

THE SENATE
THIRTY-SECOND LEGISLATURE, 2024
STATE OF HAWAII

S.B. NO. 2919

A BILL FOR AN ACT

RELATING TO PROPERTY.

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

SECTION 1. The Hawaii Revised Statutes is amended by adding a new chapter to title 26 to be appropriately designated and to read as follows:

"CHAPTER

SHORT-TERM RENTALS; HOSTING PLATFORMS

§ -A **Definitions.** For the purposes of this chapter, unless the context otherwise requires:

"Application program interface" means a software intermediary that makes it possible for application programs to interact with each other and share data or successor technologies.

"Class A multiple dwelling" means a multiple dwelling that is occupied for permanent residence purposes.

"Class B multiple dwelling" means a multiple dwelling that is occupied transiently as the temporary abode of individuals or families who are lodged with or without the provision of meals. "Class B multiple dwelling" includes hotels, lodging houses, rooming houses, boarding houses, boarding schools, furnished room houses, lodgings, club houses, and college and school dormitories.

"Department" means the department of commerce and consumer affairs.

"Division" means the business registration division of the department.

"Dwelling unit" means any residential accommodation in a multiple dwelling or private dwelling.

"Electronic verification system" means a system created and maintained by the division pursuant to section -G.

"Hosting platform" means a person that directly or indirectly:

(1) Provides one or more online, computer or application-based platforms that individually or collectively can be used to:

(A) List or advertise offers for short-term rentals;
and

(B) Either accept the offers, or reserve or pay for the rentals; and

(2) Charges, collects or receives a fee for the use of the platform or for provision of any service in connection with a short-term rental.

"Hosting platform" does not include:

(1) Any platform that solely lists or advertises offers for short-term rentals; or

(2) Any registered host.

"Listing" means an advertisement on a hosting platform that offers a short-term rental.

"Multiple dwelling" means a dwelling that is rented, leased, let, or hired out for the purpose of being occupied as the residence or home of three or more families living independently of each other.

"Private dwelling" means any building or structure designed and occupied for residential purposes by not more than two families.

"Registered host" means a natural person who:

(1) Is an owner and permanent occupant of a dwelling unit; and

(2) Has applied for and holds a valid registration for the dwelling unit pursuant to this chapter.

"Rooming unit" means one or more living rooms arranged to be occupied as a unit separate from all other living rooms, and that does not have both lawful sanitary facilities and lawful cooking facilities for the exclusive use of the family residing in

the unit.

"Short-term rental" means a rental for fewer than thirty consecutive days of a dwelling unit within a private dwelling or class A multiple dwelling, or in the case of a mixed use building, a rental of a class A dwelling unit therein for fewer than thirty consecutive days.

"Short-term rental registration number" means a registration number issued in accordance with a short-term rental registration of a dwelling unit pursuant to this chapter.

§ -B Limitation of applicability. This chapter shall not apply to:

- (1) The short-term rental of class B multiple dwellings or class B dwelling units within mixed use buildings;
- (2) Short-term rentals for dwelling units that were regulated by any county before the effective date of Act , Session Laws of Hawaii 2024; or
- (3) Vacation rentals regulated by chapter 514E.

§ -C Short-term rental registration. (a) No person who owns, manages, occupies or otherwise controls a dwelling unit shall:

- (1) Offer, manage, or administer the short-term rental of the dwelling unit unless the dwelling unit has been registered pursuant to this chapter, has been issued a unique short-term rental registration number, and the registration is currently valid; or
- (2) Falsely represent or falsely advertise a dwelling unit as registered for short-term rental pursuant to this chapter if the dwelling unit is not registered pursuant to this chapter.

(b) The form and manner of applying for a short-term rental registration or renewal thereof shall be established by the division.

(c) No short-term rental registration shall be issued unless:

- (1) The applicant is a natural person who is an owner and permanent occupant of the dwelling unit;
- (2) The applicant has described, in a form acceptable to the division, any parts of the premises containing the unit or accommodation that a person occupying a short-term rental at the unit or accommodation will be allowed to occupy or use;
- (3) The applicant certifies in a form and manner to be specified by the division that the applicant understands and agrees to comply with this chapter, any rules adopted thereto, and other applicable laws relating to the short-term rental of dwelling units in private dwellings and class A multiple dwellings, or in class A dwelling units within mixed use buildings;
- (4) The division has determined that the dwelling unit is safe for occupants;
- (5) The division has verified the occupancy classification of the building, or with respect to a mixed use building, the occupancy classification of the dwelling unit to be occupied as a short-term rental;
- (6) The division has verified that the building does not appear on the prohibited buildings list published pursuant to this section;
- (7) Where the applicant uses a hosting platform, the applicant has provided the uniform resource locator or listing identifier and the associated hosting platform name for all existing listings of the dwelling unit and agrees that any listing of the dwelling unit with a hosting platform shall be reported to the division prior to the listing being used to make an agreement for a short-term rental; and
- (8) The applicant has paid an application or renewal fee in an amount to be established by rules adopted pursuant to chapter 91.

(d) No short-term rental registration shall be issued for a dwelling unit in public housing.

(e) No short-term rental registration shall be issued for a rooming unit.

(f) Issuance of a registration for a dwelling unit pursuant to this chapter shall not be construed as permission for or approval of the use of the dwelling unit for any occupancy that would be in violation of cooperative bylaws; condominium association declarations, bylaws, rules, or regulations; zoning laws; construction codes; or any other applicable laws or rules.

(g) A short-term rental registration or renewal thereof shall be valid for a period established by the division.

(h) A short-term rental registration or renewal thereof is not transferable.

(i) If the information provided by an applicant in connection with an application for a short-term rental registration or renewal thereof changes before the expiration of such registration or renewal thereof, the applicant shall submit the changes to the division in a time, form and manner established by the division.

(j) Upon receipt of a complete initial application, the division shall notify the owner of record of the dwelling unit and of the building, which shall state that an application for a short-term rental registration has been received.

(k) The division shall create and maintain a prohibited buildings list of all addresses whose owner, including any applicable board of a condominium or homeowner association or its managers and agents, has notified the division in a form and manner to be specified by the division that no short-term rental of any dwelling unit therein is permitted. The division shall adopt rules pursuant to chapter 91 relating to applications for inclusion on the prohibited buildings list, including rules requiring building owners to certify that leases and other occupancy agreements for dwelling units within the building prohibit short-term rentals and rules relating to removing buildings from the prohibited building list. Where all dwelling units in a building are prohibited pursuant to subsection (d), the buildings shall also be included on the prohibited building list.

The division shall publish the prohibited buildings list on its website.

(1) For each hosting platform disclosed by the registrant as having a listing for the registered dwelling unit, the division, as soon as practicable, shall notify the hosting platform of any revocation of a short-term rental registration.

§ -D Short-term rental; registered host premises required. The registered host of a dwelling unit shall be present on the premises of the dwelling unit for the duration of any short-term rental of the unit.

§ -E Posting and advertising. (a) A registered host of a dwelling unit shall conspicuously post and maintain within the dwelling unit, during each short-term rental thereof:

(1) A diagram indicating normal and emergency egress routes from such unit and the building containing such unit, in a form and manner established by division; and

(2) A copy of the short-term rental registration certificate for the unit, which shall include the registration number.

(b) A registered host shall include in any advertisement or other offer for the short-term rental of a dwelling unit the short-term registration number for the unit.

(c) A registered host shall maintain, for at least seven years after each short-term rental, a record of the short-term rental in a manner established by the division and containing information as the division shall prescribe. The records shall be provided to the division pursuant to applicable law and rules adopted by the division pursuant to chapter 91.

§ -F Reporting. (a) The division shall make the following information on each short-term rental registration

available on its website in as close to real time as practicable:

- (1) Registration number;
- (2) Uniform resource locators associated with such registration;
- (3) Address and unit number of the dwelling unit, including latitude and longitude;
- (4) Status of the registration, including active or revoked; and
- (5) Expiration date of registration.

(b) The division shall provide a website where members of the public may submit a registration number or uniform resource locator that will return associated information provided in subsection (a) and instructions on how to file a complaint related to unregistered activity.

(c) The division shall submit to the governor and the legislature, and post on the division's website, no later than twenty days prior to the convening of each regular session, a report that states, at minimum:

- (1) The number of active short-term rental registrations;
- (2) The number of short-term registration applications and renewals: applied for, granted, refused, revoked and pending;
- (3) The average time to process registration applications and renewals;
- (4) A summary of the reasons applications or renewals have been denied and registrations revoked;
- (5) The total number and reasons for summonses issued; and
- (6) The total penalties imposed and collected.

§ -G Electronic verification system. (a) The division shall create and maintain an application program interface that a hosting platform may use to:

(1) Verify whether a housing accommodation or dwelling unit that is the subject of a short-term rental is a class B multiple dwelling;

(2) Verify that the dwelling unit or housing accommodation that is the subject of the short-term rental has a currently valid short-term rental registration number, and that the full legal name of the registered host and the physical address of the dwelling unit associated with the short-term rental match the registered host and physical address information associated with the registration number, and that the uniform resource locator or listing identifier being used to offer the short term rental is associated with the currently valid short-term rental registration number; and

(3) Obtain a unique confirmation number reflecting that such verification has occurred.

(b) There shall be an electronic verification system fee for hosting platforms' use of the electronic verification system. The amount of the fee shall be established by the division by rules adopted pursuant to chapter 91; provided that the amount shall not exceed the amount necessary for the division to build, operate, and maintain the system.

§ -H Hosting platforms; verification of lawful rental.

(a) No hosting platform shall charge, collect, or receive a fee from a person in connection with a short-term rental of a dwelling unit or housing accommodation unless the hosting platform has used the electronic verification system maintained by the division to:

(1) Verify that the short-term rental is for a dwelling unit or housing accommodation that is a class B multiple dwelling; or

(2) Verify that:

(A) The dwelling unit or housing accommodation that is the subject of the short-term rental is associated with the short-term rental registration number submitted to the hosting platform and that the registration is currently valid;

(B) The uniform resource locator or listing identifier being used to offer the short-term rental is

associated with the short-term rental registration number; and

- (C) The registered host and physical address information provided by the registered host to the hosting platform match the information contained in the electronic verification system, including the full legal name of the registered host and the full physical address of the dwelling unit or housing accommodation.

(b) A hosting platform shall reconfirm the active registration of a dwelling unit any time it knows or should have known that any data it used to complete the verification in this section has changed. The division may establish a minimum reverification period by rules adopted pursuant to chapter 91.

(c) A hosting platform shall report to the division on a monthly basis in a manner and form established by the division for each transaction relating to a short-term rental:

- (1) The hosting platform public uniform resource locator for the listing or other identifier; and
- (2) The unique confirmation number obtained from the electronic verification.

Upon submission of each report, a hosting platform shall certify that the verification required by subsection (a) has occurred for each transaction in the report.

§ -I Penalties. Any person, including any owner of any dwelling unit, or any hosting platform, who violates this chapter shall be assessed an administrative fine of \$10,000 per violation per day.

§ -J Rules. The division shall adopt rules pursuant to chapter 91 necessary for the purposes of this chapter; provided that in drafting its rules, the division shall review and duly consider applicable provisions of the Rules of the City of New York as a potential model for emulation."

SECTION 2. Section 46-4, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

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

Zoning in all counties shall be accomplished within the framework of a long-range, comprehensive general plan prepared or being prepared to guide the overall future development of the county. Zoning shall be one of the tools available to the county to put the general plan into effect in an orderly manner. Zoning in the counties of Hawaii, Maui, and Kauai means the establishment of districts of such number, shape, and area, and the adoption of regulations for each district to carry out the purposes of this section. In establishing or regulating the districts, full consideration shall be given to all available data as to soil classification and physical use capabilities of the land to allow and encourage the most beneficial use of the land consonant with good zoning practices. The zoning power granted herein shall be exercised by ordinance which may relate to:

- (1) The areas within which agriculture, forestry, industry, trade, and business may be conducted;
- (2) The areas in which residential uses may be regulated or prohibited;

- (3) The areas bordering natural watercourses, channels, and streams, in which trades or industries, filling or dumping, erection of structures, and the location of buildings may be prohibited or restricted;
 - (4) The areas in which particular uses may be subjected to special restrictions;
 - (5) The location of buildings and structures designed for specific uses and designation of uses for which buildings and structures may not be used or altered;
 - (6) The location, height, bulk, number of stories, and size of buildings and other structures;
 - (7) The location of roads, schools, and recreation areas;
 - (8) Building setback lines and future street lines;
 - (9) The density and distribution of population;
 - (10) The percentage of a lot that may be occupied, size of yards, courts, and other open spaces;
 - (11) Minimum and maximum lot sizes; ~~and~~
 - (12) The time, place, manner, and duration in which uses of land and structures may take place; provided that zoning regulations that restrict the time, place, manner, or duration of a use of property shall not be deemed to create different types of land uses or structures based on time, place, manner, or duration restrictions established by the counties;
 - (13) Practices of hosting platforms that provide booking services for short-term rentals; and
- ~~(12)~~ (14) Other regulations the boards or city council find necessary and proper to permit and encourage the orderly development of land resources within their jurisdictions.

The council of any county shall prescribe rules, regulations, and administrative procedures and provide personnel it finds necessary to enforce this section and any ordinance enacted in accordance with this section. The ordinances may be enforced by appropriate fines and penalties, civil or criminal, or by court order at the suit of the county or the owner or owners of real estate directly affected by the ordinances.

Any civil fine or penalty provided by ordinance under this section may be imposed by the district court, or by the zoning agency after an opportunity for a hearing pursuant to chapter 91.

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

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

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

Neither this section nor any ordinance enacted pursuant to this section shall prohibit the continued lawful use of any building or premises for any trade, industrial, residential, agricultural, or other purpose for which the building or premises is used at the time this section or the ordinance takes effect; provided that a zoning ordinance may provide for elimination of nonconforming uses as the uses are discontinued, or for the amortization or phasing out of nonconforming uses or signs over a reasonable period of time in commercial, industrial, resort, and apartment zoned areas only. In no event shall such amortization or phasing out of nonconforming uses apply to any existing building or premises used for residential (single-family or duplex) or agricultural uses. Nothing in this section shall

affect or impair the powers and duties of the director of transportation as set forth in chapter 262.

Notwithstanding any provision in this section to the contrary, a county may adopt zoning ordinances and regulations that provide for the amortization, or phasing out over a reasonable period of time, of land uses or structures that were established after the effective date of the first comprehensive zoning ordinance adopted by that county.

For the purposes of this subsection:

"Booking service" means a reservation or payment service that facilitates a short-term rental transaction between a prospective renter and a host.

"Hosting platform" means a person or entity participating in the short-term rental business by providing, and collecting or receiving a fee for, a booking service.

"Short-term rentals" means rentals involving payment for use, or swapping, bartering, or exchange, of residential dwellings, or portions thereof, for stays of less than one hundred eighty days, or any shorter maximum duration as determined by a county, by persons other than the owners of the residential dwelling.

"Short-term rentals" include "transient vacation rentals" as defined in section 514E-1."

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

"Transient accommodations" means the furnishing of a room, apartment, suite, single family dwelling, shelter, or the like to a transient for less than one hundred eighty consecutive days for

each letting in a hotel, apartment hotel, motel, condominium or unit as defined in chapter 514B, cooperative apartment, dwelling unit, or rooming house that provides living quarters, sleeping, or housekeeping accommodations, vehicles with, or advertised as including, sleeping accommodations, or other place in which lodgings are regularly furnished to transients."

SECTION 4. In accordance with section 9 of article VII, of the Constitution of the State of Hawaii and sections 37-91 and 37-93, Hawaii Revised Statutes, the legislature has determined that the appropriation contained in this Act will cause the state general fund expenditure ceiling for fiscal year 2024-2025 to be exceeded by \$, or per cent. The reasons for exceeding the general fund expenditure ceiling are that the appropriation made in this Act is necessary to serve the public interest and to meet the needs provided for by this Act.

SECTION 5. There is appropriated out of the general revenues of the State of Hawaii the sum of \$ or so much thereof as may be necessary for fiscal year 2024-2025 for the business registration division of the department of commerce and consumer affairs to regulate short-term rentals pursuant to this Act.

The sum appropriated shall be expended by the department of commerce and consumer affairs for the purposes of this Act.

SECTION 6. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 7. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 8. This Act shall take effect on July 1, 2024.

INTRODUCED BY: _____

Report Title:

DCCA; Short-Term Rentals; Registration; County Zoning; TAT; Appropriation; General Fund Expenditure Ceiling Exceeded

Description:

Establishes and appropriates moneys for a regulatory scheme for short-term rentals of dwelling units under the Business Registration Division of the Department of Commerce and Consumer Affairs. Expands the zoning powers of counties. Expands the scope of the transient accommodations tax law to include certain shelters and vehicles with sleeping accommodations. Declares that the appropriation exceeds the state general fund expenditure ceiling for 2024-2025.

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