

REPORT OF THE COMMITTEE ON ZONING AND PLANNING

Voting Members:

Brandon J.C. Elefante, Chair; Esther Kia'āina, Vice-Chair;
Radiant Cordero, Calvin K.Y. Say

Committee Meeting Held
February 10, 2022

Honorable Tommy Waters
Chair, City Council
City and County of Honolulu

Mr. Chair:

Your Committee on Zoning and Planning, to which was referred Bill 2 (2022) entitled:

"A BILL FOR AN ORDINANCE RELATING TO SHORT-TERM RENTALS,"

introduced on January 11, 2022, and which passed First Reading at the Council meeting on January 26, 2022, reports as follows:

The purpose of the Bill 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 legal use as a short-term rental.

At your Committee's meeting on February 10, 2022, the Director of Planning and Permitting testified in support of the CD1 version of the Resolution.

At your Committee's meeting on February 10, 2022, one individual offered comments on the Bill.

Your Committee received written testimony in support of the Bill from United Here Local 5, Save North Shore Neighborhoods, and five individuals.

CITY COUNCIL

CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

ADOPTED ON **FEB 23 2022**

COMMITTEE REPORT NO. **32**

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Your Committee has prepared a CD1 version of the Bill that makes the following amendments:

- A. Amends proposed new ROH Section 41-___.2(b) to require a seller of residential real property to provide to the buyer, a disclosure on a form prescribed by the DPP, 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 (instead of having the DPP confirm whether the property is eligible to be used as a short-term rental).
- B. Amends proposed new ROH Section 41-___.2(c) to clarify that if the residential real property is being used as a short-term rental on the date of the disclosure document (instead of if the residential real property has been used as a short-term rental), the seller must also provide to the buyer certain evidence of legal use as a short-term rental.
- C. Amends proposed new ROH Section 41-___.2(e) to require a seller who discloses that the operation of a short-term rental is a legal use for the residential real property being sold, to submit to the DPP, within seven days after the closing of the sale of the property, the street address and tax map key for the property, together with copies of the disclosure documents delivered to the buyer (instead of requiring all sellers of real property to submit an acknowledgement signed by the buyer confirming receipt of the disclosure documents).
- D. Makes miscellaneous technical and nonsubstantive amendments.

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Your Committee on Zoning and Planning is in accord with the intent and purpose of Bill 2 (2022), as amended herein, and recommends that it pass Second Reading, be scheduled for public hearing, and be referred back to Committee in the form attached hereto as Bill 2 (2022), CD1. (Ayes: Cordero, Elefante, Kia'āina, Say – 4; Noes: None.)

Respectfully submitted,



Committee Chair

CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

ADOPTED ON

FEB 23 2022

COMMITTEE REPORT NO.

32



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.



A BILL FOR AN ORDINANCE

"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."



CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

ORDINANCE _____

BILL 2 (2022), CD1

A BILL FOR AN ORDINANCE

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:

Deputy Corporation Counsel

APPROVED this _____ day of _____, 20 _____.

RICK BLANGIARDI, Mayor
City and County of Honolulu