

JAN 18 2019

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# A BILL FOR AN ACT

RELATING TO THE TRANSIENT ACCOMMODATIONS TAX.

**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- . A  
7 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 2019; 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, 2021, or after December 31,  
16 2036.



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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, 2021, the director of taxation shall levy, assess,  
10 collect, and otherwise administer the county surcharge on  
11 transient accommodations tax.

12 (c) This surcharge on transient accommodations tax shall  
13 not affect the amounts remitted to a county under section  
14 237D-6.5."

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:

18 "§237D- County surcharge on transient accommodations  
19 tax; administration. (a) The county surcharge on transient  
20 accommodations tax, upon the adoption of county ordinances and  
21 in accordance with the requirements of section 46- , shall be



1 levied, assessed, and collected as provided in this section on  
2 all gross rental, gross rental proceeds, and fair market rental  
3 value taxable under this chapter. No county shall set the  
4 surcharge on state tax at a rate greater than two per cent of  
5 all gross rental, gross rental proceeds, and fair market rental  
6 value taxable under this chapter. All provisions of this  
7 chapter shall apply to the county surcharge on transient  
8 accommodations tax. With respect to the surcharge, the director  
9 of taxation shall have all the rights and powers provided under  
10 this chapter. In addition, the director of taxation shall have  
11 the exclusive rights and power to determine the county or  
12 counties in which a person is engaged in the business of  
13 furnishing transient accommodations and, in the case of a person  
14 engaged in the business of furnishing transient accommodations  
15 in more than one county, the director shall determine, through  
16 apportionment or other means, that portion of the surcharge on  
17 transient accommodations tax attributable to business conducted  
18 in each county.

19 (b) Each county surcharge on transient accommodations tax  
20 that may be adopted pursuant to section 46- , shall be levied  
21 beginning in the taxable year after the adoption of the relevant



1 county ordinance; provided that no surcharge on transient  
2 accommodations tax may be levied prior to January 1, 2021.

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

1 regardless of whether the contract allows for the passing on of  
2 any tax or any tax increases.

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

6 (e) The director of taxation shall revise the transient  
7 accommodations tax forms to provide for the clear and separate  
8 designation of the imposition and payment of the county  
9 surcharge on transient accommodations tax.

10 (f) The taxpayer shall designate the taxation district to  
11 which the county surcharge on transient accommodations tax is  
12 assigned in accordance with rules adopted by the director of  
13 taxation under chapter 91. The taxpayer shall file a schedule  
14 with the taxpayer's periodic and annual transient accommodations  
15 tax returns summarizing the amount of taxes assigned to each  
16 taxation district.

17 (g) The penalties provided by section 231-39 for failure  
18 to file a tax return shall be imposed on the amount of surcharge  
19 due on the return being filed for the failure to file the  
20 schedule required to accompany the return. In addition, there  
21 shall be added to the tax an amount equal to ten per cent of the



1 amount of the surcharge and tax due on the return being filed  
 2 for the failure to file the schedule or the failure to correctly  
 3 report the assignment of the transient accommodations tax by  
 4 taxation district on the schedule required under subsection (f).

5 (h) All taxpayers who file on a fiscal year basis whose  
 6 fiscal year ends after December 31 of the year prior to the  
 7 taxable year in which the taxes become effective shall file a  
 8 short period annual return for the period preceding January 1 of  
 9 the taxable year in which the taxes become effective. Each  
 10 fiscal year taxpayer shall also file a short period annual  
 11 return for the period starting on January 1 of the taxable year  
 12 in which the taxes become effective and ending before January 1  
 13 of the following year."

14 SECTION 3. New statutory material is underscored.

15 SECTION 4. This Act shall take effect upon its approval;  
 16 provided that:

17 (1) If none of the counties adopt an ordinance to levy a  
 18 county surcharge on transient accommodations tax by  
 19 December 31, 2019, this Act shall be repealed on  
 20 December 31, 2019;



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- 1       (2) If any county does not adopt an ordinance to levy a
- 2             county surcharge on transient accommodations tax by
- 3             December 31, 2019, it shall be prohibited from
- 4             adopting an ordinance pursuant to this Act, unless
- 5             otherwise authorized by the legislature through a
- 6             separate legislative act; and
- 7       (3) If an ordinance to levy a county surcharge on
- 8             transient accommodations tax is adopted by
- 9             December 31, 2019:
- 10            (A) The ordinance shall be repealed on December 31,
- 11                2036; and
- 12            (B) This Act shall be repealed on December 31, 2036.
- 13

INTRODUCED BY: ~~Sen. Scott~~ *Sen. Scott*  
*Alan Gill*  
*Vanstedt*

# S.B. NO. 198

**Report Title:**

Transient Accommodations Tax; County Surcharge

**Description:**

Authorizes counties to levy a county surcharge on transient accommodations tax in their respective counties pursuant to certain conditions. Repeals 12/31/2036.

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

