



A BILL FOR AN ORDINANCE

RELATING TO SHORT-TERM RENTALS.

BE IT ORDAINED by the People of the City and County of Honolulu:

SECTION 1. Findings and Purpose.

The Council finds that the illegal use of residential properties as short-term rental accommodations has caused discord in many communities and exacerbated the shortage of housing in the City. Some residential real property owners—including owners of fee simple or long-term leasehold interests—knowingly violate the ordinances that prohibit most short-term rentals, while other owners may not be aware that their short-term rental activity is illegal, or even regulated.

One mechanism to deter illegal short-term rentals would be an affirmative disclosure by a real property owner to a buyer on whether the property may or may not be used legally as a short-term rental. Such disclosure would provide more complete information to the buyer of the legal income-producing potential of the real property, and may curb some of the price inflation that may occur when dwelling units are marketed as income-producing investment properties instead of as dwelling units for City residents.

Accordingly, the purpose of this ordinance is to require an owner of residential real property to disclose to a potential buyer, prior to the sale of the property, certain information relating to the property's eligibility for use as a short-term rental.

SECTION 2. Chapter 41, Revised Ordinances of Honolulu 1990 ("Regulated Activities Within the City"), is amended by adding a new article to be appropriately designated by the Revisor of Ordinances and to read as follows:

"Article __. Residential Real Property Disclosure

Sec. 41-__.1 Definitions.

For purposes of this article, the following definitions apply unless the context clearly indicates or requires a different meaning:

"Bed and breakfast home" means the same as defined in Section 21-10.1.

"Department" means the department of planning and permitting.



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"Leasehold real property" means real property leased for a lease period of 15 years or more.

"Real estate purchase contract" means a contract, as it may be amended, by which a seller agrees to sell and a buyer agrees to buy residential real property, which includes a deposit, receipt, offer, acceptance, or other similar agreement for the sale or lease with option to buy residential real property.

"Residential real property" means fee simple or leasehold real property developed as a residence for people to live, or ownership of stock in a cooperative housing corporation.

"Seller" means the person selling residential real property for consideration.

"Short-term rental" means a bed and breakfast home or transient vacation unit.

"Transient vacation unit" means the same as defined in Section 21-10.1.

Sec. 41-__2 Required disclosures.

- (a) Requirement. A seller of residential real property shall comply with the requirements of this section. These requirements are in addition to the disclosure requirements in HRS Chapter 508D.
- (b) Short-term rental disclosure. The seller shall provide to the buyer, within the time period specified in subsection (d) and on a form prescribed by the department, a disclosure, stating whether or not the operation of a short-term rental is a legal use for the residential real property being sold, and the reasons therefor. The department shall make the disclosure form available on its website. The disclosure form must bear the following statement: "THE REPRESENTATIONS ON THIS DOCUMENT ARE SOLELY THOSE OF THE SELLER. THE INFORMATION HAS NOT BEEN CONFIRMED BY ANY AGENCY OF THE CITY AND COUNTY OF HONOLULU."
- (c) Evidence of legal use as short-term rental. If the residential real property is being used as a short-term rental on the date of the disclosure document required by subsection (b), the seller shall also provide the following to the buyer within the time period specified in subsection (d):
 - (1) The applicable government permit number, such as a nonconforming use certificate number, or short-term rental registration number; and



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- (2) Tax clearance certificates evidencing payment of general excise taxes and transient accommodation taxes owed to date.

The department may allow this information to be provided on or as part of the disclosure form required by subsection (b).

- (d) Time period for disclosure. Prior to the execution of a real estate purchase contract by the buyer, the seller shall deliver to the buyer the documents and information required under subsections (b) and (c).
- (e) Submittal to the department. If, pursuant to subsection (b), the seller discloses to the buyer that the operation of a short-term rental is a legal use for the residential real property being sold, then within seven days after the closing of the sale of the residential real property, the seller shall submit to the department a document identifying the subject property by street address and tax map key number, and containing copies of the documents and information delivered to the buyer pursuant to subsections (b), (c), and (d).

Sec. 41-__3 Violation—Penalties—Enforcement.

- (a) A person violating the provisions of this article is guilty of a misdemeanor, and upon conviction is subject to a fine not exceeding \$2,000 or imprisonment for a term not exceeding one year, or both.
- (b) The provisions of Section 21-2.150-1(e) through (i) apply to the enforcement of this section."



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SECTION 3. This ordinance takes effect upon its approval.

INTRODUCED BY:

Brandon Elefante

DATE OF INTRODUCTION:

January 11, 2022
Honolulu, Hawai'i

_____ Councilmembers

APPROVED AS TO FORM AND LEGALITY:

Duane Pang
Deputy Corporation Counsel

DUANE W.H. PANG

APPROVED this 25th day of MARCH, 20 22.

Rick Blangiardi

RICK BLANGIARDI, Mayor
City and County of Honolulu

CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII
CERTIFICATE

BILL 2 (2022), CD1

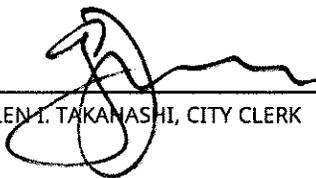
Introduced: 01/11/22 By: BRANDON ELEFANTE Committee: ZONING AND PLANNING (ZP)

Title: RELATING TO SHORT-TERM RENTALS.

Voting Legend: * = Aye w/Reservations

01/11/22	INTRO	Introduced.
01/26/22	CCL	Passed first reading. 9 AYES: CORDERO, ELEFANTE, FUKUNAGA, KIA'ĀINA, SAY, TSUNEYOSHI, TULBA, TUPOLA, WATERS
02/10/22	ZP	Reported out for passage on second reading and scheduling of a public hearing as amended in CD1 form. CR-32 4 AYES: CORDERO, ELEFANTE, KIA'ĀINA, SAY
02/11/22	PUBLISH	Public hearing notice published in the Honolulu Star-Advertiser.
02/23/22	CCL/PH	Committee report adopted. Bill passed second reading as amended, public hearing closed and referred to committee. 9 AYES: CORDERO, ELEFANTE, FUKUNAGA, KIA'ĀINA, SAY, TSUNEYOSHI, TULBA, TUPOLA, WATERS
03/03/22	ZP	Reported out for passage on third reading. CR-47 3 AYES: CORDERO, ELEFANTE, SAY 1 EXCUSED: KIA'ĀINA
03/16/22	CCL	Committee report adopted and Bill passed third reading. 8 AYES: CORDERO, ELEFANTE, FUKUNAGA, KIA'ĀINA, SAY, TSUNEYOSHI, TULBA, WATERS 1 ABSENT: TUPOLA

I hereby certify that the above is a true record of action by the Council of the City and County of Honolulu on this BILL.


GLEN I. TAKANASHI, CITY CLERK


TOMMY WATERS, CHAIR AND PRESIDING OFFICER