
A BILL FOR AN ACT

RELATING TO TAXATION.

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

1 SECTION 1. Chapter 46, Hawaii Revised Statutes, is amended
2 by adding a new section to part I to be appropriately designated
3 and to read as follows:

4 "§46- County surcharge on transient accommodations tax.

5 (a) Each county may establish a surcharge on transient
6 accommodations tax at the rate enumerated in section 237D- .
7 A county electing to establish this surcharge shall do so by
8 ordinance; provided that:

9 (1) No ordinance shall be adopted until the county has
10 conducted a public hearing on the proposed ordinance;

11 (2) The ordinance shall be adopted prior to December 31,
12 2017; and

13 (3) No county surcharge on transient accommodations tax
14 that may be authorized under this subsection shall be
15 levied prior to January 1, 2019, or after December 31,
16 2034.



1 Notice of the public hearing required under paragraph (1) shall
2 be published in a newspaper of general circulation within the
3 county at least twice within a period of thirty days immediately
4 preceding the date of the hearing.

5 (b) A county electing to exercise the authority granted
6 under this section shall notify the director of taxation within
7 ten days after the county has adopted a surcharge on transient
8 accommodations tax ordinance and, beginning no earlier than
9 January 1, 2019, the director of taxation shall levy, assess,
10 collect, and otherwise administer the county surcharge on
11 transient accommodations tax.

12 (c) The Hawaii housing finance and development
13 corporation, in cooperation with each county that adopts a
14 county surcharge on transient accommodations tax ordinance
15 pursuant to subsection (a), shall use the surcharges received
16 from the State for the development of workforce housing,
17 pursuant to section 201H- ."

18 SECTION 2. Chapter 201H, Hawaii Revised Statutes, is
19 amended by adding a new section to part III, subpart A, to be
20 appropriately designated and to read as follows:



1 "§201H- Workforce housing development trust fund. (a)

2 There is established a trust fund in the state treasury to be
3 known as the workforce housing development trust fund, into
4 which shall be deposited:

5 (1) County surcharge on transient accommodations tax
6 revenues pursuant to section 248- ;

7 (2) All other money received for the fund from any other
8 source; and

9 (3) All income and interest earned or accrued on moneys
10 deposited into the trust fund.

11 (b) The trust fund shall contain a special account for
12 each of the counties. All moneys deposited in a special account
13 shall be expended by the corporation to develop affordable
14 housing projects in designated resort areas in each respective
15 county; provided that the housing developed shall remain
16 affordable in perpetuity and preference shall be given to hotel
17 industry employees who meet economic criteria established by the
18 corporation.

19 (c) For the purposes of this section, "designated resort
20 area" means an area located within a ten-mile radius of a hotel
21 or resort."



1 SECTION 3. Chapter 237D, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§237D- County surcharge on transient accommodations
5 tax; administration. (a) The county surcharge on transient
6 accommodations tax, upon the adoption of county ordinances and
7 in accordance with the requirements of section 46- , shall be
8 levied, assessed, and collected as provided in this section on
9 all gross rental, gross rental proceeds, and fair market rental
10 value taxable under this chapter. No county shall set the
11 surcharge on state tax at a rate greater than per cent
12 of all gross rental, gross rental proceeds, and fair market
13 rental value taxable under this chapter. All provisions of this
14 chapter shall apply to the county surcharge on transient
15 accommodations tax. With respect to the surcharge, the director
16 of taxation shall have all the rights and powers provided under
17 this chapter. In addition, the director of taxation shall have
18 the exclusive rights and power to determine the county or
19 counties in which a person is engaged in the business of
20 furnishing transient accommodations and, in the case of a person
21 engaged in the business of furnishing transient accommodations



1 in more than one county, the director shall determine, through
2 apportionment or other means, that portion of the surcharge on
3 transient accommodations tax attributable to business conducted
4 in each county.

5 (b) Each county surcharge on transient accommodations tax
6 that may be adopted pursuant to section 46- shall be levied
7 beginning in the taxable year after the adoption of the relevant
8 county ordinance; provided that no surcharge on transient
9 accommodations tax may be levied prior to January 1, 2019.

10 (c) The county surcharge on transient accommodations tax,
11 if adopted, shall be imposed on the gross rental, gross rental
12 proceeds, and fair market rental value of all written contracts
13 that require the passing on of the taxes imposed under this
14 chapter; provided that if the gross rental, gross rental
15 proceeds, and fair market rental value are received as payments
16 beginning in the taxable year in which the taxes become
17 effective, on contracts that were entered into before June 30 of
18 the year prior to the taxable year in which the taxes become
19 effective and that do not provide for the passing on of
20 increased rates of taxes, the county surcharge on transient
21 accommodations tax shall not be imposed on the gross rental,



1 gross rental proceeds, and fair market rental value covered
2 under those written contracts. The county surcharge on
3 transient accommodations tax shall be imposed on the gross
4 rental, gross rental proceeds, and fair market rental value from
5 all contracts entered into on or after June 30 of the year prior
6 to the taxable year in which the taxes become effective,
7 regardless of whether the contract allows for the passing on of
8 any tax or any tax increases.

9 (d) No county surcharge on transient accommodations tax
10 shall be established on any form of accommodation exempt from
11 the taxes imposed by this chapter pursuant to section 237D-3.

12 (e) The director of taxation shall revise the transient
13 accommodations tax forms to provide for the clear and separate
14 designation of the imposition and payment of the county
15 surcharge on transient accommodations tax.

16 (f) The taxpayer shall designate the taxation district to
17 which the county surcharge on transient accommodations tax is
18 assigned in accordance with rules adopted by the director of
19 taxation under chapter 91. The taxpayer shall file a schedule
20 with the taxpayer's periodic and annual transient accommodations



1 tax returns summarizing the amount of taxes assigned to each
2 taxation district.

3 (g) The penalties provided by section 231-39 for failure
4 to file a tax return shall be imposed on the amount of surcharge
5 due on the return being filed for the failure to file the
6 schedule required to accompany the return. In addition, there
7 shall be added to the tax an amount equal to ten per cent of the
8 amount of the surcharge and tax due on the return being filed
9 for the failure to file the schedule or the failure to correctly
10 report the assignment of the transient accommodations tax by
11 taxation district on the schedule required under subsection (f).

12 (h) All taxpayers who file on a fiscal year basis whose
13 fiscal year ends after December 31 of the year prior to the
14 taxable year in which the taxes become effective shall file a
15 short period annual return for the period preceding January 1 of
16 the taxable year in which the taxes become effective. Each
17 fiscal year taxpayer shall also file a short period annual
18 return for the period starting on January 1 of the taxable year
19 in which the taxes become effective and ending before January 1
20 of the following year."



1 SECTION 4. Chapter 248, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§248- County surcharge on transient accommodations
5 tax; disposition of proceeds. (a) If adopted by county
6 ordinance, all county surcharges on transient accommodations tax
7 collected by the director of taxation shall be transmitted to
8 the director of finance quarterly, within ten working days after
9 collection, for deposit into the workforce housing development
10 trust fund established under section 201H- .

11 (b) The director of finance shall deposit the county
12 surcharges received into the county special accounts within the
13 workforce housing development trust fund, which shall be
14 allocated as follows: the Kauai county account shall receive
15 14.5 per cent, the Hawaii county account shall receive 18.6 per
16 cent, the city and county of Honolulu account shall receive 44.1
17 per cent, and the Maui county account shall receive 22.8 per
18 cent."

19 SECTION 5. New statutory material is underscored.

20 SECTION 6. This Act shall take effect upon its approval;
21 provided that:



1 (1) If none of the counties of the State adopt an
 2 ordinance to levy a county surcharge on state tax by
 3 December 31, 2017, this Act shall be repealed on
 4 December 31, 2017;

5 (2) If any county does not adopt an ordinance to levy a
 6 county surcharge on state tax by December 31, 2017, it
 7 shall be prohibited from adopting an ordinance
 8 pursuant to this Act, unless otherwise authorized by
 9 the legislature through a separate legislative act;
 10 and

11 (3) If an ordinance to levy a county surcharge on state
 12 tax is adopted by December 31, 2017:

13 (A) The ordinance shall be repealed on December 31,
 14 2034; and

15 (B) This Act shall be repealed on December 31, 2034.

16

INTRODUCED BY:




JAN 20 2017



H.B. NO. 546

Report Title:

Workforce Housing Development; County Surcharge on Transient Accommodations Tax

Description:

Authorizes counties to levy a county surcharge on transient accommodations tax to fund workforce housing development in their respective counties. Establishes a workforce housing development trust fund.

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

