

Transient Accommodation Rental Fact Sheet

Key Facts extracted from enacted legislation.¹

HRS 467 – Real Estate Brokers and Salesperson

467-2. The provisions requiring licensing as a real estate broker or salesperson shall not apply:

- (1) To any individual who, as owner of any real estate..., performs any of the acts enumerated in the definitions of real estate broker and real estate salesperson with reference to the real estate;...
- (3) to any individual who leases, offers to lease, rents, or offers to rent, any real estate or the improvements thereon of which the individual is the custodian or caretaker;...

Definitions:

"Real estate broker" means any person who, for compensation ..., sells or offers to sell, buys or offers to buy, or negotiates the purchase or sale or exchange of real estate, ...or who leases or offers to lease, or rents or offers to rent, or manages or offers to manage, any real estate, or the improvements thereon, for others... [The definition of real estate salesperson follows *mutatis mutandis*]

"Custodian or caretaker" means any individual, who for compensation..., is employed as an employee by a single owner and has the responsibility to manage or care for that real property left in the individual's trust; provided that the term "custodian" or "caretaker" shall not include any individual who leases or offers to lease, or rents or offers to rent, any real estate for more than a single owner...(i.e. cannot be a real estate licensee)

HRS 521 – Landlord Tenant Code

521-43(f) - Any owner or landlord who resides without the State or on another island from where the rental unit is located shall designate on the written rental agreement an agent residing on the same island where the unit is located to act in the owner's or landlord's behalf.

- Added in 1975 to "...deal with someone on the same island, ...facilitate return of security deposit, ...quick response for repair and maintenance..."²
- The Code attaches no qualifications to the Agent other than residence

237-D – Transient Accommodation Tax

"Transient accommodations" means the furnishing of a room, apartment, suite, or the like which is customarily occupied by a transient for less than one hundred eighty consecutive days for each letting by a hotel, apartment hotel, motel, condominium property regime or apartment...

237-D4 - Each operator ...engaging ...in the business of furnishing transient accommodations or in business as a resort time share vacation plan shall register with the director [of tax] ...

237-D - (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, ... provide updated information within sixty calendar days... Any person or entity who wilfully fails to supply information

¹ Edits have been made to delete repetitious or non-relevant wording

² Senate Standing Committee Report No. 354 regarding SB No. 92-75, p.973 (1975)

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) [HOA or condominium association] ... 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... [Penalties as stated above]

(d) [Counties and the tax department will share information]

(e) The name and phone number of the local contact for each transient accommodation shall be included in any transient accommodation contract ... and 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). [Penalties as stated above].

(f) The registration identification number issued pursuant to section 237D-4 shall be ...displayed in all advertisements and solicitation...

(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.