

JAN 24 2019

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- Additional county surcharge on state tax. (a) In
5 addition to the surcharge authorized under section 46-16.8, each
6 county may establish a surcharge on state tax at the rates
7 enumerated in sections 237-8.6 and 238-2.6. A county electing
8 to establish this surcharge shall do so by ordinance; provided
9 that:

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

13 (2) The ordinance shall be adopted prior to March 31,
14 2020.

15 (b) A county electing to exercise the authority granted
16 under this section shall notify the director of taxation within
17 ten days after the county has adopted a surcharge on state tax



1 ordinance and the director of taxation shall levy, assess,
2 collect, and otherwise administer the county surcharge on state
3 tax.

4 (c) Notice of the public hearing required under subsection
5 (a) before adoption of an ordinance establishing the surcharge
6 on state tax shall be published in a newspaper of general
7 circulation within the county at least twice within a period of
8 thirty days immediately preceding the date of the hearing.

9 (d) Each county that adopts a county surcharge on state
10 tax under this section shall use the surcharge revenues received
11 from the State for purposes relating to housing and
12 homelessness."

13 SECTION 2. Section 237-8.6, Hawaii Revised Statutes, is
14 amended by amending subsection (a) to read as follows:

15 "(a) ~~[The]~~ A county surcharge on state tax, upon the
16 adoption of county ordinances and in accordance with the
17 requirements of section 46-16.8~~[7]~~ or 46-__, shall be levied,
18 assessed, and collected as provided in this section on all gross
19 proceeds and gross income taxable under this chapter. No county
20 shall set ~~[the]~~ a surcharge on state tax at a rate greater than
21 ~~[one-half]~~ :



1 (1) One-half per cent of all gross proceeds and gross
2 income taxable under this chapter[-], for surcharges
3 authorized under section 46-16.8; or

4 (2) One-half per cent of all gross proceeds and gross
5 income taxable under this chapter, for surcharges
6 authorized under section 46- .

7 All provisions of this chapter shall apply to [~~the~~] a county
8 surcharge on state tax. With respect to the surcharge, the
9 director of taxation shall have all the rights and powers
10 provided under this chapter. In addition, the director of
11 taxation shall have the exclusive rights and power to determine
12 the county or counties in which a person is engaged in business
13 and, in the case of a person engaged in business in more than
14 one county, the director shall determine, through apportionment
15 or other means, that portion of the surcharge on state tax
16 attributable to business conducted in each county."

17 SECTION 3. Section 238-2.6, Hawaii Revised Statutes, is
18 amended by amending subsection (a) to read as follows:

19 "(a) [~~The~~] A county surcharge on state tax, upon the
20 adoption of a county ordinance and in accordance with the
21 requirements of section 46-16.8[-] or 46- ., shall be levied,



1 assessed, and collected as provided in this section on the value
2 of property and services taxable under this chapter. No county
3 shall set the surcharge on state tax at a rate greater than
4 ~~[one-half]~~ :

5 (1) One-half per cent of the value of property taxable
6 under this chapter[-], for surcharges authorized under
7 section 46-16.8; or

8 (2) One-half per cent of the value of property taxable
9 under this chapter, for surcharges authorized under
10 section 46- .

11 All provisions of this chapter shall apply to ~~[the]~~ a county
12 surcharge on state tax. With respect to the surcharge, the
13 director 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 imports or purchases property and, in
17 the case of a person importing or purchasing property in more
18 than one county, the director shall determine, through
19 apportionment or other means, that portion of the surcharge on
20 state tax attributable to the importation or purchase in each
21 county."



1 SECTION 4. Section 248-2.6, Hawaii Revised Statutes, is
2 amended as follows:

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

4 "(a) If adopted by county ordinance, all county surcharges
5 on state tax collected by the director of taxation shall be paid
6 into the state treasury quarterly, within ten working days after
7 collection, and shall be placed by the director of finance in
8 special accounts; provided that county surcharge revenues
9 levied, assessed, and collected in a county with a population
10 greater than five hundred thousand in accordance with the
11 requirements of section 46-16.8 shall be deposited into the mass
12 transit special fund established under section 248-2.7. Out of
13 the revenues generated by county surcharges on state tax paid
14 into each respective state treasury special account or the mass
15 transit special fund, the director of finance shall deduct one
16 per cent of the gross proceeds of a respective county's
17 surcharge on state tax to reimburse the State for the costs of
18 assessment, collection, disposition, and oversight of the county
19 surcharge on state tax incurred by the State. Amounts retained
20 shall be general fund realizations of the State."

21 2. By amending subsection (d) to read:



1 "(d) For a county with a population equal to or less than
2 five hundred thousand that adopts a county surcharge on state
3 tax, after the deduction and withholding of the costs under
4 subsections (a) and (b), the director of finance shall pay the
5 remaining balance on a quarterly basis to the director of
6 finance of each county that has adopted a county surcharge on
7 state tax under section 46-16.8[-] or 46- .

8 For a county with a population greater than five hundred
9 thousand that adopts or extends a county surcharge on state tax
10 ordinance[-] in accordance with the requirements of section 46-
11 16.8, after the deduction and withholding of the costs under
12 subsections (a) and (b), the director of finance shall
13 administer the remaining surcharge revenues in accordance with
14 section 248-2.7.

15 For a county with a population greater than five hundred
16 thousand that adopts a county surcharge on state tax pursuant to
17 section 46- , after the deduction and withholding of the costs
18 under subsections (a) and (b), the director of finance shall pay
19 the remaining balance on a quarterly basis to the director of
20 finance of each county that has adopted a county surcharge on
21 state tax under section 46- .



1 The payments shall be made after the county surcharges on
2 state tax have been paid into the state treasury special
3 accounts or the mass transit special fund or after the
4 disposition of any tax appeal, as the case may be. All county
5 surcharges on state tax collected shall be distributed by the
6 director of finance to the county in which the county surcharge
7 on state tax is generated and shall be a general fund
8 realization of the county, to be used for the purposes specified
9 in section 46-16.8 or 46- , as applicable, by each of the
10 counties."

11 SECTION 5. Section 437D-8.4, Hawaii Revised Statutes, is
12 amended by amending subsection (a) to read as follows:

13 "(a) Notwithstanding any law to the contrary, a lessor may
14 visibly pass on to a lessee:

- 15 (1) The general excise tax attributable to the
16 transaction;
- 17 (2) The vehicle license recovery fees, prorated at 1/292nd
18 of the annual vehicle license recovery fees actually
19 paid on the particular vehicle being rented for each
20 full or partial twenty-four-hour rental day that the
21 vehicle is rented; provided the total of all vehicle



- 1 license recovery fees charged to all lessees shall not
2 exceed the annual vehicle license recovery fees
3 actually paid for the particular vehicle rented;
- 4 (3) The surcharge taxes imposed in chapter 251
5 attributable to the transaction;
- 6 (4) The county surcharge on state tax under section
7 46-16.8[7] or 46-_____; provided that the lessor
8 itemizes the tax for the lessee; and
- 9 (5) The rents or fees paid to the department of
10 transportation under concession contracts negotiated
11 pursuant to chapter 102, service permits granted
12 pursuant to title 19, Hawaii Administrative Rules, or
13 rental motor vehicle customer facility charges
14 established pursuant to section 261-7; provided that:
- 15 (A) The rents or fees are limited to amounts that can
16 be attributed to the proceeds of the particular
17 transaction;
- 18 (B) The rents or fees shall not exceed the lessor's
19 net payments to the department of transportation
20 made under concession contract or service permit;



- 1 (C) The lessor submits to the department of
2 transportation and the department of commerce and
3 consumer affairs a statement, verified by a
4 certified public accountant as correct, that
5 reports the amounts of the rents or fees paid to
6 the department of transportation pursuant to the
7 applicable concession contract or service permit:
8 (i) For all airport locations; and
9 (ii) For each airport location;
- 10 (D) The lessor submits to the department of
11 transportation and the department of commerce and
12 consumer affairs a statement, verified by a
13 certified public accountant as correct, that
14 reports the amounts charged to lessees:
15 (i) For all airport locations;
16 (ii) For each airport location; and
17 (iii) For each lessee;
- 18 (E) The lessor includes in these reports the
19 methodology used to determine the amount of fees
20 charged to each lessee; and



1 (F) The lessor submits the above information to the
2 department of transportation and the department
3 of commerce and consumer affairs within three
4 months of the end of the preceding annual
5 accounting period or contract year as determined
6 by the applicable concession agreement or service
7 permit.

8 The respective departments, in their sole discretion,
9 may extend the time to submit the statement required
10 in this subsection. If the director determines that
11 an examination of the lessor's information is
12 inappropriate under this subsection and the lessor
13 fails to correct the matter within ninety days, the
14 director may conduct an examination and charge a
15 lessor an examination fee based upon the cost per hour
16 per examiner for evaluating, investigating, and
17 verifying compliance with this subsection, as well as
18 additional amounts for travel, per diem, mileage, and
19 other reasonable expenses incurred in connection with
20 the examination, which shall relate solely to the
21 requirements of this subsection, and which shall be



1 billed by the departments as soon as feasible after
2 the close of the examination. The cost per hour shall
3 be \$40 or as may be established by rules adopted by
4 the director. The lessor shall pay the amounts billed
5 within thirty days following the billing. All moneys
6 collected by the director shall be credited to the
7 compliance resolution fund."

8 SECTION 6. Act 247, Session Laws of Hawaii 2005, as
9 amended by Act 240, Session Laws of Hawaii 2015, as amended by
10 Act 1, First Special Session Laws of 2017, is amended by
11 amending section 9 to read as follows:

12 "SECTION 9. This Act shall take effect upon its approval;
13 provided that:

14 (1) If none of the counties of the State adopt an
15 ordinance to levy a county surcharge on state tax by
16 December 31, 2005, this Act shall be repealed and
17 section 437D-8.4, Hawaii Revised Statutes, shall be
18 reenacted in the form in which it read on the day
19 prior to the effective date of this Act;

20 (2) If any county does not adopt an ordinance to levy a
21 county surcharge on state tax by December 31, 2005, it



1 shall be prohibited from adopting such an ordinance
2 pursuant to this Act, unless otherwise authorized by
3 the legislature through a separate legislative act;
4 and

5 (3) If an ordinance to levy a county surcharge on state
6 tax is adopted by December 31, 2005:

7 (A) The ordinance shall be repealed on December 31,
8 2022; provided that the repeal of the ordinance
9 shall not affect the validity or effect of an
10 ordinance to extend a surcharge on state tax
11 adopted pursuant to an act of the legislature;
12 and

13 (B) ~~[This]~~ Section 1 of this Act shall be repealed on
14 December 31, 2030 ~~[- and~~

15 ~~(C) Section 437D-8.4, Hawaii Revised Statutes, shall~~
16 ~~be reenacted in the form in which it read on the~~
17 ~~day prior to the effective date of this Act[.];~~
18 ~~provided that the amendments made to section~~
19 ~~437D-8.4, Hawaii Revised Statutes, by Act 226,~~
20 ~~Session Laws of Hawaii 2008, as amended by Act~~
21 ~~11, Session Laws of Hawaii 2009, and Act 110,~~



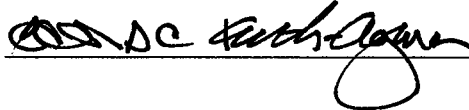
S.B. NO. 1341

1 ~~Session Laws of Hawaii 2014, shall not be~~
2 ~~repealed]."~~

3 SECTION 7. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 8. This Act shall take effect upon its approval.

6

INTRODUCED BY: 



S.B. NO. 1341

Report Title:

County Surcharge on State Tax; General Excise Tax; Housing;
Homelessness

Description:

Authorizes a county to establish an additional surcharge on state tax prior to March 31, 2020, for purposes relating to housing and homelessness.

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

