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## A BILL FOR AN ACT

RELATING TO COASTAL PROTECTION.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1 SECTION 1. The purpose of this Act is to:

2 (1) Authorize counties to establish a surcharge on real  
3 property taxes collected from oceanfront properties;  
4 and

5 (2) Require the surcharges collected to be deposited into  
6 a special fund that shall be used for coastal  
7 protection and management.

8 The legislature finds that providing counties with the  
9 authority to establish this surcharge fulfills the State's  
10 responsibility, under article VIII, section 5, of the Hawaii  
11 constitution, to fund mandated programs.

12 SECTION 2. Section 46-1.5, Hawaii Revised Statutes, is  
13 amended to read as follows:

14 "§46-1.5 General powers and limitation of the counties.

15 Subject to general law, each county shall have the following  
16 powers and shall be subject to the following liabilities and  
17 limitations:



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- 1           (1) Each county shall have the power to frame and adopt a  
2           charter for its own self-government that shall  
3           establish the county executive, administrative, and  
4           legislative structure and organization, including but  
5           not limited to the method of appointment or election  
6           of officials, their duties, responsibilities, and  
7           compensation, and the terms of their office;
- 8           (2) Each county shall have the power to provide for and  
9           regulate the marking and lighting of all buildings and  
10          other structures that may be obstructions or hazards  
11          to aerial navigation, so far as may be necessary or  
12          proper for the protection and safeguarding of life,  
13          health, and property;
- 14          (3) Each county shall have the power to enforce all claims  
15          on behalf of the county and approve all lawful claims  
16          against the county, but shall be prohibited from  
17          entering into, granting, or making in any manner any  
18          contract, authorization, allowance payment, or  
19          liability contrary to the provisions of any county  
20          charter or general law;



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1           (4) Each county shall have the power to make contracts and  
2           to do all things necessary and proper to carry into  
3           execution all powers vested in the county or any  
4           county officer;

5           (5) Each county shall have the power to:

6           (A) Maintain channels, whether natural or artificial,  
7           including their exits to the ocean, in suitable  
8           condition to carry off storm waters;

9           (B) Remove from the channels, and from the shores and  
10          beaches, any debris that is likely to create an  
11          unsanitary condition or become a public nuisance;  
12          provided that, to the extent any of the foregoing  
13          work is a private responsibility, the  
14          responsibility may be enforced by the county in  
15          lieu of the work being done at public expense;

16          (C) Construct, acquire by gift, purchase, or by the  
17          exercise of eminent domain, reconstruct, improve,  
18          better, extend, and maintain projects or  
19          undertakings for the control of and protection  
20          against floods and flood waters, including the



1 power to drain and rehabilitate lands already  
2 flooded;

3 (D) Enact zoning ordinances providing that lands  
4 deemed subject to seasonable, periodic, or  
5 occasional flooding shall not be used for  
6 residence or other purposes in a manner as to  
7 endanger the health or safety of the occupants  
8 thereof, as required by the Federal Flood  
9 Insurance Act of 1956 (chapter 1025, Public Law  
10 1016); and

11 (E) Establish and charge user fees to create and  
12 maintain any stormwater management system or  
13 infrastructure;

14 (6) Each county shall have the power to exercise the power  
15 of condemnation by eminent domain when it is in the  
16 public interest to do so;

17 (7) Each county shall have the power to exercise  
18 regulatory powers over business activity as are  
19 assigned to them by chapter 445 or other general law;



- 1           (8) Each county shall have the power to fix the fees and  
2                   charges for all official services not otherwise  
3                   provided for;
- 4           (9) Each county shall have the power to provide by  
5                   ordinance assessments for the improvement or  
6                   maintenance of districts within the county;
- 7           (10) Except as otherwise provided, no county shall have the  
8                   power to give or loan credit to, or in aid of, any  
9                   person or corporation, directly or indirectly, except  
10                  for a public purpose;
- 11          (11) Where not within the jurisdiction of the public  
12                   utilities commission, each county shall have the power  
13                   to regulate by ordinance the operation of motor  
14                   vehicle common carriers transporting passengers within  
15                   the county and adopt and amend rules the county deems  
16                   necessary for the public convenience and necessity;
- 17          (12) Each county shall have the power to enact and enforce  
18                   ordinances necessary to prevent or summarily remove  
19                   public nuisances and to compel the clearing or removal  
20                   of any public nuisance, refuse, and uncultivated  
21                   undergrowth from streets, sidewalks, public places,



1 and unoccupied lots. In connection with these powers,  
2 each county may impose and enforce liens upon the  
3 property for the cost to the county of removing and  
4 completing the necessary work where the property  
5 owners fail, after reasonable notice, to comply with  
6 the ordinances. The authority provided by this  
7 paragraph shall not be self-executing, but shall  
8 become fully effective within a county only upon the  
9 enactment or adoption by the county of appropriate and  
10 particular laws, ordinances, or rules defining "public  
11 nuisances" with respect to each county's respective  
12 circumstances. The counties shall provide the  
13 property owner with the opportunity to contest the  
14 summary action and to recover the owner's property;

15 (13) Each county shall have the power to enact ordinances  
16 deemed necessary to protect health, life, and  
17 property, and to preserve the order and security of  
18 the county and its inhabitants on any subject or  
19 matter not inconsistent with, or tending to defeat,  
20 the intent of any state statute where the statute does  
21 not disclose an express or implied intent that the



1 statute shall be exclusive or uniform throughout the  
2 State;

3 (14) Each county shall have the power to:

4 (A) Make and enforce within the limits of the county  
5 all necessary ordinances covering all:

6 (i) Local police matters;

7 (ii) Matters of sanitation;

8 (iii) Matters of inspection of buildings;

9 (iv) Matters of condemnation of unsafe  
10 structures, plumbing, sewers, dairies, milk,  
11 fish, and morgues; and

12 (v) Matters of the collection and disposition of  
13 rubbish and garbage;

14 (B) Provide exemptions for homeless facilities and  
15 any other program for the homeless authorized by  
16 part XVII of chapter 346, for all matters under  
17 this paragraph;

18 (C) Appoint county physicians and sanitary and other  
19 inspectors as necessary to carry into effect  
20 ordinances made under this paragraph, who shall  
21 have the same power as given by law to agents of



1           the department of health, subject only to  
2           limitations placed on them by the terms and  
3           conditions of their appointments; and  
4           (D) Fix a penalty for the violation of any ordinance,  
5           which penalty may be a misdemeanor, petty  
6           misdemeanor, or violation as defined by general  
7           law;  
8           (15) Each county shall have the power to provide public  
9           pounds; to regulate the impounding of stray animals  
10          and fowl, and their disposition; and to provide for  
11          the appointment, powers, duties, and fees of animal  
12          control officers;  
13          (16) Each county shall have the power to purchase and  
14          otherwise acquire, lease, and hold real and personal  
15          property within the defined boundaries of the county  
16          and to dispose of the real and personal property as  
17          the interests of the inhabitants of the county may  
18          require, except that:  
19          (A) Any property held for school purposes may not be  
20          disposed of without the consent of the  
21          superintendent of education;





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- 1 (B) No property bordering the ocean shall be sold or  
2 otherwise disposed of; and
- 3 (C) All proceeds from the sale of park lands shall be  
4 expended only for the acquisition of property for  
5 park or recreational purposes;
- 6 (17) Each county shall have the power to provide by charter  
7 for the prosecution of all offenses and to prosecute  
8 for offenses against the laws of the State under the  
9 authority of the attorney general of the State;
- 10 (18) Each county shall have the power to make  
11 appropriations in amounts deemed appropriate from any  
12 moneys in the treasury, for the purpose of:
- 13 (A) Community promotion and public celebrations;
- 14 (B) The entertainment of distinguished persons as may  
15 from time to time visit the county;
- 16 (C) The entertainment of other distinguished persons,  
17 as well as, public officials when deemed to be in  
18 the best interest of the community; and
- 19 (D) The rendering of civic tribute to individuals  
20 who, by virtue of their accomplishments and



1 community service, merit civic commendations,  
2 recognition, or remembrance;

3 (19) Each county shall have the power to:

4 (A) Construct, purchase, take on lease, lease,  
5 sublease, or in any other manner acquire, manage,  
6 maintain, or dispose of buildings for county  
7 purposes, sewers, sewer systems, pumping  
8 stations, waterworks, including reservoirs,  
9 wells, pipelines, and other conduits for  
10 distributing water to the public, lighting  
11 plants, and apparatus and appliances for lighting  
12 streets and public buildings, and manage,  
13 regulate, and control the same;

14 (B) Regulate and control the location and quality of  
15 all appliances necessary to the furnishing of  
16 water, heat, light, power, telephone, and  
17 telecommunications service to the county;

18 (C) Acquire, regulate, and control any and all  
19 appliances for the sprinkling and cleaning of the  
20 streets and the public ways, and for flushing the  
21 sewers; and



- 1 (D) Open, close, construct, or maintain county  
2 highways or charge toll on county highways;  
3 provided that all revenues received from a toll  
4 charge shall be used for the construction or  
5 maintenance of county highways;
- 6 (20) Each county shall have the power to regulate the  
7 renting, subletting, and rental conditions of property  
8 for places of abode by ordinance;
- 9 (21) Unless otherwise provided by law, each county shall  
10 have the power to establish by ordinance the order of  
11 succession of county officials in the event of a  
12 military or civil disaster;
- 13 (22) Each county shall have the power to sue and be sued in  
14 its corporate name;
- 15 (23) Each county shall have the power to establish and  
16 maintain waterworks and sewer works; to collect rates  
17 for water supplied to consumers and for the use of  
18 sewers; to install water meters whenever deemed  
19 expedient; provided that owners of premises having  
20 vested water rights under existing laws appurtenant to  
21 the premises shall not be charged for the installation



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1 or use of the water meters on the premises; to take  
2 over from the State existing waterworks systems,  
3 including water rights, pipelines, and other  
4 appurtenances belonging thereto, and sewer systems,  
5 and to enlarge, develop, and improve the same;

6 (24) (A) Each county may impose civil fines, in addition  
7 to criminal penalties, for any violation of  
8 county ordinances or rules after reasonable  
9 notice and requests to correct or cease the  
10 violation have been made upon the violator. Any  
11 administratively imposed civil fine shall not be  
12 collected until after an opportunity for a  
13 hearing under chapter 91. Any appeal shall be  
14 filed within thirty days from the date of the  
15 final written decision. These proceedings shall  
16 not be a prerequisite for any civil fine or  
17 injunctive relief ordered by the circuit court;

18 (B) Each county by ordinance may provide for the  
19 addition of any unpaid civil fines, ordered by  
20 any court of competent jurisdiction, to any  
21 taxes, fees, or charges, with the exception of



1 fees or charges for water for residential use and  
2 sewer charges, collected by the county. Each  
3 county by ordinance may also provide for the  
4 addition of any unpaid administratively imposed  
5 civil fines, which remain due after all judicial  
6 review rights under section 91-14 are exhausted,  
7 to any taxes, fees, or charges, with the  
8 exception of water for residential use and sewer  
9 charges, collected by the county. The ordinance  
10 shall specify the administrative procedures for  
11 the addition of the unpaid civil fines to the  
12 eligible taxes, fees, or charges and may require  
13 hearings or other proceedings. After addition of  
14 the unpaid civil fines to the taxes, fees, or  
15 charges, the unpaid civil fines shall not become  
16 a part of any taxes, fees, or charges. The  
17 county by ordinance may condition the issuance or  
18 renewal of a license, approval, or permit for  
19 which a fee or charge is assessed, except for  
20 water for residential use and sewer charges, on  
21 payment of the unpaid civil fines. Upon



1 recordation of a notice of unpaid civil fines in  
2 the bureau of conveyances, the amount of the  
3 civil fines, including any increase in the amount  
4 of the fine which the county may assess, shall  
5 constitute a lien upon all real property or  
6 rights to real property belonging to any person  
7 liable for the unpaid civil fines. The lien in  
8 favor of the county shall be subordinate to any  
9 lien in favor of any person recorded or  
10 registered prior to the recordation of the notice  
11 of unpaid civil fines and senior to any lien  
12 recorded or registered after the recordation of  
13 the notice. The lien shall continue until the  
14 unpaid civil fines are paid in full or until a  
15 certificate of release or partial release of the  
16 lien, prepared by the county at the owner's  
17 expense, is recorded. The notice of unpaid civil  
18 fines shall state the amount of the fine as of  
19 the date of the notice and maximum permissible  
20 daily increase of the fine. The county shall not  
21 be required to include a social security number,



1 state general excise taxpayer identification  
2 number, or federal employer identification number  
3 on the notice. Recordation of the notice in the  
4 bureau of conveyances shall be deemed, at such  
5 time, for all purposes and without any further  
6 action, to procure a lien on land registered in  
7 land court under chapter 501. After the unpaid  
8 civil fines are added to the taxes, fees, or  
9 charges as specified by county ordinance, the  
10 unpaid civil fines shall be deemed immediately  
11 due, owing, and delinquent and may be collected  
12 in any lawful manner. The procedure for  
13 collection of unpaid civil fines authorized in  
14 this paragraph shall be in addition to any other  
15 procedures for collection available to the State  
16 and county by law or rules of the courts;

17 (C) Each county may impose civil fines upon any  
18 person who places graffiti on any real or  
19 personal property owned, managed, or maintained  
20 by the county. The fine may be up to \$1,000 or  
21 may be equal to the actual cost of having the



1           damaged property repaired or replaced. The  
2           parent or guardian having custody of a minor who  
3           places graffiti on any real or personal property  
4           owned, managed, or maintained by the county shall  
5           be jointly and severally liable with the minor  
6           for any civil fines imposed hereunder. Any such  
7           fine may be administratively imposed after an  
8           opportunity for a hearing under chapter 91, but  
9           such a proceeding shall not be a prerequisite for  
10          any civil fine ordered by any court. As used in  
11          this subparagraph, "graffiti" means any  
12          unauthorized drawing, inscription, figure, or  
13          mark of any type intentionally created by paint,  
14          ink, chalk, dye, or similar substances;

15          (D) At the completion of an appeal in which the  
16          county's enforcement action is affirmed and upon  
17          correction of the violation if requested by the  
18          violation, the case shall be reviewed by the  
19          county agency that imposed the civil fines to  
20          determine the appropriateness of the amount of  
21          the civil fines that accrued while the appeal





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1 proceedings were pending. In its review of the  
2 amount of the accrued fines, the county agency  
3 may consider:

- 4 (i) The nature and egregiousness of the  
5 violation;
- 6 (ii) The duration of the violation;
- 7 (iii) The number of recurring and other similar  
8 violations;
- 9 (iv) Any effort taken by the violator to correct  
10 the violation;
- 11 (v) The degree of involvement in causing or  
12 continuing the violation;
- 13 (vi) Reasons for any delay in the completion of  
14 the appeal; and
- 15 (vii) Other extenuating circumstances.

16 The civil fine that is imposed by administrative  
17 order after this review is completed and the  
18 violation is corrected shall be subject to  
19 judicial review, notwithstanding any provisions  
20 for administrative review in county charters;



- 1           (E) After completion of a review of the amount of  
2           accrued civil fine by the county agency that  
3           imposed the fine, the amount of the civil fine  
4           determined appropriate, including both the  
5           initial civil fine and any accrued daily civil  
6           fine, shall immediately become due and  
7           collectible following reasonable notice to the  
8           violator. If no review of the accrued civil fine  
9           is requested, the amount of the civil fine, not  
10          to exceed the total accrual of civil fine prior  
11          to correcting the violation, shall immediately  
12          become due and collectible following reasonable  
13          notice to the violator, at the completion of all  
14          appeal proceedings;
- 15          (F) If no county agency exists to conduct appeal  
16          proceedings for a particular civil fine action  
17          taken by the county, then one shall be  
18          established by ordinance before the county shall  
19          impose the civil fine;
- 20          (25) Any law to the contrary notwithstanding, any county  
21          mayor, by executive order, may exempt donors, provider



1 agencies, homeless facilities, and any other program  
2 for the homeless under part XVII of chapter 346 from  
3 real property taxes, water and sewer development fees,  
4 rates collected for water supplied to consumers and  
5 for use of sewers, and any other county taxes,  
6 charges, or fees; provided that any county may enact  
7 ordinances to regulate and grant the exemptions  
8 granted by this paragraph;

9 (26) Any county may establish a captive insurance company  
10 pursuant to article 19, chapter 431; [~~and~~]

11 (27) Each county shall have the power to enact and enforce  
12 ordinances regulating towing operations[-]; and

13 (28) Each county shall have the power to establish by  
14 ordinance a surcharge on real property taxes collected  
15 from oceanfront properties; provided that no county  
16 shall set the surcharge at a rate greater  
17 than \_\_\_\_\_ per cent of the property's net taxable  
18 value; and provided further that any county that  
19 establishes a surcharge under this paragraph shall  
20 deposit the moneys collected into a coastal protection  
21 special fund established by the respective county,



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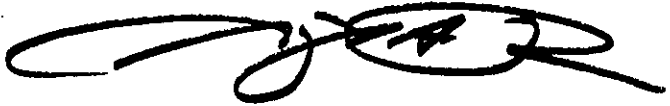
1           which shall be used for coastal protection and  
2           management programs and activities."

3           SECTION 3. Statutory material to be repealed is bracketed  
4 and stricken. New statutory material is underscored.

5           SECTION 4. This Act shall take effect upon its approval.

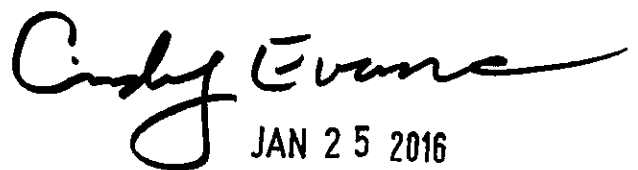
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INTRODUCED BY: 







  
Cindy Evans  
JAN 25 2016



# H.B. NO. 2210

**Report Title:**

Coastal Protection; Counties; Real Property Taxes; Surcharge

**Description:**

Authorizes counties to establish a surcharge on real property taxes collected from oceanfront properties. Requires counties to deposit surcharges collected into a special fund to be used for coastal protection and management programs and activities.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

