conditioned upon the taxpayer's agreement that the right to
2 protest or initiate an administrative or judicial proceeding or
3 to claim any refund of moneys paid under the program is barred
4 with respect to the amounts paid with the application or amnesty
5 return.

6 (c) The director shall allow installment payment
7 agreements in cases of severe hardship in lieu of the complete
8 payment required under subsection (a). In those cases, fifty
9 per cent of the amount due shall be paid with the application or
10 amnesty return, with the balance to be paid in monthly
11 installments determined by the taxpayer and the director.
12 Failure of the taxpayer to make timely payments shall void the
13 terms of the amnesty. All agreements and payments shall not
14 include interest due and accruing during the installment
15 agreement.

16 SECTION 8. **Amnesty provisions.** (a) Amnesty shall be
17 granted for any taxpayer who meets the requirements of section 7
18 of this Act in accordance with the following:

19 (1) For taxes that are owed as a result of the
20 nonreporting or underreporting of transient
21 accommodations or general excise tax liabilities or



1 the nonpayment of any accounts receivable owed by an
2 eligible taxpayer, the State shall waive criminal
3 prosecution and all civil penalties that may be
4 assessed under title 14, Hawaii Revised Statutes, for
5 the taxable years or periods for which the tax amnesty
6 is requested; and

7 (2) With the exception of instances in which the taxpayer
8 and director enter into an installment payment
9 agreement authorized under section 7(c) of this Act,
10 the failure to pay all taxes as shown on the
11 taxpayer's amnesty tax return shall invalidate any
12 amnesty granted pursuant to this part.

13 (b) This part shall not apply to any taxpayer who:

- 14 (1) Is on notice, written or otherwise, that the taxpayer
15 is the subject of any criminal investigation or
16 criminal prosecution for nonpayment, delinquency,
17 evasion, or fraud in relation to any federal taxes,
18 the state general excise tax, or the transient
19 accommodations tax;
- 20 (2) Has any prior conviction for a tax-related offense; or
- 21 (3) Is under an audit:



1 (A) In relation to the general excise tax or the
2 transient accommodations tax; or

3 (B) For any tax for the period for which the taxpayer
4 seeks amnesty.

5 (c) No refund or credit shall be granted for any interest
6 or penalty paid prior to the time the taxpayer requests amnesty
7 pursuant to section 7 of this Act.

8 (d) Unless the director, in the director's discretion,
9 redetermines the amount of transient accommodations or general
10 excise taxes and interest due, no refund or credit shall be
11 granted for any transient accommodations or general excise taxes
12 or interest paid under the amnesty program.

13 SECTION 9. **Public awareness.** The director shall publicize
14 the tax amnesty program in order to maximize the public
15 awareness of, and participation in, the program. For the
16 purpose of publicizing the tax amnesty program, the director may
17 contract with any advertising agency within or outside this
18 State.

19 SECTION 10. **Separate accounting; disposition of revenues.**
20 For purposes of accounting for the revenues received pursuant to
21 this part, the director shall maintain a separate accounting and



1 reporting of funds collected under the amnesty program. All
2 funds collected shall be remitted to the general fund; provided
3 that all revenues collected under the amnesty program pursuant
4 to sections 46-16.8 and 237-8.6, Hawaii Revised Statutes, shall
5 be disposed of pursuant to section 248-2.6, Hawaii Revised
6 Statutes.

7 PART III

8 SECTION 11. Section 46-1.5, Hawaii Revised Statutes, is
9 amended to read as follows:

10 **"§46-1.5 General powers and limitation of the counties.**

11 Subject to general law, each county shall have the following
12 powers and shall be subject to the following liabilities and
13 limitations:

- 14 (1) Each county shall have the power to frame and adopt a
15 charter for its own self-government that shall
16 establish the county executive, administrative, and
17 legislative structure and organization, including the
18 method of appointment or election of officials, their
19 duties, responsibilities, and compensation, and the
20 terms of their office;



- 1 (2) Each county shall have the power to provide for and
2 regulate the marking and lighting of all buildings and
3 other structures that may be obstructions or hazards
4 to aerial navigation, so far as may be necessary or
5 proper for the protection and safeguarding of life,
6 health, and property;
- 7 (3) Each county shall have the power to enforce all claims
8 on behalf of the county and approve all lawful claims
9 against the county, but shall be prohibited from
10 entering into, granting, or making in any manner any
11 contract, authorization, allowance payment, or
12 liability contrary to the provisions of any county
13 charter or general law;
- 14 (4) Each county shall have the power to make contracts and
15 to do all things necessary and proper to carry into
16 execution all powers vested in the county or any
17 county officer;
- 18 (5) Each county shall have the power to:
- 19 (A) Maintain channels, whether natural or artificial,
20 including their exits to the ocean, in suitable
21 condition to carry off storm waters;



- 1 (B) Remove from the channels, and from the shores and
2 beaches, any debris that is likely to create an
3 unsanitary condition or become a public nuisance;
4 provided that, to the extent any of the foregoing
5 work is a private responsibility, the
6 responsibility may be enforced by the county in
7 lieu of the work being done at public expense;
- 8 (C) Construct, acquire by gift, purchase, or by the
9 exercise of eminent domain, reconstruct, improve,
10 better, extend, and maintain projects or
11 undertakings for the control of and protection
12 against floods and flood waters, including the
13 power to drain and rehabilitate lands already
14 flooded;
- 15 (D) Enact zoning ordinances providing that lands
16 deemed subject to seasonable, periodic, or
17 occasional flooding shall not be used for
18 residence or other purposes in a manner as to
19 endanger the health or safety of the occupants
20 thereof, as required by the Federal Flood



- 1 Insurance Act of 1956 (chapter 1025, Public Law
2 1016); and
- 3 (E) Establish and charge user fees to create and
4 maintain any stormwater management system or
5 infrastructure;
- 6 (6) Each county shall have the power to exercise the power
7 of condemnation by eminent domain when it is in the
8 public interest to do so;
- 9 (7) Each county shall have the power to exercise
10 regulatory powers over business activity as are
11 assigned to them by chapter 445 or other general law;
- 12 (8) Each county shall have the power to fix the fees and
13 charges for all official services not otherwise
14 provided for;
- 15 (9) Each county shall have the power to provide by
16 ordinance assessments for the improvement or
17 maintenance of districts within the county;
- 18 (10) Except as otherwise provided, no county shall have the
19 power to give or loan credit to, or in aid of, any
20 person or corporation, directly or indirectly, except
21 for a public purpose;



- 1 (11) Where not within the jurisdiction of the public
2 utilities commission, each county shall have the power
3 to regulate by ordinance the operation of motor
4 vehicle common carriers transporting passengers within
5 the county and adopt and amend rules the county deems
6 necessary for the public convenience and necessity;
- 7 (12) Each county shall have the power to enact and enforce
8 ordinances necessary to prevent or summarily remove
9 public nuisances and to compel the clearing or removal
10 of any public nuisance, refuse, and uncultivated
11 undergrowth from streets, sidewalks, public places,
12 and unoccupied lots. In connection with these powers,
13 each county may impose and enforce liens upon the
14 property for the cost to the county of removing and
15 completing the necessary work where the property
16 owners fail, after reasonable notice, to comply with
17 the ordinances. The authority provided by this
18 paragraph shall not be self-executing, but shall
19 become fully effective within a county only upon the
20 enactment or adoption by the county of appropriate and
21 particular laws, ordinances, or rules defining "public



- 1 nuisances" with respect to each county's respective
2 circumstances. The counties shall provide the
3 property owner with the opportunity to contest the
4 summary action and to recover the owner's property;
- 5 (13) Each county shall have the power to enact ordinances
6 deemed necessary to protect health, life, and
7 property, and to preserve the order and security of
8 the county and its inhabitants on any subject or
9 matter not inconsistent with, or tending to defeat,
10 the intent of any state statute where the statute does
11 not disclose an express or implied intent that the
12 statute shall be exclusive or uniform throughout the
13 State;
- 14 (14) Each county shall have the power to:
- 15 (A) Make and enforce within the limits of the county
16 all necessary ordinances covering all:
- 17 (i) Local police matters;
- 18 (ii) Matters of sanitation;
- 19 (iii) Matters of inspection of buildings;



- 1 (iv) Matters of condemnation of unsafe
2 structures, plumbing, sewers, dairies, milk,
3 fish, and morgues; and
- 4 (v) Matters of the collection and disposition of
5 rubbish and garbage;
- 6 (B) Provide exemptions for homeless facilities and
7 any other program for the homeless authorized by
8 part XVII of chapter 346, for all matters under
9 this paragraph;
- 10 (C) Appoint county physicians and sanitary and other
11 inspectors as necessary to carry into effect
12 ordinances made under this paragraph, who shall
13 have the same power as given by law to agents of
14 the department of health, subject only to
15 limitations placed on them by the terms and
16 conditions of their appointments; and
- 17 (D) Fix a penalty for the violation of any ordinance,
18 which penalty may be a misdemeanor, petty
19 misdemeanor, or violation as defined by general
20 law; provided that any violation of a county
21 transient accommodations ordinance shall result



1 in, at a minimum, a civil penalty of not less
2 than \$25,000 to be levied by the county planning
3 director;

4 (15) Each county shall have the power to provide public
5 pounds; to regulate the impounding of stray animals
6 and fowl, and their disposition; and to provide for
7 the appointment, powers, duties, and fees of animal
8 control officers;

9 (16) Each county shall have the power to purchase and
10 otherwise acquire, lease, and hold real and personal
11 property within the defined boundaries of the county
12 and to dispose of the real and personal property as
13 the interests of the inhabitants of the county may
14 require, except that:

15 (A) Any property held for school purposes may not be
16 disposed of without the consent of the
17 superintendent of education;

18 (B) No property bordering the ocean shall be sold or
19 otherwise disposed of; and



1 (C) All proceeds from the sale of park lands shall be
2 expended only for the acquisition of property for
3 park or recreational purposes;

4 (17) Each county shall have the power to provide by charter
5 for the prosecution of all offenses and to prosecute
6 for offenses against the laws of the State under the
7 authority of the attorney general of the State;

8 (18) Each county shall have the power to make
9 appropriations in amounts deemed appropriate from any
10 moneys in the treasury, for the purpose of:

11 (A) Community promotion and public celebrations;
12 (B) The entertainment of distinguished persons as may
13 from time to time visit the county;

14 (C) The entertainment of other distinguished persons,
15 as well as, public officials when deemed to be in
16 the best interest of the community; and

17 (D) The rendering of civic tribute to individuals
18 who, by virtue of their accomplishments and
19 community service, merit civic commendations,
20 recognition, or remembrance;

21 (19) Each county shall have the power to:



- 1 (A) Construct, purchase, take on lease, lease,
2 sublease, or in any other manner acquire, manage,
3 maintain, or dispose of buildings for county
4 purposes, sewers, sewer systems, pumping
5 stations, waterworks, including reservoirs,
6 wells, pipelines, and other conduits for
7 distributing water to the public, lighting
8 plants, and apparatus and appliances for lighting
9 streets and public buildings, and manage,
10 regulate, and control the same;
- 11 (B) Regulate and control the location and quality of
12 all appliances necessary to the furnishing of
13 water, heat, light, power, telephone, and
14 telecommunications service to the county;
- 15 (C) Acquire, regulate, and control any and all
16 appliances for the sprinkling and cleaning of the
17 streets and the public ways, and for flushing the
18 sewers; and
- 19 (D) Open, close, construct, or maintain county
20 highways or charge toll on county highways;
21 provided that all revenues received from a toll



1 charge shall be used for the construction or
2 maintenance of county highways;

3 (20) Each county shall have the power to regulate the
4 renting, subletting, and rental conditions of property
5 for places of abode by ordinance;

6 (21) Unless otherwise provided by law, each county shall
7 have the power to establish by ordinance the order of
8 succession of county officials in the event of a
9 military or civil disaster;

10 (22) Each county shall have the power to sue and be sued in
11 its corporate name;

12 (23) Each county shall have the power to establish and
13 maintain waterworks and sewer works; to collect rates
14 for water supplied to consumers and for the use of
15 sewers; to install water meters whenever deemed
16 expedient; provided that owners of premises having
17 vested water rights under existing laws appurtenant to
18 the premises shall not be charged for the installation
19 or use of the water meters on the premises; to take
20 over from the State existing waterworks systems,
21 including water rights, pipelines, and other



1 appurtenances belonging thereto, and sewer systems,
2 and to enlarge, develop, and improve the same;

3 (24) (A) Each county may impose civil fines, in addition
4 to criminal penalties, and remedies for
5 disgorgement of all profits and restitution of
6 any money, real property, or personal property
7 that was obtained through unlawful actions,
8 including but not limited to those set forth in
9 chapter _____, for any violation of county
10 ordinances or rules after a reasonable notice and
11 [requests] request to correct or cease the
12 violation [have] has been made upon the violator.
13 Any administratively imposed civil fine shall not
14 be collected until [after] either an opportunity
15 for [a]:

- 16 (i) A hearing under chapter 91[-]; or
17 (ii) Judicial review by the circuit court, as
18 prescribed by ordinance for specific
19 violations,
20 has been afforded. Any appeal shall be filed
21 within thirty days from the date of the final



1 written decision. These proceedings may not be
2 stayed pending disposition of any criminal
3 proceeding for a related offense. These
4 proceedings shall not be a prerequisite for any
5 civil fine or injunctive relief ordered by the
6 circuit court[+]. Where a county seeks
7 injunctive relief for violations of an ordinance
8 related to transient vacation rental units, the
9 county need not show irreparable injury;

10 (B) Each county by ordinance may provide for the
11 addition of any unpaid civil fines, ordered by
12 any court of competent jurisdiction, to any
13 taxes, fees, or charges, with the exception of
14 fees or charges for water for residential use and
15 sewer charges, collected by the county. Each
16 county by ordinance may also provide for the
17 addition of any unpaid administratively imposed
18 civil fines, which remain due after all judicial
19 review rights under section 91-14 are exhausted,
20 to any taxes, fees, or charges, with the
21 exception of water for residential use and sewer



1 charges, collected by the county. The ordinance
2 shall specify the administrative procedures for
3 the addition of the unpaid civil fines to the
4 eligible taxes, fees, or charges and may require
5 hearings or other proceedings. After addition of
6 the unpaid civil fines to the taxes, fees, or
7 charges, the unpaid civil fines shall not become
8 a part of any taxes, fees, or charges. The
9 county by ordinance may condition the issuance or
10 renewal of a license, approval, or permit for
11 which a fee or charge is assessed, except for
12 water for residential use and sewer charges, on
13 payment of the unpaid civil fines. Upon
14 recordation of a notice of unpaid civil fines in
15 the bureau of conveyances, the amount of the
16 civil fines, including any increase in the amount
17 of the fine [~~which~~] that the county may assess,
18 shall constitute a lien upon all real property or
19 rights to real property belonging to any person
20 liable for the unpaid civil fines. The lien in
21 favor of the county shall be subordinate to any



1 lien in favor of any person recorded or
2 registered prior to the recordation of the notice
3 of unpaid civil fines and senior to any lien
4 recorded or registered after the recordation of
5 the notice. The lien shall continue until the
6 unpaid civil fines are paid in full or until a
7 certificate of release or partial release of the
8 lien, prepared by the county at the owner's
9 expense, is recorded. The notice of unpaid civil
10 fines shall state the amount of the fine as of
11 the date of the notice and maximum permissible
12 daily increase of the fine. The county shall not
13 be required to include a social security number,
14 state general excise taxpayer identification
15 number, or federal employer identification number
16 on the notice. Recordation of the notice in the
17 bureau of conveyances shall be deemed, at [~~sueh~~]
18 that time, for all purposes and without any
19 further action, to procure a lien on land
20 registered in land court under chapter 501.
21 After the unpaid civil fines are added to the



1 taxes, fees, or charges as specified by county
2 ordinance, the unpaid civil fines shall be deemed
3 immediately due, owing, and delinquent and may be
4 collected in any lawful manner. The procedure
5 for collection of unpaid civil fines authorized
6 in this paragraph shall be in addition to any
7 other procedures for collection available to the
8 State and county by law or rules of the courts;

9 (C) Each county may impose civil fines upon any
10 person who places graffiti on any real or
11 personal property owned, managed, or maintained
12 by the county. The fine may be up to \$1,000 or
13 may be equal to the actual cost of having the
14 damaged property repaired or replaced. The
15 parent or guardian having custody of a minor who
16 places graffiti on any real or personal property
17 owned, managed, or maintained by the county shall
18 be jointly and severally liable with the minor
19 for any civil fines imposed hereunder. Any
20 [~~such~~] fine under this paragraph may be
21 administratively imposed after an opportunity for



1 a hearing under chapter 91, but [~~such~~] a
2 [~~proceeding~~] hearing shall not be a prerequisite
3 for any civil fine ordered by any court. As used
4 in this subparagraph, "graffiti" means any
5 unauthorized drawing, inscription, figure, or
6 mark of any type intentionally created by paint,
7 ink, chalk, dye, or similar substances;

8 (D) At the completion of an appeal in which the
9 county's enforcement action is affirmed and upon
10 correction of the violation if requested by the
11 violator, the case shall be reviewed by the
12 county agency that imposed the civil fines to
13 determine the appropriateness of the amount of
14 the civil fines that accrued while the appeal
15 proceedings were pending. In its review of the
16 amount of the accrued fines, the county agency
17 may consider:

18 (i) The nature and egregiousness of the
19 violation;

20 (ii) The duration of the violation;



- 1 (iii) The number of recurring and other similar
- 2 violations;
- 3 (iv) Any effort taken by the violator to correct
- 4 the violation;
- 5 (v) The degree of involvement in causing or
- 6 continuing the violation;
- 7 (vi) Reasons for any delay in the completion of
- 8 the appeal; and
- 9 (vii) Other extenuating circumstances.

10 The civil fine that is imposed by administrative
11 order after this review is completed and the
12 violation is corrected shall be subject to
13 judicial review, notwithstanding any provisions
14 for administrative review in county charters;

15 (E) After completion of a review of the amount of
16 accrued civil fine by the county agency that
17 imposed the fine, the amount of the civil fine
18 determined appropriate, including both the
19 initial civil fine and any accrued daily civil
20 fine, shall immediately become due and
21 collectible following reasonable notice to the



1 violator. If no review of the accrued civil fine
2 is requested, the amount of the civil fine, not
3 to exceed the total accrual of civil fine prior
4 to correcting the violation, shall immediately
5 become due and collectible following reasonable
6 notice to the violator, at the completion of all
7 appeal proceedings;

8 (F) If no county agency exists to conduct appeal
9 proceedings for a particular civil fine action
10 taken by the county, then one shall be
11 established by ordinance before the county shall
12 impose the civil fine;

13 (25) Any law to the contrary notwithstanding, any county
14 mayor, by executive order, may exempt donors, provider
15 agencies, homeless facilities, and any other program
16 for the homeless under part XVII of chapter 346 from
17 real property taxes, water and sewer development fees,
18 rates collected for water supplied to consumers and
19 for use of sewers, and any other county taxes,
20 charges, or fees; provided that any county may enact



1 ordinances to regulate and grant the exemptions
2 granted by this paragraph;

3 (26) Any county may establish a captive insurance company
4 pursuant to article 19, chapter 431; and

5 (27) Each county shall have the power to enact and enforce
6 ordinances regulating towing operations."

7 SECTION 12. Section 46-4, Hawaii Revised Statutes, is
8 amended by amending subsection (a) to read as follows:

9 "(a) This section and any ordinance, rule, or regulation
10 adopted in accordance with this section shall apply to lands not
11 contained within the forest reserve boundaries as established on
12 January 31, 1957, or as subsequently amended.

13 Zoning in all counties shall be accomplished within the
14 framework of a long-range, comprehensive general plan prepared
15 or being prepared to guide the overall future development of the
16 county. Zoning shall be one of the tools available to the
17 county to put the general plan into effect in an orderly manner.
18 Zoning in the counties of Hawaii, Maui, and Kauai means the
19 establishment of districts of [~~such~~] a number, shape, and area,
20 and the adoption of regulations for each district, to carry out
21 the purposes of this section. In establishing or regulating the



1 districts, full consideration shall be given to all available
2 data as to soil classification and physical use capabilities of
3 the land to allow and encourage the most beneficial use of the
4 land consonant with good zoning practices. The zoning power
5 granted herein shall be exercised by ordinance which may relate
6 to:

- 7 (1) The areas within which agriculture, forestry,
8 industry, trade, and business may be conducted;
- 9 (2) The areas in which residential uses may be regulated
10 or prohibited;
- 11 (3) The areas bordering natural watercourses, channels,
12 and streams, in which trades or industries, filling or
13 dumping, erection of structures, and the location of
14 buildings may be prohibited or restricted;
- 15 (4) The areas in which particular uses may be subjected to
16 special restrictions;
- 17 (5) The location of buildings and structures designed for
18 specific uses and designation of uses for which
19 buildings and structures may not be used or altered;
- 20 (6) The location, height, bulk, number of stories, and
21 size of buildings and other structures;



- 1 (7) The location of roads, schools, and recreation areas;
- 2 (8) Building setback lines and future street lines;
- 3 (9) The density and distribution of population;
- 4 (10) The percentage of a lot that may be occupied, size of
- 5 yards, courts, and other open spaces;
- 6 (11) Minimum and maximum lot sizes; and
- 7 (12) Other regulations the boards or city council find
- 8 necessary and proper to permit and encourage the
- 9 orderly development of land resources within their
- 10 jurisdictions.

11 The council of any county shall prescribe rules,
 12 regulations, and administrative procedures and provide personnel
 13 it finds necessary to enforce this section and any ordinance
 14 enacted in accordance with this section. The ordinances may be
 15 enforced by appropriate fines [~~and~~], penalties, and remedies for
 16 disgorgement of all profits and restitution of any money, real
 17 property, or personal property that was obtained through
 18 unlawful actions, including but not limited to those set forth
 19 in chapter _____, civil or criminal, or by court order at the
 20 suit of the county or the owner or owners of real estate
 21 directly affected by the ordinances. In any action brought



1 under an ordinance adopted pursuant to this section, the court
2 or zoning agency, in addition to any fine imposed upon the
3 ordinance violator, may allow costs of action, including costs
4 and fees of any nature and reasonable attorney's fees, to be
5 paid by the ordinance violator.

6 Each county may adopt ordinances prohibiting transient
7 accommodations brokers from engaging in business with an
8 operator or plan manager who is not in compliance with all state
9 laws and county ordinances, including laws and ordinances
10 regarding land use, taxes, and professional licenses.

11 Each county may adopt ordinances requiring an operator or
12 plan manager to remove an advertisement within seven days of
13 receiving a notice of noncompliance under section 237- (i) or
14 237D- (i), a violation of which shall be subject to a civil
15 fine of not less than \$25,000, to be levied by the county
16 planning director of the county where the subject property is
17 located.

18 Any civil fine or penalty provided by ordinance under this
19 section may be imposed by the district court, or by the zoning
20 agency after an opportunity for a hearing pursuant to chapter



1 91. The proceeding shall not be a prerequisite for any
2 injunctive relief ordered by the circuit court.

3 Nothing in this section shall invalidate any zoning
4 ordinance or regulation adopted by any county or other agency of
5 government pursuant to the statutes in effect prior to July 1,
6 1957.

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

16 Neither this section nor any ordinance enacted pursuant to
17 this section shall prohibit the continued lawful use of any
18 building or premises for any trade, industrial, residential,
19 agricultural, or other purpose for which the building or
20 premises is used at the time this section or the ordinance takes
21 effect; provided that a zoning ordinance may provide for



1 elimination of nonconforming uses as the uses are discontinued,
2 or for the amortization or phasing out of nonconforming uses or
3 signs over a reasonable period of time in commercial,
4 industrial, resort, and apartment zoned areas only. A zoning
5 ordinance may provide for the amortization or phasing out of
6 conforming or nonconforming single-family transient vacation
7 rental units over a reasonable period of time in an area of any
8 zoning classification. In no event shall [~~such~~] the
9 amortization or phasing out of nonconforming uses apply to any
10 existing building or premises used for residential (single-
11 family or duplex) or agricultural uses[~~-~~] other than transient
12 vacation rental units, as provided in this section. Nothing in
13 this section shall affect or impair the powers and duties of the
14 director of transportation as set forth in chapter 262."

15 SECTION 13. Upon the establishment by a county of a
16 process for providing verification of compliance by an operator
17 or plan manager as those terms are defined in section 237D-1,
18 Hawaii Revised Statutes, with that county's land use ordinances,
19 the mayor of each county shall advise the governor and shall
20 request that the State transfer, from the transient



1 accommodations tax revenues, up to \$1,000,000 to each county for
2 implementation or enforcement of those land use ordinances.

3 PART IV

4 SECTION 14. The Hawaii Revised Statutes is amended by
5 adding a new chapter to be appropriately designated and to read
6 as follows:

7 "CHAPTER

8 TRANSIENT ACCOMMODATIONS

9 § -1 Definitions. As used in this chapter:

10 "Activity provider" has the same meaning as in section
11 468M-1.

12 "County" means the city and county of Honolulu and the
13 counties of Hawaii, Kauai, and Maui; provided that the county of
14 Maui shall include the county of Kalawao for the purposes of
15 this chapter.

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

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

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



1 "Transient vacation rental" means "transient vacation
2 rental", "transient vacation unit", or transient vacation use",
3 as defined by county ordinance.

4 **§ -2 Transient accommodations brokers.** (a) It shall be
5 unlawful for a person acting as, or on behalf of, a transient
6 accommodations broker to engage in business with an operator or
7 plan manager, including any person or entity employed,
8 contracted, or otherwise engaged by the operator or plan manager
9 for property management or as an activity provider, who is not
10 in compliance with all state laws and county ordinances,
11 including any laws and ordinances regarding land use, taxes, and
12 professional licenses.

13 (b) It shall be unlawful for a person acting as, or on
14 behalf of, a transient accommodations broker, to act on behalf
15 of an operator or plan manager, to employ, contract, or
16 otherwise engage in business with any person or entity to manage
17 any property of the operator or plan manager or to act as an
18 activity provider for transients served by the operator or plan
19 manager if the person or entity is not in compliance with all
20 state laws and county ordinances, including laws and ordinances
21 regarding land use, taxes, and professional licenses.



1 (c) For the purposes of this section, "operator" has the
2 same meaning as in section 237D-1.

3 **§ -3 Booking services.** (a) It shall be unlawful for a
4 person acting as, or on behalf of, a hosting platform to
5 provide, and collect a fee for, booking services in connection
6 with transient vacation rentals located in the State if those
7 transient vacation rentals are not lawfully certified,
8 registered, or permitted as a transient vacation rental under
9 applicable county ordinance at the time the transient vacation
10 rental is rented.

11 (b) For the purposes of this section:

12 "Booking service" means any reservation or payment service
13 provided by a person or entity that facilitates a transient
14 vacation rental transaction between a transient vacation rental
15 operator and a prospective renter, and for which the person or
16 entity collects or receives, directly or indirectly, through an
17 agent or intermediary, a fee in connection with the reservation
18 or payment services provided for the transient vacation rental
19 transaction.

20 "Hosting platform" means a person or entity that
21 participates in the transient vacation rental business by



1 providing, and collecting or receiving a fee for, booking
2 services through which a transient vacation rental operator may
3 offer a transient vacation rental unit. Hosting platforms
4 usually, though not necessarily, provide booking services
5 through an online platform that allows a transient vacation
6 rental operator to advertise the transient vacation rental unit
7 through a website provided by the hosting platform and the
8 hosting platform conducts a transaction by which potential
9 renters arrange, use, pay, whether the renter pays rent directly
10 to the transient vacation rental operator or to the hosting
11 platform.

12 "Transient vacation rental operator" means any person
13 operating a transient vacation rental, whether as owner or
14 proprietor, or as lessee, sublessee, mortgagee in possession,
15 licensee, or other, or engaging or continuing in any service
16 business that involves the actual furnishing of a transient
17 vacation rental.

18 **§ -4 Penalties.** A violation of this chapter may result
19 in a civil penalty of not less than \$25,000.

20 **§ -5 Enforcement.** The appropriate county officer or
21 agency may enforce this chapter within each county."



1 PART V

2 SECTION 15. If any provision of this Act, or the
3 application thereof to any person or circumstance, is held
4 invalid, the invalidity does not affect other provisions or
5 applications of the Act that can be given effect without the
6 invalid provision or application, and to this end the provisions
7 of this Act are severable.

8 SECTION 16. Statutory material to be repealed is bracketed
9 and stricken. New statutory material is underscored.

10 SECTION 17. This Act shall take effect upon its approval.



Report Title:

Taxation; Transient Accommodations Tax; Amnesty; Vacation Rentals; Brokers; Tax Collection Agents; General Excise Tax

Description:

Allows a transient accommodations broker to register as a tax collection agent for its operators and plan managers. Requires operators and plan managers to provide a statement to the transient accommodations broker confirming compliance with all applicable land use and tax laws. Requires the operator or plan manager to provide verification of compliance with state and county land use laws. Requires an operator or plan manager to remove a transient accommodation advertisement upon notice that the property is not in compliance with state law or county ordinance. Establishes a 1-time amnesty program for certain delinquent transient accommodations and general excise tax obligations. Authorizes counties to require the disgorgement of profits obtained through unlawful actions. Authorizes counties to adopt ordinances to amortize or phase out transient vacation rental units. Allocates up to \$1,000,000 of TAT revenues to each county, contingent upon the county establishing a process to provide verification of compliance by an operator or plan manager with county land use laws. Makes it unlawful for transient accommodations brokers to engage in business with operators or plan managers or property managers or activity providers that are not in compliance with all state laws and county ordinances. Makes it unlawful for a hosting platform to provide, and collect a fee for, booking services regarding transient vacation rentals that are not lawfully certified, registered, or permitted under applicable county ordinance.
(SD2)

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

