

*I MINA'TRENTAI TRES NA LIHESLATURAN GUÅHAN*

2016 (SECOND) Regular Session

Bill No. 324-33(Cor)

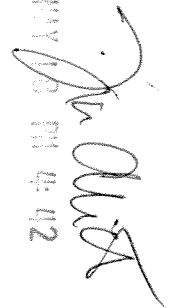
Introduced by:

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2016 MAY 10 PM 4:42



**AN ACT TO AMEND SUB-ITEM (jj) OF § 61103, OF ARTICLE 1, AND §61304(B) AND §61305(B) OF ARTICLE 3 OF CHAPTER 61, TITLE 21 OF THE GUAM CODE ANNOTATED; TO ADD A NEW SUBITEM (KK) OF §61103 OF ARTICLE 1, ; TO ADD A NEW SUB-ARTICLE 1 TO ARTICLE 1, A NEW SUB-ARTICLE 2 TO ARTICLE 1 CHAPTER 61, TITLE 21 OF THE GUAM CODE ANNOTATED; RELATIVE TO CLARIFYING THE DEFINITION OF A BED AND BREAKFAST AND TO ESTABLISHING CONDITIONAL USE OF BED AND BREAKFAST AND SHORT-TERM VACATION UNITS; TO AUTHORIZING SHORT-TERM VACATION RENTALS ON GUAM, AND TO PROVIDE SUCH REQUIREMENTS AS ARE NECESSARY AND PROPER FOR THE OPERATION OF THE BED AND BREAKFAST AND SHORT-TERM VACATION UNITS ON GUAM.**

1 **BE IT ENACTED BY THE PEOPLE OF GUAM:**

2 **Section 1.** Sub-item (jj) of § 61103 of Article 1, Title 21 Guam Code Annotated is  
3 hereby *amended* to read:

4 "(jj). Bed and Breakfast. A private residence or building appurtenant or  
5 accessory to a private residence containing five or fewer rooms intended or  
6 designed to be used, or which are used, rented, or hired out to be occupied, or  
7 which are occupied for sleeping purposes, provided that the owner-proprietor  
8 occupies at least one (1) such room. No home may be licensed as a Bed and

1 Breakfast whose physical address is the physical address of a registered sex  
2 offender."

3 **Section 2.** A new sub-item (kk) of §61103 is hereby added to Article 1, Title  
4 21 Guam Code Annotated to read:

5 "(kk). Short-term Vacation Rental Unit. An accommodation for transient  
6 guests where, in exchange for compensation, a residential dwelling unit is provided  
7 for lodging for any term length not to exceed thirty consecutive days. Such use  
8 may or may not include an on-site manager.

9 **Section 3.** A new Article is added to Chapter 61 of Title 21, Guam Code  
10 annotated to read:

11 **SUB-ARTICLE 1**

12 **BED AND BREAKFASTS**

- 13
- 14 § 61106 Purpose & Intent.
  - 15 § 61107 Restrictions & Standards
  - 16 § 61108 Rules & Regulations
  - 17 §61109 Imposition.
  - 18 §61110 Exemption from Hotel Sanitation
  - 19 §61111 Sub-Article not Applicable.

20

21 **§ 61106. Purpose & Intent.**

22 The purpose of this chapter is to establish a licensing process and appropriate  
23 restrictions and standards for bed and breakfast homes; to allow small, local  
24 businesses an opportunity to participate and benefit from tourism; to provide a visitor  
25 experience and accommodation as an alternative to the resort and hotel

1 accommodations currently existing on Guam; and to retain the character of the  
2 neighborhoods in which any bed and breakfast home is located.

3 **§ 61107. Restrictions & Standards.**

4 Bed and breakfast homes shall be subject to the following restrictions and  
5 standards. Any operator found in violation of these requirements may be subject to  
6 immediate closure and, or all such penalties or fines levied under Title 11 Guam  
7 Code Annotated:

8 (a) The owner- proprietor *shall* have a current business license as required by  
9 Division 3 of Title 11, Guam Code Annotated and mayor's verification in the village  
10 of the bed and breakfast. The Director may, subject to § 61108 of this Act adopt,  
11 amend, or modify such license, as he may deem necessary to implement this Chapter.

12 (b) A Bed and Breakfast *shall* be permitted in no more than one (1) single-  
13 family dwelling units per lot;

14 (c) The owner-proprietor *shall* be a resident of Guam for at least one (1)  
15 year and shall reside, on a full- time basis, within the single- family dwelling being  
16 used as the bed and breakfast home;

17 (d) The bed and breakfast license shall be in the name of the owner-  
18 proprietor, who shall be a natural person and the owner of the real property where  
19 bed and breakfast shall be licensed. No bed and breakfast license shall be held by a  
20 corporation or managed under a business structure that is guided by a Board of  
21 Directors or Shareholders. The license shall not be transferable. No more than one  
22 license shall be approved for any lot;

23 (e) The total number of guests at a Bed and Breakfast *shall* be according to  
24 the following:

1 (A) One person per bed, the bed *shall have* a length of at most eighty  
2 (80) inches and width of at most thirty-nine (39) inches with at least a thirty  
3 (30) inch clearance around at least two sides of the bed. There *shall be* at least  
4 a thirty (30) inch clearance between each bed, no two beds *shall lay*  
5 immediately adjacent to one another this layout will constitute one bed. There  
6 shall be no more than four (4) beds of these specifications per room, with the  
7 exception of bunkbeds. Two person per set of bunkbeds, the beds of the  
8 bunkbeds *shall have* a length of at most eighty (80) inches and width of at  
9 most thirty-nine (39) inches. The bunkbed *shall have* at least a two feet  
10 clearance from the ceiling, there shall be no more than two sets of bunkbeds  
11 in a room;

12 (B) Two people per bed, the bed *shall have* length of no less than  
13 seventy-five (75) inches and width of no less than fifty-four (54) inches with  
14 at least a thirty (30) inch clearance around at least two sides of the bed. There  
15 *shall be* a thirty (30) inch clearance between each bed, no two beds *shall lay*  
16 immediately adjacent to one another this layout will constitute one bed. There  
17 *shall be* no more than two beds of this specification per room;

18 (C) It is acceptable to have varying bed specification in one room as  
19 long as there are no more than four people per room.

20 (f.) A bed and breakfast home *shall make* breakfast available to onsite guests,  
21 but *shall not operate* as a food service establishment unless a food service  
22 establishment is a permitted.

23 (g) All advertising for any bed and breakfast home *shall include* the number  
24 of the license granted to the owner- proprietor.

25 (h) The act of advertising, marketing, and listing a property as a Bed and  
26 Breakfast, short-term vacation rental unit, or accommodation as part of a tour

1 package through an advertisement, marketing, or booking platform or other  
2 intermediaries presumes participation in the bed and breakfast or short-term vacation  
3 rental industry and *shall* be subject to the enforcement and penalties pursuant to this  
4 Chapter.

5 (i) Single- station smoke detectors shall be provided in all guest bedrooms.

6 (j) The owner- proprietor shall create "house policies" and post them on all  
7 booking platforms or intermediaries used to market, advertise, list, find, and rent  
8 their property as a bed and breakfast. No booking *shall* occur without a posted house  
9 policy and an agreement between the owner- proprietor and guest to abide by the  
10 house policies. The house policies *shall* be posted within each guest room and *shall*  
11 be identical to the house policies listed on the booking platform or intermediary used  
12 to market, advertise, list, find, and rent a room in the bed and breakfast. The owner-  
13 proprietor is responsible for enforcing such policies. The house policies shall include  
14 the following provisions:

15 1. Quiet hours shall be maintained from 9:00 p.m. to 5:00 a.m., during which  
16 noise in the bed and breakfast home shall not disturb anyone on a neighboring  
17 property.

18 2. Amplified sound that is audible beyond the property boundaries of the bed  
19 and breakfast home is prohibited.

20 3. Vehicles shall be parked in the designated onsite parking area and shall not  
21 be parked on the street overnight.

## 22 § 61108. Rules and Regulations

23 Subject to the Administrative Adjudication Act, The Department of Revenue  
24 & taxations *may* adopt rules and regulations for the implementation of this article.

## 25 § 61109. Imposition.

1 An excise tax is hereby levied and imposed which shall be assessed and  
2 collected monthly against transient occupants of a room or rooms in a bed and  
3 breakfast pursuant to Chapter 30 of Division 2, Title 11 Guam Code Annotated.

4 **§61110. Exemption from Hotel Sanitation**

5 Bed and Breakfast owners are not subject to Hotel Sanitation Chapter 26 of  
6 Division 2, Title 10, Guam Code Annotation.

7 **§61111. Sub-Article Not Applicable.**

8 This Sub-Article shall not apply to homes hosting a student for a Student  
9 exchange program, in which the host family has received compensation for  
10 housing and feeding the exchange student, provided the exchange program is  
11 being hosted by a school within the territory that has been accredited by a United  
12 States recognized accreditation commission and the head of household or host  
13 family agrees in writing to accept responsibility for any and all harm and  
14 damages resulting in interactions between the exchange student.

15 **Section 4.** A new Sub-Article 2 is added to Chapter 61 of Title 21, Guam  
16 Code annotated to read:

17 **SUB-ARTICLE 2**

18 **SHORT-TERM VACATION RENTALS**

- 19 § 61112 Purpose & Intent
- 20 § 61113 Definitions
- 21 § 61114 Short-term Vacation Rental Certificate
- 22 § 61115 Application for Short-term Vacation Rental Certificate
- 23 § 61116 Vacation Rental Emergency Contact
- 24 § 61117 Short-term Vacation Rental Regulations
- 25 § 61118 Sub-Article Not Applicable
- 26 §61119 Imposition

1 §61120 Exemption from Hotel Sanitation

2 **§ 61112. Purpose & Intent.**

3 It is the purpose of this Sub-Article to protect the public health, safety and  
4 general welfare of individuals and the community at large; to monitor and provide  
5 reasonable means for citizens to mitigate impacts created by occupancy of short-  
6 term vacation rental units; and to implement rationally based, reasonably tailored  
7 regulations to protect the integrity of Guam's neighborhoods.

8 **§ 61113. Definitions.**

9 (a) “*Code Compliance Verification Form*” is a document executed by a  
10 short-term vacation rental unit property owner certifying the property is in  
11 compliance with applicable zoning, building, health and life safety code provisions  
12 to include homeowners association or Condominium covenants, rules and  
13 regulations, or restrictions. No person shall allow occupancy or possession of any  
14 short-term vacation rental unit if the premises are in violation of any applicable  
15 zoning, building, health or life safety code provisions.

16 (b) “*Short-term Vacation Rental Occupants*” means guests, tourists,  
17 lessees, vacationers or any other person who, in exchange for compensation,  
18 occupy a dwelling unit for lodging for any term length not to exceed thirty  
19 consecutive days.

20 (c) “*Short-term Vacation Unit*” means an accommodation for transient  
21 guests where, in exchange for compensation, a residential dwelling unit is  
22 provided for lodging for any term length not to exceed thirty consecutive days.  
23 Such use may or may not include an on-site manager.

24 (d) “*Short-term Vacation Rental Unit Emergency Contact*” means a  
25 natural person designated by the owner of a short-term vacation rental unit on the  
26 short-term vacation rental unit certificate application. Such person shall be

1 available for and responsive to contact at all times and someone who is customarily  
2 present at a location within Guam for purposes of transacting business.

3 **§ 61114. Short-term Vacation Rental Unit Certificate.**

4 No person shall rent, lease or otherwise exchange for compensation all or any  
5 portion of a dwelling unit as short-term vacation rental, as defined in § 61113,  
6 without first obtaining a business tax certificate from the Department of Revenue  
7 and Taxation and complying with the regulations contained in this section. No  
8 certificate issued under this Sub-Article may be transferred or assigned or used by  
9 any person other than the one to whom it is issued, or at any location other than the  
10 one for which it is issued.

11 **§ 61115. Application for Short-term Vacation Rental Unit Certificate.**

12 (a) Applicants for a short-term vacation rental certificate shall submit, on  
13 an annual basis, an application for a short-term vacation rental certificate to the  
14 Director of the Department of Revenue and Taxation The application shall be  
15 furnished under oath on a form specified by Director, accompanied by a non-  
16 refundable application fee. Such application should include:

17 (1) The name, address, telephone and email address of the  
18 owner(s) of record of the dwelling unit for which a certificate is sought. If such  
19 owner is not a natural person, the application shall identify all partners, officers  
20 and/or directors of any such entity, including personal contact information;

21 (2) The address of the unit to be used as a short-term vacation  
22 rental unit;

23 (3) The name, address, telephone number and email address of the  
24 short-term vacation rental unit Emergency Contact, which shall constitute his or  
25 her twenty-four hour contact information;

26 (4) The owner's sworn acknowledgement that he or she has



1 received a copy of this section, has reviewed it and understands its requirements;

2 (5) The number and location of parking spaces allotted  
3 to the premises;

4 (6) The owner's agreement to use his or her best efforts to assure  
5 that use of the premises by short-term vacation rental unit occupants will not  
6 disrupt the neighborhood, and will not interfere with the rights of neighboring  
7 property owners to the quiet enjoyment of their properties; and

8 (7) Any other information that this Sub-Article requires the owner  
9 to provide to the Department as part of an application for a short-term vacation  
10 rental unit certificate. The Director or his or her designee shall have the authority  
11 to obtain additional information from the applicant as necessary to achieve the  
12 objectives of this Chapter.

13 (b) Attached to and concurrent with submission of the application  
14 described in this section, the owner shall provide:

15 (1) The owner's sworn code compliance verification form;

16 (2) A written exemplar agreement, which shall consist of the form  
17 of document to be executed between the owner and occupant(s) and  
18 which shall contain the following provisions:

19 (a) The occupant(s)' agreement to abide by all of the  
20 requirements of this Chapter, state and federal law, and  
21 acknowledgement that his or her rights under the agreement may not  
22 be transferred or assigned to anyone else;

23 (b) The occupant(s)' acknowledgement that the total number  
24 of occupants *shall* be limited to up to two (2) adult guests and up to  
25 two (2) minor guests per bedroom.

26 (c) The occupant(s)' acknowledgement that it shall be

1 unlawful to allow or make any noise which a reasonable person may  
2 deem excessive between the hours of 9:00 p.m. and 5:00 a.m.; and

3 (d) The occupant(s)' acknowledgement and agreement that  
4 violation of the agreement or this Chapter may result in immediate  
5 termination of the agreement and eviction from the short-term  
6 vacation rental unit by the owner or Emergency Contact, as well as  
7 the potential liability for payments of fines levied by the Department

8 (3) Proof of the owner's current ownership of the short-term  
9 vacation rental unit or similar documentation showing possession or  
10 responsibility of property;

11 (4) Proof of property-owner's insurance of property to include any  
12 policies for bed and breakfast, short-term rentals, or similar activities;

13 (5) A written certification from the short-term vacation rental unit  
14 Emergency Contact that he or she agrees to perform the duties  
15 specified in § 61115; and

16 (6) Certificate holder shall publish a short-term vacation rental  
17 certificate number in every print, digital and/or internet advertisement  
18 and any property listing in which the short-term vacation rental unit  
19 is advertised.

20 **§ 61116. Short-term Vacation Rental Unit Emergency Contact.**

21 The owner of a short-term vacation rental unit shall designate a short-term  
22 vacation rental unit Emergency Contact on its application for a short-term  
23 vacation rental unit certificate. A property owner may serve as the short-term  
24 vacation rental unit Emergency Contact, provided such owner is able to comply  
25 with the requirements of this section. The duties of the short-term vacation rental  
26 unit Emergency Contact are to:

1           (a) Be reasonably available to handle any problems arising from  
2 the short-term vacation rental unit or its occupants;

3           (b) Appear on the premises of any short-term vacation rental unit  
4 within two hours following notification from the Director, village Mayor, or  
5 emergency personnel of issues related to the use or occupancy of the premises.  
6 This includes, but is not limited to, notification that occupants of the short-term  
7 vacation rental unit have created unreasonable noise or disturbances, engaged in  
8 disorderly conduct or committed violations of the applicable law pertaining to  
9 noise, disorderly conduct, overcrowding, and consumption of alcohol or use of  
10 illegal drugs. Failure of the agent to timely appear to two (2) or more complaints  
11 regarding violations may be grounds for penalties as set forth in this Chapter.  
12 This is not intended to impose a duty to act as a peace officer or otherwise  
13 require the Emergency Contact to place himself or herself in a perilous situation;

14           (c) Receive and accept service of any notice of violation related to  
15 the use or occupancy of the premises; and

16           (d) Monitor the short-term vacation rental unit for compliance  
17 with this Chapter.

18           (e) An owner may change his or her designation of a short-term  
19 vacation rental unit Emergency Contact temporarily or permanently; however  
20 there shall only be one such Emergency Contact for a property at any given time.  
21 To change the designated Emergency Contact, the owner shall notify the  
22 Director in writing of the new Emergency Contact's identity, together with all  
23 information regarding such person as required by the applicable provisions of  
24 §61560. Review of an application shall be conducted in accordance with due  
25 process principles and shall be granted unless the applicant fails to meet the  
26 conditions and requirements of this Chapter, or otherwise fails to demonstrate the



1 ability to comply with the laws of Guam or the United States. Any false  
2 statements or information provided in the application are grounds for revocation,  
3 suspension and/or imposition of penalties, including denial of future applications.

4 **§ 61117. Short-term Vacation Rental Unit Regulations.**

5 The Department of Revenue and Taxation subject to the Administrative  
6 Adjudication Act *shall* adopt such Rules and Regulations as are necessary and  
7 proper to implement the provisions of this Sub-Article.

8 **§61118. Sub-Article Not Applicable.**

9 This Sub-Article shall not apply to homes hosting a student for a Student  
10 exchange program, in which the host family has received compensation for  
11 housing and feeding the exchange student, provided the exchange program is  
12 being hosted by a school within the territory that has been accredited by a United  
13 States recognized accreditation commission and the head of household or host  
14 family agrees in writing to accept responsibility for any and all harm and  
15 damages resulting in interactions between the exchange student.

16 **§ 61119. Imposition.**

17 An excise tax is hereby levied and imposed which shall be assessed and  
18 collected monthly against transient occupants of a room or rooms in a short-term  
19 vacation unit pursuant to Chapter 30 of Division 2, Title 11 Guam Code  
20 Annotated.

21 **§61120. Exemption from Hotel Sanitation.**

22 Short-term vacation rental unit owners are not subject to Hotel Sanitation  
23 Chapter 26 of Division 2, Title 10, Guam Code Annotation.”

24 **Section 5. §61304 (b)** of Article 3, Title 21, Guam Code Annotated, is  
25 hereby *amended* to read:

1                   “(b) Conditional Uses:

- 2                   (1) Parks, playgrounds and community centers.
- 3                   (2) Biological gardens.
- 4                   (3) Schools and churches.
- 5                   (4) Hospitals, sanitariums, and institutional uses.
- 6                   (5) Cemeteries.
- 7                   (6) Recreational use including golf courses, marinas, beaches,
- 8                   swimming pools and accessory residential and commercial
- 9                   use.
- 10                  (7) Extractive industry.
- 11                  (8) Utilities and public facilities
- 12                  (9) Wholesale and retail stores, shops and businesses.
- 13                  (10) Automobile service stations, including service shops.
- 14                  (11) ~~Accessory uses and structures for the above.~~ Bed and
- 15                         Breakfasts and Short-term vacation units.
- 16                  (12) Accessory uses and structures for the above.

17

18                  **Section 6. §61305 (b)** of Article 3, Title 21, Guam Code Annotated, is

19 hereby *amended* to read:

20                   (b) Conditional Use.

- 21                   (1) Duplexes.
- 22                   (2) Schools and churches.
- 23                   (3) Parks, playgrounds and community centers.
- 24                   (4) Health service office, outpatient with laboratory.

1 (5) Utilities and Public facilities.

2 (6) Short-term vacation units.

3 **Section 7. Severability.** If any provision of this Act or its application to any  
4 person or circumstance is held invalid, the invalidity shall not affect other provisions  
5 or applications of this Act which can be given effect without the invalid provision  
6 or application and to this end the provisions of this Act are severable.

7 **Section 8. Enactment Date.** This Act *shall* be effective immediately upon  
8 enactment.