

LEGAL PROBLEM RELATING TO HOMESTAY ACCOMMODATION BUSINESS IN THAILAND*

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ABSTRACT

Tourism plays an important role in the economic and social development of Thailand. It is made up of many segments, the principal one being transportation, accommodation, food service, shopping, travel arrangements, and activities for tourists, such as history, culture, adventure, sports, recreation, entertainment, and other similar activities. Tourism figures among the top priorities in The Eleventh National Economic and Social Development Plan (2012-2016) that aims to restructure the economy toward quality growth and sustainability. As tourism is in the service sector, management needs to maintain a balanced and sustainable growth by focusing on activities that are creative and environmentally friendly in consideration of the carrying capacity of tourist attractions to elevate the standards of service businesses. The quality and sufficiency of service should be increased.

In the promotion of tourism, accommodation sector constitutes the most important segment. Tourism is, to a great extent, dependent on the type and quality of accommodation available. Hotels have been and still are the principal form of accommodation. However, there has been a growth and development of some other forms of accommodation over the years. This is popularly known as supplementary accommodation and is, in fact, an important segment of tourism.

Homestay is specialized term referring to types of accommodation where tourists or guests pay to stay in private homes. It can be seen as incorporating a number of other terms, including bed and breakfast, guesthouse, and farmstay. Homestay is not only accommodation service but also the alternative tourism that has been proposed to attract tourists. Currently, homestay has increased greatly to provide tourist accommodation and it is formed differently according to circumstances of each local community including the difference in physical structure of building, facilities, and type of service.

Since, homestay has been promoted as alternative tourism; this can attract more tourists to come to local community. The legislation in form of anti-market or has some restrict of right is necessary in order to accomplish the goal of sustainable tourism, ecotourism and community based tourism that pay attention to nature, environment and well-being of local people. In part of accommodation, homestay provide service to general public.

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The quality standard of service and the public safety are the most important issues that have to be considered.

The study found that the application of Hotel Act B.E. 2547 on homestay accommodation business is not appropriate because homestay has been established with the differently special aspects and purposes. Besides, the Announcement of Department of Tourism on Thai Homestay Standard B.E. 2554 is still undefined and it does not provide the compulsory single standard for all homestay operators. The lack of definite laws controlling and encouraging homestay accommodation business may affect the adverse results on nature, environment, local people and tourism development. Then, this research intends to recommend the introduction of specific law for regulating homestay accommodation business in Thailand.

Keywords: homestay, accommodation, tourism

บทคัดย่อ

การท่องเที่ยวมีบทบาทสำคัญต่อการพัฒนาเศรษฐกิจและสังคมของประเทศไทยเป็นอย่างมาก ซึ่งก่อให้เกิดการพัฒนาของอุตสาหกรรมด้านอื่นๆ ที่เกี่ยวข้อง ไม่ว่าจะเป็นทางด้านการคมนาคมขนส่ง ด้านที่พัก การบริการอาหาร การขายสินค้า การบริการการท่องเที่ยวและกิจกรรมต่างๆ แก่นักท่องเที่ยว และยังรวมถึงกิจกรรมที่เกี่ยวข้องกับประวัติศาสตร์และวัฒนธรรม กีฬา สันทนาการ นันทนาการ ผจญภัย รวมทั้งกิจกรรมอื่นๆ ในทำนองเดียวกัน การท่องเที่ยวจึงเป็นยุทธศาสตร์สำคัญในแผนพัฒนาเศรษฐกิจและสังคมแห่งชาติ ฉบับที่ 11 (2012-2016) ที่มีจุดมุ่งหมายสำคัญในการปรับโครงสร้างเศรษฐกิจไปสู่การพัฒนาที่ยั่งยืน ในภาคการท่องเที่ยวซึ่งถือเป็นธุรกิจบริการนั้น การบริหารจัดการการท่องเที่ยวที่จะก่อให้เกิดความสมดุลและการพัฒนาที่ยั่งยืนจะต้องคำนึงถึงกิจกรรมที่สร้างสรรค์และเป็นมิตรต่อสิ่งแวดล้อม ความสามารถในการรองรับนักท่องเที่ยวของสถานที่ท่องเที่ยว อีกทั้งการยกระดับมาตรฐานของธุรกิจบริการในด้านต่างๆ รวมถึงคุณภาพและความพึงพอใจของบริการเหล่านี้ควรต้องพัฒนาเพิ่มมากขึ้น

ในการส่งเสริมการท่องเที่ยวนั้น การบริการด้านที่พักถือว่าเป็นส่วนที่สำคัญที่สุด ดังนั้น การท่องเที่ยวที่จะอยู่ในระดับที่ดีจะต้องขึ้นอยู่กับประเภทและคุณภาพของสถานที่พักที่มีอยู่ โดยโรงแรมยังคงเป็นสถานที่พักที่ให้บริการเป็นหลัก แต่อย่างไรก็ตามในช่วงที่ผ่านมาไม่นาน ได้มีการพัฒนาของสถานที่พักในรูปแบบอื่นๆ เพื่อตอบสนองต่อความต้องการของนักท่องเที่ยวที่เพิ่มจำนวนขึ้นอย่างรวดเร็ว ซึ่งถือว่ามีความสำคัญต่อการท่องเที่ยว เช่น โฮมสเตย์ ซึ่งเป็นที่พักประเภทหนึ่งที่นักท่องเที่ยวพักร่วมกับเจ้าของบ้าน ใช้บ้านเป็นศูนย์กลาง โดยเชื่อมโยงกับแหล่งท่องเที่ยว วัฒนธรรม ขนบธรรมเนียมประเพณี วิถีชีวิตของชุมชนเข้าด้วยกัน ทั้งนักท่องเที่ยวและเจ้าของบ้านมีวัตถุประสงค์ร่วมกันที่จะแลกเปลี่ยนเรียนรู้วัฒนธรรมและวิถีชีวิตด้วยความเต็มใจ พร้อมทั้งจัดที่พักและอาหาร นำเที่ยวในแหล่งท่องเที่ยวใกล้เคียง โดยได้รับค่าตอบแทนตามความเหมาะสม ซึ่งถ้อยคำดังกล่าวใช้ผสมผสานกับคำอื่นๆ รวมทั้งที่พักและอาหารเช้า (bed and breakfast) เกสต์เฮาส์ (guesthouse) และฟาร์มสเตย์ (farmstay) โฮมสเตย์ไม่ได้เป็นเพียงที่พักเท่านั้นแต่ยังเป็นการท่องเที่ยวทางเลือก (alternative tourism) ที่นำเสนอเพื่อดึงดูดนักท่องเที่ยว ในปัจจุบัน มีการก่อตั้งโฮมสเตย์ขึ้นเพื่อให้บริการที่พักแก่นักท่องเที่ยวอย่างมากมาย ซึ่งโฮมสเตย์ในแต่ละท้องถิ่นก็จะมีรูปแบบแตกต่างกันไป ทั้งในเรื่องโครงสร้างของสถานที่พัก สิ่งอำนวยความสะดวก และการบริการอื่นๆ

เนื่องจากโฮมสเตย์ได้รับการส่งเสริมในฐานะเป็นการท่องเที่ยวทางเลือก (alternative tourism) ซึ่งสามารถดึงดูดนักท่องเที่ยวได้เป็นจำนวนมากมาสู่ชุมชนท้องถิ่น และเมื่อมีนักท่องเที่ยวเพิ่มจำนวนมากขึ้น ผลกระทบต่อสิ่งแวดล้อมและ

ทรัพยากรธรรมชาติย่อมเพิ่มมากขึ้นไปด้วย การพัฒนาการท่องเที่ยวที่ไม่มีการวางแผนและการบริหารจัดการที่ดีพอก็อาจก่อให้เกิดผลเสียต่อทรัพยากรธรรมชาติ สิ่งแวดล้อม และประชาชนในท้องถิ่นได้ การบัญญัติกฎหมายที่มีลักษณะของการจำกัดสิทธิเสรีภาพก็อาจมีความจำเป็นเพื่อบรรลุวัตถุประสงค์ของการพัฒนาการท่องเที่ยวที่ยั่งยืน (sustainable tourism) การท่องเที่ยวเชิงนิเวศน์ (ecotourism) หรือการท่องเที่ยวเชิงชุมชน (community based tourism) ซึ่งให้ความสำคัญต่อการป้องกันและอนุรักษ์ทรัพยากรธรรมชาติและสิ่งแวดล้อม รวมทั้งการคำนึงถึงความเป็นอยู่ที่ดีของประชาชน

ดังนั้น ในส่วนของการให้บริการที่พักแบบโฮมสเตย์ จะเห็นได้ว่าเป็นการให้บริการที่พักแก่นักท่องเที่ยวและประชาชนทั่วไป มาตรฐานคุณภาพของการบริการและความปลอดภัยสาธารณะจึงถือเป็นประเด็นสำคัญที่ต้องได้รับการพิจารณาเป็นลำดับแรก ดังนั้น การบัญญัติกฎหมายและระเบียบข้อบังคับที่ชัดเจนที่ใช้ในการควบคุมการประกอบธุรกิจโฮมสเตย์จึงมีความจำเป็นเพื่อก่อให้เกิดผลในเชิงบวกต่อการคุ้มครองทรัพยากรธรรมชาติและสิ่งแวดล้อม ประชาชนในท้องถิ่นและประชาชนทั่วไป รวมทั้งการพัฒนาการท่องเที่ยวของประเทศไทย

คำสำคัญ: โฮมสเตย์, ที่พัก, การท่องเที่ยว

1. Overview of homestay

Homestay was first appeared in Europe where students stayed with a host family to learn local culture and language. In tourism study, homestay is a part of community based tourism which has four significant elements: community product sales, cultural shows, village based activities, and camping or homestay¹.

Homestay is a specific term referring to types of accommodation where tourists or guests pay for the private homes, where interaction takes place with a host family usually agree to share public spaces. This definition can therefore be seen as incorporating a number of other terms, including bed and breakfast, guesthouse, and farmstay².

Definitions of homestay that were given in many resources represent the same essence concept referring to types of accommodation³ and an alternative tourism⁴ that tourist will stay in the same home with a local family to experience the diverse regional daily life and utilize the natural resources in the local community. Therefore, homestay does not only provide accommodation and food but also a chance to exchange and share experiences between hosts and guests.

¹ คนาธิป ทองรวีวงศ์, กฎหมายเกี่ยวกับการท่องเที่ยว, 299 (กรุงเทพฯ: นิติธรรม, 2558)

(Kanathip Thongraweewong, **Tourism Law**, 299 (Bangkok: Nititham, 2558))

² Gianna Moscardo, “*Bed and Breakfast, Homestay and Farmstay Accommodation: Forms and Experience.*” in **Commercial Homes in Tourism: An International Perspective**, edited by Paul A.Lynch, Alison J McIntosh and Hazel Tucker, 25-26 (Routledge, 2009)

³ *Id.* at 26.

⁴ Final ASEAN Homestay Standard provides meaning of Homestay in section 4.18 that “*Homestay – an alternative tourism where tourists will stay with the host’s family in the same house and will experience the everyday way of life of the family and the local community.*”

2. Legal problem relating to homestay accommodation business

In Thailand, homestay provides tourist accommodation services, like a hotel, but on a smaller scale. Hotel business operations have to operate under strict laws. For example, the hotel operators have to comply with the laws requiring them to obtain licenses in order to obey the laws regulating the hotel business operations, crime control, and the collection of revenue. However, there are no laws to regulate homestay businesses directly. They operate without a license or permission. Although the Department of Tourism has established the Thai Homestay Standards⁵ certification which homestay establishments should conform, however, there is no compulsory registration for certification and complying with the standards is voluntary. Homestay operators can freely register and assess the standard. If a homestay operator opts-out, it is not illegal⁶.

As the purpose of homestay establishment is to provide temporary accommodation to tourists and to gain income from service charge, thus, homestay defined as a hotel under section 4 of the Hotel Act B.E. 2547⁷. However, considering the other elements, such as the physical structure of residential buildings, location, security system, and sanitary system, homestay do not comply with this criteria and standard according to the related laws and regulations such as hotel law, building law, and public health laws. Due to the physical structure of homestay does not meet the requirements according to the hotel act. Although homestay can be considered as a tourist accommodation under hotel definition, homestay is different from hotel because it is actually a residential home⁸. Then, the homestay operator cannot apply for license or permission before operating a homestay business as provided in the hotel act because it cannot meet the legal standard which is not designed for homestay. So, a large number of homestay operate practically without entering into the legal system. As a result, homestay business is not in control of state. The operation of such business is not in order and tourists may get bad service or poor quality as there is no compulsory standard regulation on homestay business.

Since homestay is defined as an alternative tourism where tourists will stay with the host's family in the same house and will experience the everyday way of life of the family and the local community. Homestay, then, differs significantly from hotel. However, the

⁵ ประกาศกรมการท่องเที่ยว เรื่อง กำหนดมาตรฐานบริการท่องเที่ยวมาตรฐานโฮมสเตย์ไทย พ.ศ. 2554 ประกาศในราชกิจจานุเบกษา เล่ม 129 ตอนพิเศษ 26 ง หน้า 59 ลงวันที่ 31 มกราคม 2555

(The Announcement of Department of Tourism on Thai Homestay Standard B.E. 2554, published in royal gazette volume 129, special issue 26 ง, page 59, January 31, 2555)

⁶ คณาธิป ทองรวีวงศ์, *อ้าวแล้ว เจียงอรรถที่ 1* หน้า 301.

(Kanathip Thongraweewong, *supra* note 1 at 301.)

⁷ พระราชบัญญัติโรงแรม พ.ศ. 2547 มาตรา 4 ในพระราชบัญญัตินี้

“โรงแรม” หมายความว่า สถานที่ที่จัดตั้งขึ้นโดยมีวัตถุประสงค์ในทางธุรกิจเพื่อให้บริการที่พักชั่วคราวสำหรับคนเดินทางหรือบุคคลอื่นใดโดยมีค่าตอบแทน

(Hotel Act B.E. 2547 Section 4 Under this Act “hotel” means accommodation established with business purpose to provide temporary accommodation service for traveler or any other person for consideration....)

⁸ คณาธิป ทองรวีวงศ์, *อ้าวแล้ว เจียงอรรถที่ 1* หน้า 301.

(Kanathip Thongraweewong, *supra* note 1 at 301.)

operators may not understand how to carry out appropriate homestay operation. There is only a guideline from the Announcement of the Department of Tourism on the Thai Homestay Standard B.E. 2554 that specifies standards for homestay establishments to comply with the concept of alternative tourism in conserving nature and providing benefits to the local community. But, it does not have a compulsory condition. It depends on operators to a voluntarily participate in the official assessment and certification system. So, it does not meet the real purpose of homestay as an alternative tourism.

The popularity of homestay in Thailand tourism industry has increased constantly. The characteristic and nature of homestay are different from hotel under the Hotel Act. However, there is no specific law regulating homestay. So, the standards of service, safety, and quality have been neglected. In addition, the avoidance of the application of Hotel Act by using 'homestay' banner has increased. These cause a negative effect on tourism industry, taxation and the country. Furthermore, homestay is not only accommodation service but also the alternative tourism that has been proposed to attract tourists with the concepts of sustainability, ecotourism and community based tourism. The lack of definite regulations controlling and encouraging may affect the adverse results on nature, environment and local people.

3. The laws governing homestay accommodation business in foreign countries and Thailand

1) United States (California): California Agricultural Homestay Bill (AB 1258)⁹

In United States (California), the law governs farmstay or homestay as a type of accommodation and provides the compulsory registration system and compulsory requirements or minimum quality standards for registration. And it recognizes homestay or farmstay as a type of agricultural enterprise in agricultural tourism. However, the homestay or farmstay operators have to comply with many laws and regulations such as Land Use and Land Development Regulations, Public Health and Safety Regulations, Environmental Health Regulations and Business Regulations.

2) Australia (Victoria): Public Health and Wellbeing Regulation 2009¹⁰

In Australia (Victoria), the law regulates farmstay or homestay as a type of accommodation¹¹ and provides the compulsory registration system and the compulsory

⁹ see California Agricultural Homestay Bill (AB 1258), *available at* <http://sfp.ucdavis.edu/agritourism/factsheets/ab1258/>

¹⁰ see Public Health and Wellbeing Regulations 2009, *available at* [http://www.legislation.vic.gov.au/domino/web_notes/ldms/pubstatbook.nsf/b05145073fa2a882ca256da4001bc4e7/a3b0a9845fd0980aca25768d002ab0b5/\\$file/09-178sr.pdf](http://www.legislation.vic.gov.au/domino/web_notes/ldms/pubstatbook.nsf/b05145073fa2a882ca256da4001bc4e7/a3b0a9845fd0980aca25768d002ab0b5/$file/09-178sr.pdf)

quality standard. However, homestay or farmstay operators have to comply with complicated and overloaded laws and requirements, for example, Public Health and Wellbeing Act, Public Health and Wellbeing Regulations and Building Regulations. All of laws and requirements cause complexity in operating and establishing homestay or farmstay.

3) Republic of China (Taiwan): Regulations for the Management of Homestay Facilities¹²

In Republic of China (Taiwan), the law regulates homestay as a type of accommodation and provides the compulsory registration certification system and the compulsory requirements or minimum quality standards for registration. And it recognizes homestay as a type of alternative tourism by providing additional requirements and duties for homestay operator. For example, duty to pay attention to nature and environment, special requirement for homestay shall be operated by the actual user of the building and special objective of homestay to provide tourists with a rural living experience by incorporating local culture, nature landscape, ecological environment, environmental resources and agricultural, forestry, fishery, or livestock farming activities.

4) Thailand: the Hotel Act B.E. 2547, the Ministerial regulation prescribing criteria and standard of hotel business B.E 2551 and the Announcement of Department of Tourism on Thai Homestay Standard B.E. 2554

In Thailand, the law regulates homestay as a type of accommodation by providing the voluntary certification assessment system and providing the non-compulsory requirements or minimum quality standards for certification assessment. And the law recognizes homestay as a type of alternative tourism, sustainable tourism, ecotourism and community-based tourism. By providing guideline for homestay management such as tour program must be accepted by the community, maintenance tourist attractions and providing activities and plans to reduce the impact of tourism and global warming.

4. Comparison study of the laws governing homestay accommodation business in foreign countries and Thailand

The Announcement of the Department of Tourism on Thai Homestay Standards B.E.2554 is only a guideline for homestay operator in management of homestay by providing the standards and indicators for certification assessment. Because of the Announcement on

¹¹ Australian Business Licence and Information Service (ABLIS), *Registration of Prescribed Accommodation – Victoria*, available at <https://ablis.business.gov.au/VIC/pages/e44ed3d4-5a9b-44be-8887-45051c1419a9.aspx>

¹² see Regulations for the Management of Homestay Facilities, Promulgated as per a Ministry of Transportation and Communications ordinance, Reference (2001) MOTC Integrated No. 00094, dated December 12, 2001, in a complete issue covering a total of 38 articles., Tourism Bureau, M.O.T.C. Republic of China (Taiwan), available at http://admin.taiwan.net.tw/law/law_d_en.aspx?no=9&d=39

Thai Homestay Standard B.E. 2554 has not provided the compulsory registration system, this caused many problems. In contrast, California Agricultural Homestay Bill (AB 1258), Public Health and Wellbeing Regulation 2009, and Regulations for the Management of Homestay Facilities, have recognized homestay operation as a type of accommodation business and provide the specific law governing such business operation strictly and provide the compulsory registration system for homestay accommodation business. The following analyses are focused on the comparison the appropriate provisions relating to homestay accommodation business in Thailand and foreign countries.

4.1 Definition of homestay

The study found that, there are many elements that should be taken into consideration for providing the definition of homestay. The critical elements are divided into two parts, as follows.

4.1.1 Physical elements

(1) The number of rooms (4-15 rooms) as provided in the law of United States (California)¹³, Republic of China (Taiwan)¹⁴ and Thailand¹⁵.

(2) The capacity number of guests (15-20 people) as provided in the law of United States (California)¹⁶, Australia (Victoria)¹⁷ and Thailand¹⁸.

(3) The size of the service area (150-200 square metres or 2 people per floor area of less than 10 square metres and 3 people per floor area of 10 square metres or more) as provided in the law of Republic of China (Taiwan)¹⁹ and Australia (Victoria)²⁰.

It can be noticed that the physical elements of homestay, the number of rooms, the capacity of guests and the size of service area, are often smaller or less than the number of rooms, the capacity of guests and the size of service area of other type of accommodation. The determination that homestay is a small sized accommodation is corresponding to the practice of other countries. However, the criterion of the size of the service area does not exist in the law of Thailand.

¹³ see California Agricultural Homestay Bill (AB 1258), Section 1

¹⁴ see Regulations for the Management of Homestay Facilities, Article 6

¹⁵ see Announcement of Department of Tourism on Thai Homestay Standard B.E. 2554, Article 4

¹⁶ see California Agricultural Homestay Bill (AB 1258), Section 1

¹⁷ see Public Health and Wellbeing Regulation 2009, Regulation 17

¹⁸ see Announcement of Department of Tourism on Thai Homestay Standard B.E. 2554, Article 4

¹⁹ see Regulations for the Management of Homestay Facilities, Article 6

²⁰ see Public Health and Wellbeing Regulation 2009, Regulation 17

4.1.2 Activities elements

The interaction between hosts and guests distinguish homestay establishments from other forms of accommodation. Providing activities constitutes the interaction between hosts and guests. The activities that homestay operators provide to tourist may consist with the objective of educational exchange and learning culture and lifestyle as well as the objective of tourism. In Thailand, such activities are often a combination of many objectives such as learning culture and the way of life, ecotourism, agritourism, and community-based tourism objectives. Each local community will provide the different activities according to culture or lifestyle of their community and the activities will depend on the tourist attractions existing in each local community. Activities related to culture or lifestyle could include cooking, dining, cultural shows, cultural events, religious events and farming activities. The activities relating to tourist attraction include tours of cultural attractions, natural attractions, and recreation activities.

For this issue, the law of Republic of China (Taiwan) defines a homestay as an accommodation which operates as a family's secondary occupation business, using the leftover rooms of a self-used home to furnish tourists with a countryside living experience. It usually includes local culture, natural scenery, ecological environment, and agricultural, forestry, fishing, or farming activities²¹. The definition is clearly that it is an accommodation established with a special purpose and appearance of activities. It can also demonstrate the ecotourism, agritourism, and community-based tourism concept. It also indicates the uniqueness of homestay as the different type of accommodation. However, as the area size elements, Thai laws do not include activities elements into the definition of homestay²².

4.2 Quality standard of service

4.2.1 The standard of homestay as tourist accommodation, including:

- (1) Accommodation condition
- (2) Food service and drinking water
- (3) Security and safety on duty
- (4) Credibility of homestay accommodation business
- (5) Prevention and mitigation of environmental pollution

²¹ see Regulations for the Management of Homestay Facilities, Article 3

²² คณาธิป ทองรวีวงศ์. “ปัญหาของกฎหมายเกี่ยวกับการควบคุมสถานที่พักเพื่อการท่องเที่ยว”. วารสารกระบวนการยุติธรรม ปีที่ 4, ฉบับที่ 3. (กรกฎาคม-กันยายน 2554): 83-104.

(Kanathip Thongraweewong, “Legal Problem in the controlling tourist accommodation”, **Journal of Thai Justice System**, Vol.4 July-September 2011: 83-104.)

The standard of homestay as a tourist accommodation in foreign countries, each country has the specific law provided with strict standards on public health, cleanliness, food safety, public safety or fire safety, prevention or mitigation of environmental pollution by making the laws the compulsory with penalties. The study found that the Announcement of Department of Tourism on Thai Homestay Standards B.E. 2554 does not provide any duty provisions on fire safety, public safety, and prevention or mitigation of environmental pollution. In particular, the Announcement of Department of Tourism on Thai Homestay Standards B.E. 2554 is not compulsory standard. The laws of foreign countries are enforceable as restrictive laws with the compulsory enforcement. The operator must comply with such laws from the startup of homestay accommodation. It is required to maintain such quality standards at all times the homestay accommodation business is in operation.

4.2.2 The standard of homestay as alternative tourism

Homestay has been promoted as the alternative tourism to attract more tourists. To become considered an alternative tourism accommodation, there are many quality standards concerned. In addition to the above considerations, the following considerations under this part are also equally important. The standard of homestay as alternative tourism including:

- (1) The hospitality of host family
- (2) The tour program
- (3) Preservation of culture
- (4) The creation of value of community identity product
- (5) Conservation of nature and environment
- (6) The management of homestay group by local community

For the standard of homestay as alternative tourism, it is special aspect of homestay consisting of sustainable tourism, ecotourism, agritourism and community-based tourism objectives with concepts including culture and local tradition, so, homestays are different from other accommodations. In foreign countries, there are no laws to regulate homestay to accomplish such objectives. However, there is a law of Republic of China (Taiwan) that encourages the homestay operator to provide excellent hospitality services, good service practices and the promotion of culture, quality of life, and the tourism industry in the local community by awarding or acknowledging such homestay operator. In Thailand, the Announcement of Department of Tourism on Thai Homestay Standards B.E. 2554 has recognized the concepts of sustainable tourism, ecotourism, and community based tourism. However, the standards are only provided for operators who voluntarily participate in the certification assessment. To achieve the objectives of sustainable tourism, ecotourism, and

community based tourism may be difficult because the operators do not fall under the single standard. Therefore, the restrictive law can contribute to the concepts of sustainable tourism, ecotourism, and community based tourism to be formed. For example, the law can restrict the qualification of homestay operator to be local people only, the tour program must be accepted by the community and homestay operator has a duty to preserve nature and environment.

4.3 The remedies to tourists for injury and damages

In foreign countries, the solution for the problem of improper remedies is to require the homestay operator to buy an insurance policy. For example, Australia (Victoria) and Republic of China (Taiwan), public liability requires the homestay operator to cover paying guests and visitors, product liability to cover prepared food or other products offered to guests, for human bodily injury or death and for the loss of or damage to property. In addition, the law of Republic of China (Taiwan) states that the homestay operator has a duty to help the guests who are sick or injured by taking the guest to get the appropriate medical treatment.

4.4 The control and supervision by state

The study of foreign laws suggests that the registration of homestay accommodation business is important. Because they considered homestays that offer residents to tourists as a type of business that provides accommodation to public general. It is necessary to have the quality and standard controls as well as monitoring such business to be operated orderly. The registration system is the basic tool for the state to control such business. Moreover, the registration of homestay can be the tool for state to provide support and promotion to homestay operators. Therefore, the law on homestay of Thailand should provide the control and supervision by state as the basic principle by providing the compulsory registration and license system for homestay accommodation business in Thailand.

4.5 Taxation and fees

At present time, in Thailand, there are no compulsory rules stating that the state has authority to monitor or inspect the operation of the homestay and there is no compulsory registration system for homestay accommodation businesses. Monitoring or inspection of such businesses is difficult. The income from homestay business may be hidden from tax authorities. In addition, there is the problem of budget hotels using the homestay title in order to avoid the application of hotel law, taxation and regular fees.

The study has been divided into two parts, including the license and registration fees and the specific tax.

The license and registration fees, when the law provides the license registration system, it is normally to provide the license and registration fees. In Thailand, if the law

enforces homestay to be registered with the government agency, it should carefully impose the appropriate amount of fees.

The specific tax, at present time, the imposing additional specific tax, as in the United States (California), in Thailand may not appropriate. In order to encourage the homestay business operation and support tourism development, it should avoid the prescribing the loaded tax burden on the operators and tourists.

4.6 Nature and environment

According to the Hotel Act B.E. 2547 it is required that hotel operators must maintain environmental quality in accordance with the law on the promotion and maintenance of environmental quality. But the homestay accommodation business is excluded from such requirement by the provision of the Ministerial Regulation prescribing criteria and standard of hotel business B.E. 2551.

Although the Announcement on Thai Homestay Standard B.E. 2554 provides the standards and indicators for certification assessment on natural resources and environment standards, there is no compulsory certification assessment. This may cause homestay operators to neglect to maintain the environment and natural resources. As a result, environmental degradation, lower quality of life in communities and the negative impact of tourism on the community in the long term.

It is necessary to adopt the principles for the protection and prevention of natural resources and environment by providing a duty for the homestay operator to pay attention to protection and prevention of the natural and environment including preparation the conservation plans or measures and provide activities to conserve natural resources, to reduce the impact of tourism and global warming.

Conclusion

The significance of the problem relating to homestay accommodation business in Thailand is the characteristic and nature of homestays which are different from hotels under the Hotel Act B.E. 2547. While the popularity of homestays in Thailand tourism industry has been increasing, the standards of service, safety, and quality have been neglected. In addition, the avoidance of the application of Hotel Act B.E. 2547 by using 'homestay' banner has increased. These cause a negative effect on tourism industry and the country. The accommodation that provides to the general public should have quality standards.

Furthermore, homestays are not only accommodation service but also an alternative tourism that has been proposed to attract tourists with the concepts of sustainability, ecotourism and community based tourism. Tourism development that has no proper plan and management may have adverse affects on nature, environment and local people. However, the trend of law in form of anti-market or the restrictions of rights are necessary to

accomplish the purpose of sustainable tourism, ecotourism, and community-based tourism that pays attention to nature and environment protection as well as well-being of local people.

Suggestion

The standard of homestays as tourist accommodations should emphasize the standards on public health, cleanliness, food safety, public safety, fire safety, prevention or mitigation of environmental pollution by providing compulsory standards with the penalties. The study found that the Announcement of Department of Tourism on Thai Homestay Standard B.E. 2554 does not provide any standard on fire safety, public safety, and prevention or mitigation of environmental pollution.

For the standards on homestay as alternative tourism, it is special aspect of homestays that consist of sustainable tourism, ecotourism, and community-based tourism concepts including culture and local tradition. Homestays are different from other accommodations because it consists of the special objectives. For this issue the trend of law is to encourage the homestay operator to provide for excellent hospitality services or good service practices and the promotion of culture, quality of life, and the tourism industry in the local community by awarding or acknowledging such homestay operator.

In addition, the compulsory licensing registration of homestay accommodation businesses is important because homestay is a type of accommodation business that provides temporary resident to public general. So, it is necessary to have the quality and standard controls as well as monitoring of such business. Homestay business should be operated orderly, in order to prevent the misuse the homestay title to avoid the application of hotel law, taxation and regular fees. Moreover, the state will be able to observe the operation of homestay business to prevent the criminal offenses hidden behind the homestay business such as drugs, prostitution, gambling, and money laundering and so on. The registration system is the basic tool for the state to control such business. Besides, the registration of homestay can be the tool for state to provide support and promotion to homestay operators. Therefore, the law on homestay should provide the compulsory registration and license system for homestay accommodation business in Thailand. In conclusion, the definite law controlling and encouraging homestay accommodation business can have a positive result on nature, the environment and the local people as well as tourism development in Thailand.

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