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# A BILL FOR AN ACT

RELATING TO INFRASTRUCTURE IMPROVEMENT DISTRICTS.

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

1           SECTION 1. The legislature finds that insufficient  
2 infrastructure is one of the factors contributing to the lack of  
3 affordable housing in Hawaii. Forcing developers to fund  
4 necessary infrastructure improvements has led to delays in  
5 construction and the development only of homes with high price  
6 points so that the developers may recover their high  
7 construction costs. Most jurisdictions fund infrastructure  
8 improvements through real property taxes. However, real  
9 property taxes in Hawaii are relatively low, which hinders the  
10 ability of the counties to fund infrastructure.

11           The purpose of this Act is to implement a constitutional  
12 amendment to amend the exclusive authority of the counties to  
13 tax real property and to provide the legislature with the  
14 authority to establish a surcharge on taxation of certain  
15 property within an infrastructure improvement district.

16           More specifically, this measure establishes a mechanism to  
17 fund infrastructure improvements by establishing a surcharge on



1 taxation of real property parcels near transit stations, but  
2 making the application of the surcharge dependent upon:

3 (1) An appropriation of funds for infrastructure  
4 improvements around the applicable transit station;  
5 and

6 (2) The parcel near that transit station being sold or  
7 developed after the appropriation of funds.

8 Thus, property that does not change ownership will not be  
9 subject to the surcharge.

10 SECTION 2. Chapter 206E, Hawaii Revised Statutes, is  
11 amended by adding a new part to be appropriately designated and  
12 to read as follows:

13 "PART . INFRASTRUCTURE IMPROVEMENT DISTRICTS

14 §206E-A Definitions. As used in this part:

15 "Infrastructure improvement district" means the land within  
16 two thousand feet of a transit station. The area around each  
17 transit station shall be considered a separate infrastructure  
18 improvement district.

19 "Property" shall have the same meaning as in section 248-1.

20 "Sold" shall not include the transfer of any property to a  
21 trust or any transfer through inheritance.



1 "Transit-oriented development property" means a parcel  
2 completely or partially within two thousand feet of a transit  
3 station; provided that the entire parcel shall be within one  
4 mile of the transit station.

5 **§206E-B Surcharge on transit-oriented development parcels;**  
6 **establishment; purpose.** (a) There is established an annual  
7 surcharge on real property tax on transit-oriented development  
8 properties as provided in this part. The purpose of the  
9 surcharge shall be to fund infrastructure improvements within  
10 infrastructure improvement districts.

11 (b) No surcharge established by this part shall be  
12 assessed on any transit-oriented development property until:

13 (1) An act appropriates funds to the corresponding  
14 infrastructure improvement district for infrastructure  
15 improvements; and

16 (2) After the effective date of an act in paragraph (1),  
17 the transit-oriented development property is sold or  
18 developed.

19 Any transit-oriented development property that does not change  
20 ownership shall not be subject to a surcharge established  
21 pursuant to this part.



1 (c) Any act that appropriates funds to an infrastructure  
2 improvement district for infrastructure improvements shall state  
3 the name of the transit station and the transit-oriented  
4 development district for which the appropriated funds shall be  
5 expended.

6 **§206E-C Applicability.** (a) A corporation, partnership,  
7 limited liability company, or other private business entity that  
8 owns or operates property shall be subject to any applicable  
9 surcharge established by this part. Property of a corporation,  
10 partnership, limited liability company, or other private  
11 businesses shall be assessed the surcharge under its corporate  
12 or entity name.

13 (b) A person or private business that is a wholly owned  
14 subsidiary or acting as an agent or on behalf of a corporation  
15 having its principal place of business outside Hawaii shall be  
16 subject to any applicable surcharge established by this part.

17 (c) Every personal representative, trustee, guardian, or  
18 other fiduciary shall be responsible for the performance of all  
19 acts required by this part with respect to any applicable  
20 surcharge on taxation of property in their fiduciary capacity  
21 and shall be liable for the payment of a surcharge held in the



1 fiduciary's capacity, but shall not be personally liable and may  
2 retain, out of the money or other property that may be obtained  
3 in the fiduciary's capacity, so much as may be necessary to pay  
4 the surcharge, recoup the payment thereof, or recover the amount  
5 paid from the beneficiary to whom property subject to a  
6 surcharge pursuant to this part have been distributed.

7 (d) The penalties provided by section 231-39 for failure  
8 to file a tax return shall be imposed on the amount of the  
9 applicable surcharge for:

10 (1) Failure to pay a surcharge;

11 (2) Failure to file appropriate documentation with regard  
12 to a surcharge; or

13 (3) Failure to correctly report the amount of a surcharge.

14 **§206E-D Amount; levy; assessment.** (a) The amount of the  
15 surcharge assessed each year shall be \$7.50 per \$1,000 of net  
16 taxable value.

17 (b) The surcharge shall be imposed on the most recent  
18 valuation that is assessed by the county where the property is  
19 located for the purpose of determining the annual county  
20 property tax liability.



1 (c) For the purposes of this part, life tenants, personal  
2 representatives, trustees, guardians, or other fiduciaries may  
3 be, and persons holding government property under an agreement  
4 for the conveyance of the same to those persons shall be,  
5 considered as owners during the time any property is held or  
6 controlled by them, including:

7 (1) Lessees holding under any government lease during the  
8 time any property is held;

9 (2) Any tenant occupying government land for a period of  
10 one year or more;

11 (3) Persons holding any property under an agreement to  
12 purchase the same;

13 (4) Persons holding any property under a lease for a term  
14 to last during the lifetime of the lessee; and

15 (5) Persons bearing tax liability on the property during  
16 the time period for which a surcharge on the property  
17 has been assessed.

18 **§206E-E Notice and returns.** (a) The department of land  
19 and natural resources shall maintain on its website a list of  
20 all transit-oriented development parcels and the transit-  
21 oriented development zone associated with those parcels.



1           (b) Within thirty days of the effective date of an act  
2 appropriating funds to an infrastructure improvement district  
3 for infrastructure improvements, the department of land and  
4 natural resources shall indicate which transit-oriented  
5 development parcels shall be subject to the surcharge under this  
6 part if the parcel is sold or developed after the effective date  
7 of the act.

8           (c) Upon recording a fee or lease conveyance of a parcel,  
9 the bureau of conveyances or the office of the assistant  
10 registrar of the land court shall determine whether the  
11 department of land and natural resources has indicated that the  
12 parcel is subject to the surcharge under this part if the parcel  
13 is sold or developed pursuant to subsection (b). If the parcel  
14 is subject to the surcharge pursuant to the indication of the  
15 department of land and natural resources, the bureau of  
16 conveyances or the office of the assistant registrar of the land  
17 court shall inform the applicable county director of finance.

18           (d) Notices of the amount of the surcharge shall be  
19 transmitted by each county through the United States Postal  
20 Service to any property owner subject to the surcharge. Notice  
21 of the surcharge amount shall be transmitted no later than



1 October 31 of each calendar year to the owner's last known  
2 address or place of business.

3 (e) Each county shall by ordinance permit an owner to pay  
4 the surcharge in the same manner provided for the payment of  
5 real property taxes.

6 (f) Whenever any county director of finance finds that  
7 there is not sufficient evidence to form, for assessment  
8 purposes, a sound appraisal of the value of the property or  
9 properties, it may require an owner to file a return within  
10 thirty days of the county's mailing of notice to the owner.  
11 Consideration of and liability for a return, including in  
12 determining the fair market value of a property or properties,  
13 shall be made in the same manner and with the same limitations  
14 as for real property tax returns in the county in which the  
15 property is located.

16 (g) All returns made under this section shall be open to  
17 inspection by the public and shall be admissible in evidence  
18 against the owner making the return, in any state court in any  
19 action wherein the value of the property, or portion thereof,  
20 may be in dispute.





1 (h) Failure to file a return required under this section  
2 shall render the owner liable for payment of an additional sum  
3 equal to the sum defined in and prescribed for failure to file a  
4 tax return under section 231-39(b)(1).

5 (i) If any return is sent by United States registered or  
6 certified mail, a record authenticated by the United States  
7 Postal Service of the registration or certification shall be  
8 considered evidence that the return was delivered to the county  
9 director of finance. The date of registration or certification  
10 shall be deemed the postmarked date for filing purposes.

11 (j) Each county director of finance shall make publicly  
12 available a form for a return related to the surcharge on  
13 property for use in collecting the surcharge.

14 **§206E-F Appeals.** (a) Any owner of property who is  
15 aggrieved by an assessment used to determine the amount of the  
16 surcharge on property for any year or by a refusal to be granted  
17 an exemption from the surcharge may appeal the assessment in the  
18 manner provided in the case of real property tax appeals.

19 (b) No owner shall be deemed to be aggrieved by any  
20 assessment made upon the owner's property that is based upon the  
21 opinion of value set forth in the owner's return unless the



1 owner shows lack of uniformity or inequality as set forth in  
2 section 232-3.

3 (c) Each of the counties shall by ordinance provide for  
4 appeal from an assessment used to determine the amount of the  
5 surcharge and denial of an exemption in the same manner as  
6 provided in the case of real property tax appeals.

7 (d) Any county decision on an appeal for relief or  
8 exemption from the surcharge may be appealed to the tax appeal  
9 court as provided in chapter 232.

10 **§206E-G Disposition of proceeds.** (a) The surcharge shall  
11 be collected by the counties in accordance with this section.  
12 All moneys collected by the counties pursuant to the  
13 establishment of a surcharge shall be paid into each county's  
14 treasury within ten working days after collection and shall be  
15 placed by each county's director of finance in special accounts.  
16 Out of each \$7.50 in revenues generated by the surcharge, the  
17 director of finance of each county shall deduct \$1.50 from the  
18 surcharge to reimburse the county for the costs of assessment,  
19 collection, and disposition of the surcharge incurred by the  
20 county.



1 (b) After the deduction pursuant to subsection (a), the  
2 director of finance of each county shall, on a quarterly basis,  
3 pay the remaining balance of revenue collected under the  
4 surcharge to the state director of finance. The quarterly  
5 payments shall be made after the surcharge has been paid into  
6 the county treasury special accounts and after the disposition  
7 of any appeal.

8 (c) Surcharge payments received by the state director of  
9 finance from the counties shall be deposited into the general  
10 fund.

11 **§206E-H Exemptions.** (a) This part shall not apply to any  
12 property while that property is:

- 13 (1) Not subject to real property taxation;
- 14 (2) Leased, purchased, or otherwise obtained by a lessee,  
15 tenant, purchaser, or homesteader under the Hawaiian  
16 Homes Commission Act of 1920, as amended, a lease of  
17 land made for a term of nine hundred ninety-nine years  
18 under provisions of law that were repealed by  
19 section 3 of Joint Resolution 12, Session Laws of  
20 1949, ratified by the Congress of the United States by  
21 the Act of September 1, 1950;



- 1           (3) Used exclusively for charitable, including property  
2           used for church purposes and cemeteries that are  
3           maintained by a religious organization;
- 4           (4) Used for school purposes including:
- 5           (A) Prekindergarten facilities, including any  
6           property used to administer the executive office  
7           on early learning public prekindergarten program  
8           under section 302L-7;
- 9           (B) Kindergartens, grade schools, junior high  
10          schools, and high schools, which carry on a  
11          program of instruction meeting the requirements  
12          of compulsory school attendance pursuant to  
13          section 302A-1132; and
- 14          (C) Colleges or junior colleges offering a general  
15          program of instruction;
- 16          (5) Owned by a nonprofit corporation to which admission is  
17          restricted by corporate charter to members of a labor  
18          union or government employees' association, one of the  
19          primary purposes of which is to improve employment  
20          conditions of its members;



1           (6) Dedicated to public use by the owner, which dedication  
2           has been accepted by the State or any county, reduced  
3           to writing, and recorded in the bureau of conveyances;

4           (7) Set aside for public use; provided that any exemption  
5           pursuant to this paragraph shall not be for a period  
6           of less than ten years after enactment of Act        ,  
7           Session Laws Hawaii 2020; and

8           (8) Owned by any entity granted a transient accommodations  
9           tax exemption under section 237D-3.

10          (b) No exemption from this part shall be allowed to any  
11          corporation, partnership, limited liability company, or other  
12          private business entity, unless otherwise specified by law.

13          (c) An exemption shall only be granted for property for  
14          which every owner or ownership interest qualifies for one or  
15          more exemptions provided by this section.

16          **§206E-I Enforcement.** (a) The director of taxation shall  
17          administer and enforce this part; provided that each county  
18          director of finance and the state director of finance, as  
19          applicable, shall administer and enforce:



1 (1) The examinations of books and records of any person or  
2 private entity subject to the surcharge on property  
3 tax; and

4 (2) The imposition of penalties upon failure or refusal by  
5 a person or private entity to file a return, sworn  
6 return, or proper return.

7 (b) The department of taxation may contract with any state  
8 or county department or agency for the purposes of implementing  
9 or enforcing this part.

10 (c) The director of taxation may adopt rules pursuant to  
11 chapter 91 to carry out this part.

12 **§206E-J Reports.** No later than twenty days prior to the  
13 convening of each regular session, the department of taxation  
14 shall submit a report to the legislature containing an  
15 accounting of the revenues generated from surcharges imposed  
16 pursuant to this part."

17 SECTION 3. This Act shall take effect upon ratification of  
18 the constitutional amendment proposed in S.B. No. 2074, Regular  
19 Session of 2020, permitting the legislature to establish a  
20 surcharge on taxes on properties to fund infrastructure  
21 improvements.



**Report Title:**

Transit-Oriented Development; Tax; Surcharge; Property;  
Infrastructure Improvement District

**Description:**

Establishes an annual surcharge on property taxes on parcels within an infrastructure improvement district that are sold or developed after an appropriation is made to improve the infrastructure of that district. Authorizes the counties to retain a portion of the surcharge for administrative expenses. Exempts from the surcharge parcels that do not change ownership. (SD1)

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

