

A Bill for an Act Relating to Taxation.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that although many operators of transient accommodations are in compliance with applicable state and county laws, there are a sizeable number of operators who are not. Failure to comply denies the State and counties of the transient accommodations taxes and general excise taxes they are due.

The legislature further finds that section 521-43(f), Hawaii Revised Statutes, as part of the landlord-tenant code, requires a landlord who lives without the State or on a different island to designate an agent who resides on the same island where the rental unit is located to act in the landlord's behalf.

Section 521-7, Hawaii Revised Statutes, also clearly states that the only exemption from the landlord-tenant code for transient rentals is transient occupancy on a day-to-day basis in a hotel or motel. Since all other transient accommodations are subject to the requirements of the landlord-tenant code, operators of transient accommodations who live without the State or on a different island are already required by law to designate an on-island agent to act on their behalf. This Act is intended to clarify that this requirement applies to all operators of transient accommodations who live without the State or on a different island.

The legislature also finds that the landlord-tenant code focuses on consumer protection. Requiring operators who live on a different island from their transient accommodation property or out of state to designate a local contact is an important aspect of consumer protection. A contact person located on the same island as the transient accommodation is essential in the case of an emergency or natural disaster. An on-island contact is also vital if any questions, concerns, or property issues arise regarding the transient accommodation.

The legislature also finds that requiring community, condominium, and other similar associations to provide relevant information to the department of taxation on all operators who may be leasing their property as a transient accommodation will help ensure compliance with appropriate state and county tax laws. Requiring the counties to provide the department of taxation with relevant information about operators of transient accommodations will permit additional enforcement of relevant state and county tax laws.

Accordingly, the purpose of this Act is to foster consumer protection in the State's transient accommodations market and ensure greater compliance with applicable state and county laws by operators of transient accommodations in the State.

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

**"§237D- Local contact; relevant information; advertisements; transient accommodations.** (a) Any operator of a transient accommodation shall designate a local contact residing on the same island where the transient accommodation is located.

(b) The operator shall furnish the name, address, and contact information of the local contact to any association of homeowners, community association, condominium association, cooperative, or any other nongovernmental entity with covenants, bylaws, and administrative provisions with which the operator's compliance is required for the property where the transient accommoda-

tion is located. The operator shall notify and provide updated information to that association or nongovernmental entity within sixty calendar days of any change in the name, address, and contact information of the local contact.

Any person or entity who wilfully fails to supply information required under this subsection shall be subject to the penalties under section 231-35; provided that a person or entity shall not be subject to any term of imprisonment or probation under section 231-35.

(c) Any nongovernmental entity with covenants, bylaws, and administrative provisions which is formed pursuant to chapter 514A, 514B, or 421J, shall provide the department with all relevant information, maintained in its records, related to all operators who may be leasing their property as transient accommodations by December 31 of each year, or within sixty calendar days of any change in the relevant information, operation, or ownership of the transient accommodation. Any person or entity who wilfully fails to supply information required under this subsection shall be subject to the penalties under section 231-35; provided that a person or entity shall not be subject to any term of imprisonment or probation under section 231-35.

(d) Each county shall provide the department with information necessary to enforce this section. Notwithstanding any provision of title 14 to the contrary, the department shall provide the counties with information necessary for the enforcement of county real property tax laws.

(e) The name and phone number of the local contact for each transient accommodation shall be included in any transient accommodation contract or written rental agreement and shall be prominently posted in the transient accommodation. The local contact shall reside on the same island as the transient accommodation, and shall meet all other requirements under subsection (a). Any person or entity who wilfully fails to supply information required under this subsection shall be subject to the penalties under section 231-35; provided that a person or entity shall not be subject to any term of imprisonment or probation under section 231-35.

(f) The registration identification number issued pursuant to section 237D-4 shall be provided on a website or by online link and displayed in all advertisements and solicitations on websites regarding transient accommodations for which the registration number is issued.

(g) The payment of any penalty assessed under this section shall be in addition to the requirements under section 237D-9.

(h) For the purposes of this section:

“Local contact” means an individual or company contracted by the operator of the transient accommodation to provide services required by this section. Nothing in this section shall be deemed to create an employer-employee relationship between an operator and its local contact.

“Relevant information” means the operator’s name, address, contact information, registration identification number issued pursuant to section 237D-4, and website address if advertising or soliciting the transient accommodation on the Internet.”

SECTION 3. New statutory material is underscored.<sup>1</sup>

SECTION 4. This Act shall take effect on July 1, 2012; provided that this Act shall be repealed on December 31, 2015.

(Became law on July 10, 2012, without the governor’s signature, pursuant to Art. III, §16, State Constitution.)

**Note**

1. Edited pursuant to HRS §23G-16.5.