

JAN 19 2018

A BILL FOR AN ACT

RELATING TO TAXATION.

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

1 SECTION 1. The legislature notes that Hawaii is a highly
2 desirable vacation destination and visitors are looking for a
3 unique visitor experience. The popularity of short-term
4 vacation rentals has grown enormously in the last few years and
5 jurisdictions across the country are dealing with how to handle
6 this emerging enterprise.

7 The legislature further finds that short-term vacation
8 rental operators use online platforms to advertise or accept
9 reservations for their short-term vacation rentals. Current law
10 requires that advertisements, including online advertisements,
11 conspicuously provide the registration identification number or
12 the link to the number of the operator or plan manager, however
13 enforcement of compliance is difficult.

14 The purpose of this Act is to specify that:

- 15 (1) A person authorized to collect rent for another person
16 is not required to pay the general excise tax on
17 behalf of the owner;



(2) Transient accommodations brokers are not required to collect the transient accommodations tax unless acting as an operator of transient accommodations; and

(3) Transient accommodations brokers include websites that facilitate a booking of transient accommodations and are subject to applicable advertising requirements.

SECTION 2. Section 237-30.5, Hawaii Revised Statutes, is amended to read as follows:

"~~[H]~~§237-30.5~~[H]~~ **Collection of rental by third party; filing with department; statement required.** (a) Every person authorized under an agreement by the owner of real property located within this State to collect rent on behalf of such owner shall be subject to this section.

(b) Every written rental collection agreement shall have on the first page of the agreement the name, address, social security number, and, if available, the general excise tax number of the owner of the real property being rented, the address of the property being rented, and the following statement which shall be set forth in bold print and in ten-point type size:



1 "HAWAII GENERAL EXCISE TAXES MUST BE PAID ON THE GROSS RENTS
2 COLLECTED BY ANY PERSON RENTING REAL PROPERTY IN THE STATE OF
3 HAWAII. A COPY OF THE FIRST PAGE OF THIS AGREEMENT, OR OF
4 FEDERAL INTERNAL REVENUE FORM 1099 STATING THE AMOUNT OF RENTS
5 COLLECTED, SHALL BE FILED WITH THE HAWAII DEPARTMENT OF
6 TAXATION."

7
8 Every person entering an oral rental collection agreement
9 shall furnish the department of taxation the information
10 required under this subsection and shall give the owner of the
11 property a copy of the notice required by this subsection.

12 (c) Every person authorized to collect rent for another
13 person shall file a copy of the first page of the rental
14 collection agreement with the department of taxation within
15 thirty days after entering into the agreement, or shall file a
16 copy of federal Internal Revenue form 1099, the property owner's
17 social security number, and, if available, the general excise
18 tax license number of the owner of the property being rented
19 with the department of taxation at the same time as such forms
20 must be filed with the Internal Revenue Service.



1 (d) Every person authorized under an agreement by the
2 owner of real property located within this State to collect rent
3 on behalf of such owner within ninety days after the effective
4 date of this section shall furnish the department of taxation
5 with the information required in subsection (b) and in the case
6 of federal form 1099 such form for the taxable year 1983. The
7 person also shall notify the owner that such information is
8 being furnished and give the owner a copy of the notice required
9 by subsection (b).

10 (e) Every person authorized to collect rent for another
11 person shall not be required to pay the general excise tax on
12 behalf of the owner of the real property being rented and shall
13 not be held liable for the failure of the owner to pay the
14 general excise tax on the gross rents collected."

15 SECTION 3. Section 237D-1, Hawaii Revised Statutes, is
16 amended by amending the definition of "transient accommodations
17 broker" to read as follows:

18 ""Transient accommodations broker" means any person or
19 entity, including but not limited to persons who operate online
20 websites, online travel agencies, or online booking agencies,
21 that offers, lists, advertises, facilitates, or accepts



1 reservations or collects whole or partial payment for transient
2 accommodations or resort time share vacation interests, units,
3 or plans."

4 SECTION 4. Section 237D-2, Hawaii Revised Statutes, is
5 amended by amending subsection (b) to read as follows:

6 "(b) Every operator shall pay to the State the tax imposed
7 by subsection (a), as provided in this chapter. Transient
8 accommodations brokers shall not be subject to this section
9 unless acting as an operator."

10 SECTION 5. Section 237D-4, Hawaii Revised Statutes, is
11 amended by amending subsection (c) to read as follows:

12 "(c) Any advertisement, including an online
13 advertisement[7] through a transient accommodations broker, for
14 any transient accommodation or resort time share vacation
15 interest, plan, or unit shall conspicuously provide:

16 (1) The registration identification number or an
17 electronic link to the registration identification
18 number of the operator or plan manager issued pursuant
19 to this section; and

20 (2) The local contact's name, phone number, and electronic
21 mail address, provided that this paragraph shall be



1 considered satisfied if this information is provided
2 to the transient or occupant prior to the furnishing
3 of the transient accommodation or resort time share
4 vacation unit."

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

7 SECTION 7. This Act shall take effect upon its approval.
8

INTRODUCED BY: _____

Randy H. Beh



S.B. NO. 2639

Report Title:

Taxation; General Excise Tax; Transient Accommodations Tax

Description:

Specifies that a person authorized to collect rent for another person is not required to pay the general excise tax on behalf of the owner. Specifies that transient accommodations brokers are not required to pay the transient accommodations tax unless acting as an operator. Specifies that advertisements through transient accommodations brokers are subject to advertising requirements.

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

