
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 be appropriately designated and to
3 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 (b) A county electing to exercise the authority granted
8 under this section shall notify the director of taxation within
9 ten days after the county has established a surcharge on
10 transient accommodations tax and, beginning no earlier than one
11 hundred eighty days after the establishment of the surcharge
12 authorized under this section, the director of taxation shall
13 levy, assess, collect, and otherwise administer the county
14 surcharge on transient accommodations tax."

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



1 "§237D- County surcharge on transient accommodations
2 tax; administration. (a) The county surcharge on transient
3 accommodations tax, in accordance with the requirements of
4 section 46- , shall be levied, assessed, and collected as
5 provided in this section on all gross rental, gross rental
6 proceeds, and fair market rental value taxable under this
7 chapter. No county shall set the surcharge on transient
8 accommodations tax at a rate greater than per cent of
9 all gross rental, gross rental proceeds, and fair market rental
10 value taxable under this chapter. All provisions of this
11 chapter shall apply to the county surcharge on transient
12 accommodations tax. With respect to the surcharge, the director
13 of taxation shall have all the rights and powers provided under
14 this chapter. In addition, the director of taxation shall have
15 the exclusive rights and power to determine the county or
16 counties in which a person is engaged in the business of
17 furnishing transient accommodations and, in the case of a person
18 engaged in the business of furnishing transient accommodations
19 in more than one county, the director shall determine, through
20 apportionment or other means, that portion of the surcharge on



1 transient accommodations tax attributable to business conducted
2 in each county.

3 (b) Each county surcharge on transient accommodations tax
4 that may be established pursuant to section 46- shall be
5 levied beginning in the taxable year after the surcharge is
6 established; provided that no surcharge on transient
7 accommodations tax may be levied less than one hundred eighty
8 days after the establishment of the surcharge authorized under
9 section 46- .

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 entered into before June 30 of the year
18 prior to the taxable year in which the taxes become effective,
19 and the written contracts 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 the written contracts. The county surcharge on transient
3 accommodations tax shall be imposed on the gross rental, gross
4 rental proceeds, and fair market rental value from all contracts
5 entered into on or after June 30 of the year prior to the
6 taxable year in which the taxes become effective, regardless of
7 whether the contract allows for the passing on of any tax or any
8 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 3. Section 237D-2, Hawaii Revised Statutes, is
2 amended as follows:

3 1. By amending subsection (a) to read:

4 "(a) There is levied and shall be assessed and collected
5 each month a tax of:

6 (1) Five per cent for the period beginning on January 1,
7 1987, to June 30, 1994;

8 (2) Six per cent for the period beginning on July 1, 1994,
9 to December 31, 1998;

10 (3) 7.25 per cent for the period beginning on January 1,
11 1999, to June 30, 2009;

12 (4) 8.25 per cent for the period beginning on July 1,
13 2009, to June 30, 2010; [and]

14 (5) 9.25 per cent for the period beginning on July 1,
15 2010, [~~and thereafter;~~] to June 30, 2019; and

16 (6) _____ per cent for the period beginning on July 1,
17 2019, and thereafter;

18 on the gross rental or gross rental proceeds derived from
19 furnishing transient accommodations."

20 2. By amending subsection (c) to read:



1 "(c) There is levied and shall be assessed and collected
2 each month, on the occupant of a resort time share vacation
3 unit, a transient accommodations tax of:

4 (1) 7.25 per cent on the fair market rental value until
5 December 31, 2015;

6 (2) 8.25 per cent on the fair market rental value for the
7 period beginning on January 1, 2016, to December 31,
8 2016; ~~and~~

9 (3) 9.25 per cent on the fair market rental value for the
10 period beginning on January 1, 2017, ~~[and thereafter.]~~
11 to December 1, 2019; and

12 (4) per cent on the fair market rental value for
13 the period beginning on January 1, 2020, and
14 thereafter."

15 3. By amending subsection (e) to read:

16 "(e) Notwithstanding the tax rates established in
17 subsections ~~[(a)(5)]~~ (a) and ~~[(e)(3),]~~ (c), the tax rates
18 levied, assessed, and collected pursuant to subsections (a) and
19 (c) shall be 10.25 per cent for the period beginning on January
20 1, 2018, to December 31, ~~[2030,]~~ 2019, and per cent for

1 the period beginning on January 1, 2020, to December 31, 2030;

2 provided that:

3 (1) The tax revenues levied, assessed, and collected
4 pursuant to this subsection that are in excess of the
5 revenues realized from the levy, assessment, and
6 collection of tax at the [~~9.25 per cent~~] rate
7 established in subsections (a) and (c) shall be
8 deposited quarterly into the mass transit special fund
9 established under section 248-2.7; and

10 (2) If a court of competent jurisdiction determines that
11 the amount of county surcharge on state tax revenues
12 deducted and withheld by the State, pursuant to
13 section 248-2.6, violates statutory or constitutional
14 law and, as a result, awards moneys to a county with a
15 population greater than five hundred thousand, then an
16 amount equal to the monetary award shall be deducted
17 and withheld from the tax revenues deposited under
18 paragraph (1) into the mass transit special fund, and
19 those funds shall be a general fund realization of the
20 State.



1 The remaining tax revenues levied, assessed, and collected
2 at the [~~9.25 per cent~~] tax rate established pursuant to
3 subsections (a) and (c) shall be distributed in accordance with
4 section 237D-6.5(b)."

5 SECTION 4. Section 237D-6.5, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "**§237D-6.5 Remittances** [~~; distribution to counties~~]. (a)

8 All remittances of taxes imposed under this chapter shall be
9 made by cash, bank drafts, cashier's check, money order, or
10 certificate of deposit to the office of the taxation district to
11 which the return was transmitted.

12 (b) Except for the revenues collected pursuant to section
13 237D-2(e), revenues collected under this chapter shall be
14 distributed in the following priority, with the excess revenues
15 to be deposited into the general fund:

16 (1) \$1,500,000 shall be allocated to the Turtle Bay
17 conservation easement special fund beginning July 1,
18 2015, for the reimbursement to the state general fund
19 of debt service on reimbursable general obligation
20 bonds, including ongoing expenses related to the
21 issuance of the bonds, the proceeds of which were used



1 to acquire the conservation easement and other real
2 property interests in Turtle Bay, Oahu, for the
3 protection, preservation, and enhancement of natural
4 resources important to the State, until the bonds are
5 fully amortized;

6 (2) \$26,500,000 shall be allocated to the convention
7 center enterprise special fund established under
8 section 201B-8;

9 (3) \$82,000,000 shall be allocated to the tourism special
10 fund established under section 201B-11; provided that:

11 (A) Beginning on July 1, 2012, and ending on June 30,
12 2015, \$2,000,000 shall be expended from the
13 tourism special fund for development and
14 implementation of initiatives to take advantage
15 of expanded visa programs and increased travel
16 opportunities for international visitors to
17 Hawaii;

18 (B) Of the \$82,000,000 allocated:

19 (i) \$1,000,000 shall be allocated for the
20 operation of a Hawaiian center and the



1 museum of Hawaiian music and dance at the
2 Hawaii convention center; and
3 (ii) 0.5 per cent of the \$82,000,000 shall be
4 transferred to a sub-account in the tourism
5 special fund to provide funding for a safety
6 and security budget, in accordance with the
7 Hawaii tourism strategic plan 2005-2015; and
8 (C) Of the revenues remaining in the tourism special
9 fund after revenues have been deposited as
10 provided in this paragraph and except for any sum
11 authorized by the legislature for expenditure
12 from revenues subject to this paragraph,
13 beginning July 1, 2007, funds shall be deposited
14 into the tourism emergency special fund,
15 established in section 201B-10, in a manner
16 sufficient to maintain a fund balance of
17 \$5,000,000 in the tourism emergency special fund;
18 [~~(4) \$103,000,000 shall be allocated as follows: Kauai~~
19 ~~county shall receive 14.5 per cent, Hawaii county~~
20 ~~shall receive 18.6 per cent, city and county of~~
21 ~~Honolulu shall receive 44.1 per cent, and Maui county~~



1 ~~shall receive 22.8 per cent; provided that commencing~~
2 ~~with fiscal year 2018-2019, a sum that represents the~~
3 ~~difference between a county public employer's annual~~
4 ~~required contribution for the separate trust fund~~
5 ~~established under section 87A-42 and the amount of the~~
6 ~~county public employer's contributions into that trust~~
7 ~~fund shall be retained by the state director of~~
8 ~~finance and deposited to the credit of the county~~
9 ~~public employer's annual required contribution into~~
10 ~~that trust fund in each fiscal year, as provided in~~
11 ~~section 87A-42, if the respective county fails to~~
12 ~~remit the total amount of the county's required annual~~
13 ~~contributions, as required under section 87A-43;] and~~

14 ~~(+5)~~ (4) \$3,000,000 shall be allocated to the special land
15 and development fund established under section 171-19;
16 provided that the allocation shall be expended in
17 accordance with the Hawaii tourism authority strategic
18 plan for:

- 19 (A) The protection, preservation, maintenance, and
20 enhancement of natural resources, including
21 beaches, important to the visitor industry;



- 1 (B) Planning, construction, and repair of facilities;
2 and
3 (C) Operation and maintenance costs of public lands,
4 including beaches, connected with enhancing the
5 visitor experience.

6 All transient accommodations taxes shall be paid into the
7 state treasury each month within ten days after collection and
8 shall be kept by the state director of finance in special
9 accounts for distribution as provided in this subsection.

10 As used in this subsection, "fiscal year" means the twelve-
11 month period beginning on July 1 of a calendar year and ending
12 on June 30 of the following calendar year.

13 ~~[(c) On or before January or July 1 of each year or after~~
14 ~~the disposition of any tax appeal with respect to an assessment~~
15 ~~for periods after June 30, 1990, the state director of finance~~
16 ~~shall compute and pay the amount due as provided in subsection~~
17 ~~(b) to the director of finance of each county to become a~~
18 ~~general realization of the county expendable as such, except as~~
19 ~~otherwise provided by law.]"~~

20 SECTION 5. Statutory material to be repealed is bracketed
21 and stricken. New statutory material is underscored.

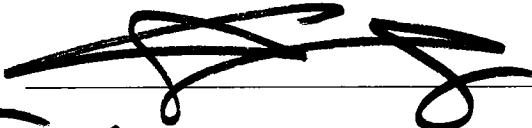









H.B. NO. 631

1 SECTION 6. This Act shall take effect upon its approval.

2

INTRODUCED BY:

JAN 18 2019



H.B. NO. 631

Report Title:

Transit Accommodations Tax; County Surcharge

Description:

Authorizes each county to impose a surcharge on transient accommodations tax. Changes the transient accommodations tax rate to an unspecified amount. Repeals the distribution of transit accommodations tax revenues to the counties.

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