EDDIE BAZA CALVO
Governor

RAY TENORIO
Lieutenant Governor

Office of the Governor of Guam.

JUL 08 2016

Honorable Judith T. Won Pat, Ed.D.
Speaker
I Mina'trentai Tres Na Liheslaturan Guåhan
155 Hesler Street
Hagåtña, Guam 96910

2016 JUL 12 AM 10:49

Dear Madame Speaker:

Transmitted herewith is Bill No. 323-33 (COR), **"AN ACT TO *AMEND* SUBSECTION (A) OF § 30101, AND TO *ADD* NEW §§ 30109, 30110 AND 30111, ALL OF CHAPTER 30 OF TITLE 11, GUAM CODE ANNOTATED, RELATIVE TO REDUCING THE HOTEL OCCUPANCY TAX RATES FOR BED AND BREAKFASTS, AND TO AUTHORIZING THE DIRECTOR OF REVENUE AND TAXATION OR HIS DESIGNEE TO ENTER INTO TAX COLLECTION AGREEMENTS, WITH TRANSIENT ACCOMMODATIONS BROKERS; TO *AMEND* SUBSECTION (JJ) AND TO *ADD* A NEW SUBSECTION (KK) OF §61103OF ARTICLE 1, TO *AMEND* § 61304(B) AND § 61305(B) OF ARTICLE 3, AND TO *ADD* A NEW SUB-ARTICLE 1 AND A NEW SUBARTICLE 2 TO ARTICLE 1, ALL OF CHAPTER 61 OF TITLE 21, GUAM CODE ANNOTATED, RELATIVE TO CLARIFYING THE DEFINITION OF A BED AND BREAKFAST, TO ESTABLISHING CONDITIONAL USE OF BED AND BREAKFASTS AND SHORT-TERM VACATION RENTAL UNITS, TO AUTHORIZING SHORT-TERM VACATION RENTAL UNITS ON GUAM, AND TO PROVIDING SUCH REQUIREMENTS AS ARE NECESSARY AND PROPER FOR THE OPERATION OF BED AND BREAKFASTS AND SHORT-TERM VACATION RENTAL UNITS ON GUAM; AND TO *ADD* A NEW § 51112 TO CHAPTER 51 OF TITLE 18, GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING CIVIL PENALTIES FOR OWNER-PROPRIETORS LEASING REAL PROPERTY AS A LODGING FACILITY AND OPERATING WITHOUT THE PROPER LICENSES,"** which was signed into law on June 30, 2016, as **Public Law 33-165.**

33-16-1779
Office of the Speaker
Judith T. Won Pat, Ed.D

Senseramente,

1779

EDDIE BAZA CALVO

Date: 7-11-16
Time: 12:11 pm
Received By: [illegible]

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Eddie Baza Calvo @eddiebazacalvo @governorcalvo governorofguam

I MINA'TRENTAI TRES NA LIHESLATURAN GUÅHAN
2016 (SECOND) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO *I MAGA'LÅHEN GUÅHAN*

This is to certify that **Bill No. 323-33 (COR), "AN ACT TO *AMEND* SUBSECTION (A) OF § 30101, AND TO ADD NEW §§ 30109, 30110 AND 30111, ALL OF CHAPTER 30 OF TITLE 11, GUAM CODE ANNOTATED, RELATIVE TO REDUCING THE HOTEL OCCUPANCY TAX RATES FOR BED AND BREAKFASTS, AND TO AUTHORIZING THE DIRECTOR OF REVENUE AND TAXATION OR HIS DESIGNEE TO ENTER INTO TAX COLLECTION AGREEMENTS WITH TRANSIENT ACCOMMODATIONS BROKERS; TO *AMEND* SUBSECTION (JJ) AND TO ADD A NEW SUBSECTION (KK) OF § 61103 OF ARTICLE 1, TO AMEND § 61304(B) AND § 61305(B) OF ARTICLE 3, AND TO *ADD* A NEW SUB-ARTICLE 1 AND A NEW SUB-ARTICLE 2 TO ARTICLE 1, ALL OF CHAPTER 61 OF TITLE 21, GUAM CODE ANNOTATED, RELATIVE TO CLARIFYING THE DEFINITION OF A BED AND BREAKFAST, TO ESTABLISHING CONDITIONAL USE OF BED AND BREAKFASTS AND SHORT-TERM VACATION RENTAL UNITS, TO AUTHORIZING SHORT-TERM VACATION RENTAL UNITS ON GUAM, AND TO PROVIDING SUCH REQUIREMENTS AS ARE NECESSARY AND PROPER FOR THE OPERATION OF BED AND BREAKFASTS AND SHORT-TERM VACATION RENTAL UNITS ON GUAM; AND TO *ADD* A NEW § 51112 TO CHAPTER 51 OF TITLE 18, GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING CIVIL PENALTIES FOR OWNER-PROPRIETORS LEASING REAL PROPERTY AS A LODGING FACILITY AND OPERATING WITHOUT THE PROPER LICENSES,"** was on the 17th day of June 2016, duly and regularly passed.

Benjamin J. F. Cruz
Acting Speaker

Attested:

Tina Rose Muña Barnes
Legislative Secretary

This Act was received by *I Maga'låhen Guåhan* this 20th day of June, 2016, at 5:25 p.m. o'clock .M.

Assistant Staff Officer
Maga'låhi's Office

APPROVED:

EDWARD J.B. CALVO
I Maga'låhen Guåhan

Date: JUN 30 2016

Public Law No. 33-165

I MINA'TRENTAI TRES NA LIHESLATURAN GUÅHAN
2016 (SECOND) Regular Session

Bill No. 323-33 (COR)
As amended by the Committee on Municipal Affairs,
Tourism, Housing, and Historic Preservation;
and further amended on the Floor.

Introduced by:

T. R. Muña Barnes
B. J.F. Cruz
R. J. Respicio
Frank F. Blas, Jr.
Judith T. Won Pat, Ed.D.
J. V. Espaldon
T. C. Ada
V. Anthony Ada
FRANK B. AGUON, JR.
Brant T. McCreadie
Tommy Morrison
Dennis G. Rodriguez, Jr.
Michael F.Q. San Nicolas
Mary Camacho Torres
N. B. Underwood, Ph.D.

AN ACT TO *AMEND* SUBSECTION (a) OF § 30101, AND TO *ADD* NEW §§ 30109, 30110 AND 30111, ALL OF CHAPTER 30 OF TITLE 11, GUAM CODE ANNOTATED, RELATIVE TO REDUCING THE HOTEL OCCUPANCY TAX RATES FOR BED AND BREAKFASTS, AND TO AUTHORIZING THE DIRECTOR OF REVENUE AND TAXATION OR HIS DESIGNEE TO ENTER INTO TAX COLLECTION AGREEMENTS WITH TRANSIENT ACCOMMODATIONS BROKERS; TO *AMEND* SUBSECTION (jj) AND TO *ADD* A NEW SUBSECTION (kk) OF § 61103 OF ARTICLE 1, TO *AMEND* § 61304(b) AND § 61305(b) OF ARTICLE 3, AND TO *ADD* A NEW SUB-ARTICLE 1 AND A NEW SUB-ARTICLE 2 TO ARTICLE 1, ALL OF CHAPTER 61 OF TITLE 21, GUAM CODE ANNOTATED, RELATIVE TO CLARIFYING THE DEFINITION OF A BED AND BREAKFAST, TO

ESTABLISHING CONDITIONAL USE OF BED AND BREAKFASTS AND SHORT-TERM VACATION RENTAL UNITS, TO AUTHORIZING SHORT-TERM VACATION RENTAL UNITS ON GUAM, AND TO PROVIDING SUCH REQUIREMENTS AS ARE NECESSARY AND PROPER FOR THE OPERATION OF BED AND BREAKFASTS AND SHORT-TERM VACATION RENTAL UNITS ON GUAM; AND TO *ADD* A NEW § 51112 TO CHAPTER 51 OF TITLE 18, GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING CIVIL PENALTIES FOR OWNER-PROPRIETORS LEASING REAL PROPERTY AS A LODGING FACILITY AND OPERATING WITHOUT THE PROPER LICENSES.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Subsection (a) of § 30101 of Chapter 30, Title 11, Guam Code Annotated, is hereby *amended* to read:

"(a) An excise tax is hereby levied and imposed which *shall* be assessed and collected monthly, against transient occupants of a room or rooms in a hotel, lodging house, and bed and breakfast, or similar facility located in Guam according to the following schedule:

(1) from September 1, 1993 through March 31, 1995, the rate *shall* be ten percent (10%) of the rental price charged or paid per occupancy per day;

(2) from April 1, 1995 and thereafter the rate *shall* be eleven percent (11%) of the rental price charged or paid per occupancy per day; and

(3) the rate for a registered bed and breakfast *shall* be four percent (4%) of the rental charged or paid per occupancy per day."

Section 2. New §§ 30109, 30110 and 30111 are hereby *added* to Chapter 30 of Title 11, Guam Code Annotated, to read:

"§ 30109. **Tax Collection Agreements Authorized.**

(a) *Transient accommodations broker* means any person or entity, including, but not limited to, persons who operate online websites, online travel agencies or online booking agencies, that offers, lists, advertises, or accepts reservations, or collects whole or partial payment for transient accommodations or resort time share vacation interests, units or plans. Notwithstanding any other provision of law, rule, or regulation to the contrary, the Director of the Department of Revenue and Taxation, or his designee, may permit a transient accommodations broker to register as a tax collection agent on behalf of all of its operators and plan managers by entering into a tax collection agreement with the Director or by submitting a transient accommodations broker tax collection agent registration statement to the Director, in a form prescribed by the Department. The Director may deny an application for registration as a transient accommodations broker tax collection agent under this Section for any cause authorized by law, including, but not limited to, any violation of this Chapter.

(b) A registered transient accommodations broker tax collection agent *shall* report, collect, and pay over the taxes due under this Chapter on behalf of all of its operators and plan managers from the date of registration until the registration is canceled; provided, that the registered transient accommodations broker tax collection agent's obligation to report, collect, and pay taxes on behalf of all of its operators and plan managers *shall* apply solely to transient accommodations in the state arranged or booked directly through the registered transient accommodations broker tax collection agent.

(c) The Director *shall* issue a certificate of registration or letter of denial within thirty (30) calendar days after a transient accommodations broker submits to the Director a completed and signed transient

accommodations broker tax collection agent registration statement, in a form prescribed by the Department. If approved, the registration *shall* be valid only for the transient accommodations broker tax collection agent in whose name it is issued, and for the website or platform designated therein, and *shall not* be transferable, except to a successor by merger or acquisition of the transient accommodations broker's website or platform designated in its application or tax collection agreement.

(d) A registered transient accommodations broker tax collection agent *shall* be issued separate licenses under this Chapter with respect to taxes payable on behalf of its operators and plan managers in its capacity as a registered transient accommodations broker tax collection agent and, if applicable, with respect to any taxes payable under this Chapter for its own business activities.

§ 30110. Tax Collection Agents Liable.

(a) Under this Section, a registered transient accommodations broker tax collection agent *shall* assume all obligations, rights and responsibilities imposed by this Chapter upon its operators and plan managers with respect to their business activities conducted directly through the registered transient accommodations broker tax collection agent from the date of registration until the registration is canceled in writing to the Director.

(b) A transient accommodations broker tax collection agent *shall* be personally liable for the taxes imposed by this Chapter that are due and collected on behalf of operators and plan managers, if taxes are collected, but not reported or paid, together with penalties and interest as provided by law.

§ 30111. Cancellation of Agreement.

(a) A registered transient accommodations broker tax collection agent may cancel its registration under this Section by delivering a written

notice of cancellation to the Director and each of its operators and plan managers furnishing transient accommodations in the state *no later than* ninety (90) days prior to the effective date of cancellation.

(b) The Director may cancel a transient accommodations broker tax collection agent's registration under this Section for any cause authorized by law, including, but not limited to, any violation of this Chapter or rules adopted pursuant thereto, or for violation of any applicable tax collection agreement, by delivering a written notice of cancellation to the transient accommodations broker tax collection agent *no later than* ninety (90) days prior to the effective date of cancellation."

Section 3. Subsection (jj) of § 61103 of Article 1, Chapter 61 of Title 21, Guam Code Annotated, is hereby *amended* to read:

"(jj) Bed and Breakfast. A private residence or building appurtenant or accessory to a private residence containing five (5) or fewer rooms intended or designed to be used, or which are used, rented, or hired out to be occupied, or which are occupied for sleeping purposes; *provided*, that the owner-proprietor occupies at least one (1) such room. No home may be licensed as a Bed and Breakfast whose physical address is the physical address of a registered sex offender."

Section 4. A new Subsection (kk) is hereby *added* to § 61103 of Article 1, Chapter 61 of Title 21, Guam Code Annotated, to read:

"(kk) Short-term Vacation Rental Unit. An accommodation for transient guests where, in exchange for compensation, a residential dwelling unit is provided for lodging for any term length not to exceed thirty (30) consecutive days. Such use may or may not include an on-site manager."

Section 5. A new Sub-Article 1 is *added* to Article 1, Chapter 61 of Title 21, Guam Code Annotated, to read:

"**SUB-ARTICLE 1**

BED AND BREAKFASTS

§ 61106. Purpose and Intent.

§ 61107. Restrictions and Standards.

§ 61108. Reduced Tax Rates for Senior Citizens Eligibility Retained.

§ 61109. Rules and Regulations.

§ 61110. Imposition.

§ 61111. Exemption from Hotel Sanitation Law.

§ 61112. Sub-Article Not Applicable.

§ 61106. Purpose and Intent.

The purpose of this Sub-Article is to establish a licensing process and appropriate restrictions and standards for Bed and Breakfast homes; to allow small, local businesses an opportunity to participate and benefit from tourism; to provide a visitor experience and accommodation as an alternative to the resort and hotel accommodations currently existing on Guam; and to retain the character of the neighborhoods in which any Bed and Breakfast home is located.

§ 61107. Restrictions and Standards.

Bed and Breakfast homes *shall* be subject to the following restrictions and standards, and any operator found in violation of these requirements may be subject to immediate closure and/or all such penalties or fines levied under Title 11, Guam Code Annotated:

(a) the owner-proprietor *shall* have a current business license as required by Division 3 of Title 11, Guam Code Annotated, and a Mayor's verification in the village of the Bed and Breakfast. The Director may, subject to § 61109 of this Sub-Article, adopt, amend, or

modify such license, as he may deem necessary to implement this Sub-Article;

(b) a Bed and Breakfast *shall* be permitted in *no more than* one (1) single-family dwelling unit per lot;

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

(d) the Bed and Breakfast license *shall* be in the name of the owner-proprietor, who *shall* be a natural person and the owner of the real property where the Bed and Breakfast *shall* be licensed. No Bed and Breakfast license shall be held by a corporation or managed under a business structure that is guided by a board of directors or shareholders. The license *shall not* be transferable. No more than one (1) license shall be approved for any lot;

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

(1) one (1) person per bed - the bed *shall* have a length of at most eighty (80) inches and width of at most thirty-nine (39) inches with at least a thirty (30) inch clearance around at least two (2) sides of the bed. There *shall* be at least a thirty (30) inch clearance between each bed, and no two (2) beds *shall* lay immediately adjacent to one another as this layout will constitute one (1) bed. There *shall* be *no more than* four (4) beds of these specifications per room, with the exception of bunkbeds; with two (2) persons per set of bunkbeds, and the beds of the bunkbeds *shall* have a length of at most eighty (80) inches and width of at most thirty-nine (39) inches. The bunkbed *shall* have at least a

two (2) feet clearance from the ceiling, and there shall be *no more than* two (2) sets of bunkbeds in a room;

(2) two (2) persons per bed - the bed *shall* have a length of no less than seventy-five (75) inches and width of no less than fifty-four (54) inches with at least a thirty (30) inch clearance around at least two (2) sides of the bed. There *shall* be a thirty (30) inch clearance between each bed, and no two (2) beds *shall* lay immediately adjacent to one another as this layout will constitute one (1) bed. There *shall* be *no more than* two (2) beds of this specification per room;

(3) it is acceptable to have varying bed specifications in one (1) room as long as there are *no more than* four (4) persons per room;

(f) a Bed and Breakfast home *shall* make breakfast available to onsite guests, but *shall not* operate as a food service establishment unless a food service establishment is permitted;

(g) all advertising for any Bed and Breakfast home *shall* include the number of the license granted to the owner-proprietor;

(h) the act of advertising, marketing, and listing a property as a Bed and Breakfast, short-term vacation rental unit, or accommodation as part of a tour package through an advertisement, marketing, or booking platform or other intermediaries presumes participation in the Bed and Breakfast or short-term vacation rental industry and *shall* be subject to the enforcement and penalties pursuant to this Chapter;

(i) single-station smoke detectors *shall* be provided in all guest bedrooms;

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

(1) quiet hours *shall* be maintained from 9:00 p.m. to 5:00 a.m., during which any noise in the Bed and Breakfast home *shall not* disturb anyone on neighboring properties; and

(2) vehicles *shall* be parked in the designated onsite parking area.

§ 61108. Reduced Tax Rates for Senior Citizens Eligibility Retained.

A senior citizen whose residential property qualifies for reduced tax rates under the provisions of § 24110 of Chapter 24, Title 11, Guam Code Annotated, and operates a Bed and Breakfast on this property *shall* remain eligible for reduced tax rates and retain eligibility for reduced tax rates.

§ 61109. Rules and Regulations.

Subject to the Administrative Adjudication Act, the Department of Revenue and Taxation may adopt rules and regulations for the implementation of this Sub-Article.

§ 61110. Imposition.

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

§ 61111. Exemption from Hotel Sanitation Law.

Bed and Breakfast owners are *not* subject to the hotel sanitation law in Chapter 26 of Division 2, Title 10, Guam Code Annotated.

§ 61112. Sub-Article Not Applicable.

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

Section 6. A new Sub-Article 2 is *added* to Article 1, Chapter 61 of Title 21, Guam Code Annotated, to read:

"**SUB-ARTICLE 2**

SHORT-TERM VACATION RENTAL UNIT

§ 61113. Purpose and Intent.

§ 61114. Definitions.

§ 61115. Short-term Vacation Rental Unit Certificate.

§ 61116. Application for Short-term Vacation Rental Unit Certificate.

§ 61117. Short-term Vacation Rental Unit Emergency Contact.

§ 61118. Short-term Vacation Rental Unit Regulations.
§ 61119. Sub-Article Not Applicable.
§ 61120. Imposition.
§ 61121. Exemption from Hotel Sanitation Law.

§ 61113. Purpose and Intent.

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

§ 61114. Definitions.

(a) *Code compliance verification form* is a document executed by a short-term vacation rental unit property owner certifying that the property is in compliance with applicable zoning, building, health and life safety code provisions, to include homeowners association or condominium covenants, rules and regulations, or restrictions. No person shall allow occupancy or possession of any short-term vacation rental unit if the premises are in violation of any applicable zoning, building, health or life safety code provisions.

(b) *Short-term vacation rental unit occupants* means guests, tourists, lessees, vacationers or any other person who, in exchange for compensation, occupies a dwelling unit for lodging for any term length not to exceed thirty (30) consecutive days.

(c) *Short-term vacation rental unit* means an accommodation for transient guests where, in exchange for compensation, a residential dwelling

unit is provided for lodging for any term length not to exceed thirty (30) consecutive days. Such use may or may not include an on-site manager.

(d) *Short-term vacation rental unit emergency contact* means a natural person designated by the owner of a short-term vacation rental unit on the short-term vacation rental unit certificate application. Such person *shall* be available for and responsive to contact at all times, and is someone who is customarily present at a location within Guam for purposes of transacting business.

§ 61115. Short-term Vacation Rental Unit Certificate.

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

§ 61116. Application for Short-term Vacation Rental Unit Certificate.

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

(1) the name, address, telephone number and email address of the owner(s) of record of the dwelling unit for which a certificate is sought. If such owner is not a natural person, the application *shall*

identify all partners, officers and/or directors of any such entity, including personal contact information;

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

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

(4) the owner's sworn acknowledgement that he or she has received a copy of this Sub-Article, has reviewed it and understands its requirements;

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

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

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

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

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

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

(A) the occupant(s)' agreement to abide by all of the requirements of this Sub-Article, state and federal law, and acknowledgement that his or her rights under the agreement may *not* be transferred or assigned to anyone else;

(B) the occupant(s)' acknowledgement that the total number of occupants *shall* be limited to up to two (2) adult guests and up to two (2) minor guests per bedroom;

(C) the occupant(s)' acknowledgement that it *shall* be unlawful to allow or make any noise which a reasonable person may deem excessive between the hours of 9:00 p.m. and 5:00 a.m.; and

(D) the occupant(s)' acknowledgement and agreement that violation of the agreement or this Sub-Article may result in immediate termination of the agreement and eviction from the short-term vacation rental unit by the owner or emergency contact, as well as the potential liability for the payment of fines levied by the Department;

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

(4) proof of property owner's insurance of property, to include any policies for Bed and Breakfasts, short-term rental units, or similar activities;

(5) a written certification from the short-term vacation rental unit emergency contact that he or she agrees to perform the duties specified in § 61117; and

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

§ 61117. Short-term Vacation Rental Unit Emergency Contact.

The owner of a short-term vacation rental unit *shall* designate a short-term vacation rental unit emergency contact on its application for a short-term vacation rental unit certificate. A property owner may serve as the short-term vacation rental unit emergency contact; *provided*, that such owner is able to comply with the requirements of this Section. The duties of the short-term vacation rental unit emergency contact are to:

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

(b) appear on the premises of any short-term vacation rental unit within two (2) hours following notification from the Director, village Mayor, or emergency personnel of issues related to the use or occupancy of the premises. This includes, but is *not* limited to, notification that occupants of the short-term vacation rental unit have created unreasonable noise or disturbances, engaged in disorderly conduct or committed violations of the applicable law pertaining to noise, disorderly conduct, overcrowding, and consumption of alcohol or use of illegal drugs. Failure of the agent to timely appear to two (2) or more complaints regarding violations may be grounds for penalties as set forth in this Chapter. This is *not* intended to impose a duty to act

as a peace officer or otherwise require the emergency contact to place himself or herself in a perilous situation;

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

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

(e) An owner may change his or her designation of a short-term vacation rental unit emergency contact temporarily or permanently; however, there *shall only* be one (1) such emergency contact for a property at any given time. To change the designated emergency contact, the owner *shall* notify the Director in writing of the new emergency contact's identity, together with all information regarding such person as required by the applicable provisions of § 61116. Review of an application *shall* be conducted in accordance with due process principles and *shall* be granted unless the applicant fails to meet the conditions and requirements of this Chapter, or otherwise fails to demonstrate the ability to comply with the laws of Guam or the United States. Any false statements or information provided in the application are grounds for revocation, suspension and/or imposition of penalties, including denial of future applications.

§ 61118. Short-term Vacation Rental Unit Regulations.

The Department of Revenue and Taxation, subject to the Administrative Adjudication Act, *shall* adopt such rules and regulations as are necessary and proper to implement the provisions of this Sub-Article.

§ 61119. Sub-Article Not Applicable.

This Sub-Article *shall not* apply to homes hosting a student for a student exchange program, in which the host family has received

compensation for housing and feeding the exchange student; *provided*, that the exchange program is being hosted by a school within Guam that has been accredited by a United States recognized accreditation commission, and the head of household or host family agrees in writing to accept responsibility for any and all harm and damages resulting from interactions between the exchange student.

§ 61120. Imposition.

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

§ 61121. Exemption from Hotel Sanitation Law.

Short-term vacation rental unit owners are *not* subject to the hotel sanitation law in Chapter 26 of Division 2, Title 10, Guam Code Annotated."

Section 7. § 61304(b) of Article 3, Chapter 61 of Title 21, Guam Code Annotated, is hereby *amended* to read:

"(b) Conditional Uses:

(1) Parks, playgrounds and community centers.

(2) Biological gardens.

(3) Schools and churches.

(4) Hospitals, sanitariums, and institutional uses.

(5) Cemeteries.

(6) Recreational use, including golf courses, marinas, beaches, swimming pools and accessory residential and commercial use.

(7) Extractive industry.

(8) Utilities and public facilities.

(9) Wholesale and retail stores, shops and businesses.

(10) Automobile service stations, including service shops.

(11) Bed and breakfasts and short-term vacation rental units.

(12) Accessory uses and structures for the above."

Section 8. § 61305(b) of Article 3, Chapter 61 of Title 21, Guam Code Annotated, is hereby *amended* to read:

"(b) Conditional Uses.

(1) Duplexes.

(2) Schools and churches.

(3) Parks, playgrounds and community centers.

(4) Health service office, outpatient with laboratory.

(5) Utilities and public facilities.

(6) Short-term vacation rental units."

Section 9. (a) **Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds that the operations of lodging facilities that do not acquire the proper licenses needed to conduct business is detrimental to a flourishing Bed and Breakfast and vacation rental industry on the island. These Bed and Breakfast and vacation rental units benefit from an unfair advantage when they avoid going through the proper procedures needed to ensure a safe living environment. Furthermore, without being able to convey a safe living environment, the health and well-being of visitors who opt to stay in unlicensed Bed and Breakfasts are jeopardized. This further jeopardizes the investment that the Guam Visitors Bureau and the government of Guam has spent on marketing strategies and branding initiatives portraying Guam as a safe and reliable place to visit.

I Liheslaturan Guåhan further finds that Bed and Breakfasts that operate without the proper licenses do not fairly contribute to the economy of Guam when they do not collect the hotel occupancy tax from visitors staying on the island. The

hotel occupancy tax is an important revenue source that is invested into our community to support the efforts of the Guam Visitors Bureau and various organizations working to develop Guam as a high-quality destination to visit and live in.

The intentions of establishing a Bed and Breakfast industry on Guam was to allow visitors to take a glimpse into Guam's unique culture and family environment, and to diversify our tourism industry by offering a new type of accommodation option. Through the interaction between an owner-proprietor and a visitor, Bed and Breakfasts will foster strong cross-cultural relationships that transcend geopolitics and national boundaries. Bed and Breakfasts will also attract a segment in the travel market who are interested in participating in an authentic experience. These visitors diversify our visitor sources enabling for a sustainable tourism industry.

A strong Bed and Breakfast industry will provide opportunities for our island community to engage in our tourism industry at an intimate level and empower residents to be on the front lines of Guam's tourism industry to guide the image and branding of our island. As more residents nurture our tourism industry, our industry will strengthen and become more sustainable.

Furthermore, short term vacation rental units are a growing segment in accommodation offerings in the travel industry. Short term vacation rental units allow visitors to live alongside and interact with residents within a neighborhood. Short term vacation rental units can affect the integrity of a community as well as the property values and rental prices. Because of the growing interest in this accommodation type, it is important that we develop the parameters for these new accommodation types to thrive on the island. The establishment of civil penalties will deter owner-proprietors and lodging facility operators from violating rental and zoning laws that can infringe on the health, safety, and welfare of the residents and visitors of Guam.

It is, therefore, the intent of *I Liheslaturan Guåhan* to establish penalties for property owners and/or lodging facility operators who advertise the lease or use of their property or facilities for lodging purposes to transient visitors without the proper licenses.

(b) A new § 51112 is hereby *added* to Chapter 51 of Title 18, Guam Code Annotated, to read as follows:

"**§ 51112. Civil Penalty.**

(a) The Department of Revenue and Taxation *shall* monitor, control, and regulate the process of investigating and collecting fees from any facility verbally expressing or advertising the lease or the use of property as a lodging facility accommodating transient visitors that is being operated without the proper licenses.

(b) The owner(s) of a property verbally expressing or advertising the lease or the use of their property as a lodging facility and marketed or advertised for transient guests without proper licenses *shall*:

(1) be punishable, upon determination by the Director or his duly authorized designee of the Department of Revenue and Taxation, by a fine of Five Thousand Dollars ($5,000). The owner(s) *shall* be issued a notice to cease operations by the Department of Revenue and Taxation within twenty-four (24) hours of conviction. The owner(s) may resume operations once all licenses have been acquired and can be provided upon request; and

(2) any owner(s) of a property issued a second (2nd) notice to cease operations by the Director or his duly authorized designee of the Department of Revenue and Taxation within one (1) year of the first (1st) notice *shall* be punishable, upon determination by the Director or his duly authorized designee of the Department of Revenue and

Taxation, by a fine of Ten Thousand Dollars ($10,000) for every day they are found to have remained in operation. The owner(s) of the property *shall not* be able to apply for any license to conduct business on Guam for a term of one (1) year.

(c) Any property being managed and used as a lodging facility, whether verbally expressed or advertised and marketed toward transient guests by a short term vacation unit emergency contact, on-site manager, or similar lodging facility operator(s), other than the owner(s) of the property, and operates without the proper licenses *shall*:

(1) be punishable, upon determination by the Director or his duly authorized designee of the Department of Revenue and Taxation, by a fine of Five Thousand Dollars ($5,000) and be issued a notice to cease operations within twenty-four (24) hours of conviction and until all licenses have been acquired and can be provided upon request. The owner(s) of the property *shall* be provided with a "Notice of Illegal Operation" on their property within twenty-four (24) hours of the lodging facility operator(s) notice to cease operations; and

(2) after a second (2nd) notice to cease operations has been given to the lodging facility operator(s) by the Director or his duly authorized designee of the Department of Revenue and Taxation within one (1) year of the first (1st) notice, the lodging facility operator(s) *shall* be punishable, upon determination by the Director or his duly authorized designee of the Department of Revenue and Taxation, by a fine of Ten Thousand Dollars ($10,000) for every day they are found to have remained in operation. The lodging facility operator(s) of the business *shall not* be able to apply for any license to conduct business on Guam for a term of one (1) year. The owner(s) of the property *shall*

be given a second (2nd) notice of illegal operation on their property and *shall* be punishable, upon determination by the Director or his duly authorized designee of the Department of Revenue and Taxation, by a fine of Five Thousand Dollars ($5,000) for every day the lodging facility operator(s) has been found to have remained in operation on the property."

Section 10. Effective Date. The provisions contained herein *shall* be effective upon enactment of this Act.