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# 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 III to be appropriately  
3 designated 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           (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 all  
9 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



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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,



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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."



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1 SECTION 3. 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 paid into the  
8 state treasury quarterly, within ten working days after  
9 collection, and shall be placed by the director of finance in  
10 special accounts. Out of the revenues generated by county  
11 surcharges on transient accommodations tax paid into each  
12 respective state treasury special account, the director of  
13 finance shall deduct per cent of the gross proceeds of a  
14 respective county's surcharge on transient accommodations tax to  
15 reimburse the State for the costs of assessment, collection,  
16 disposition, and oversight of the county surcharge on transient  
17 accommodations tax incurred by the State. Amounts retained  
18 shall be general fund realizations of the State.

19 (b) The amounts deducted for costs of assessment,  
20 collection, and disposition of the county surcharge on transient  
21 accommodations tax shall be withheld from payment to the



1 counties by the State out of the county surcharges on transient  
2 accommodations tax collected for the current calendar year.

3 (c) For the purpose of this section, the costs of  
4 assessment, collection, disposition, and oversight of the county  
5 surcharges on transient accommodations tax shall include any and  
6 all costs, direct or indirect, that are deemed necessary and  
7 proper to effectively administer this section and section  
8 237D- .

9 (d) After the deduction and withholding of the costs under  
10 subsections (a) and (b), the director of finance shall pay the  
11 remaining balance on a quarterly basis to the director of  
12 finance of each county that has adopted a county surcharge on  
13 transient accommodations tax under section 46- . The payments  
14 shall be made after the county surcharges on transient  
15 accommodations tax have been paid into the state treasury  
16 special accounts. All county surcharges on transient  
17 accommodations tax collected shall be distributed by the  
18 director of finance to the county in which the county surcharge  
19 on transient accommodations tax is generated and shall be a  
20 general fund realization of the county."



1 SECTION 4. 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) Six per cent for the period beginning on July 1, 2019,  
17 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 June 30, 2019; and

12           (4) Six per cent on the fair market rental value for the  
13           period beginning on July 1, 2019, and thereafter."

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

15           "(e) Notwithstanding the tax rates established in  
16 subsections ~~[(a)-(5)]~~ (a) and ~~[(e)-(3)],~~ (c), the tax rates  
17 levied, assessed, and collected pursuant to subsections (a) and  
18 (c) shall be 10.25 per cent for the period beginning on January  
19 1, 2018, to ~~[December 31, 2030;]~~ June 30, 2019, and seven per  
20 cent for the period beginning on July 1, 2019, to December 31,  
21 2030; provided that:



- 1           (1) The tax revenues levied, assessed, and collected  
2           pursuant to this subsection that are in excess of the  
3           revenues realized from the levy, assessment, and  
4           collection of tax at the [~~9.25 per cent~~] rate  
5           established in subsections (a) and (c) shall be  
6           deposited quarterly into the mass transit special fund  
7           established under section 248-2.7; and
- 8           (2) If a court of competent jurisdiction determines that  
9           the amount of county surcharge on state tax revenues  
10          deducted and withheld by the State, pursuant to  
11          section 248-2.6, violates statutory or constitutional  
12          law and, as a result, awards moneys to a county with a  
13          population greater than five hundred thousand, then an  
14          amount equal to the monetary award shall be deducted  
15          and withheld from the tax revenues deposited under  
16          paragraph (1) into the mass transit special fund, and  
17          those funds shall be a general fund realization of the  
18          State.

19           The remaining tax revenues levied, assessed, and collected  
20          at the [~~9.25 per cent~~] tax rate established pursuant to



1 subsections (a) and (c) shall be distributed in accordance with  
2 section 237D-6.5(b)."

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

5 "§237D-6.5 Remittances [~~, distribution to counties~~]. (a)

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

10 (b) Except for the revenues collected pursuant to section  
11 237D-2(e), revenues collected under this chapter shall be  
12 distributed in the following priority, with the excess revenues  
13 to be deposited into the general fund:

14 (1) \$1,500,000 shall be allocated to the Turtle Bay  
15 conservation easement special fund beginning July 1,  
16 2015, for the reimbursement to the state general fund  
17 of debt service on reimbursable general obligation  
18 bonds, including ongoing expenses related to the  
19 issuance of the bonds, the proceeds of which were used  
20 to acquire the conservation easement and other real  
21 property interests in Turtle Bay, Oahu, for the



1 protection, preservation, and enhancement of natural  
2 resources important to the State, until the bonds are  
3 fully amortized;

4 (2) \$26,500,000 shall be allocated to the convention  
5 center enterprise special fund established under  
6 section 201B-8;

7 (3) \$82,000,000 shall be allocated to the tourism special  
8 fund established under section 201B-11; provided that:

9 (A) Beginning on July 1, 2012, and ending on June 30,  
10 2015, \$2,000,000 shall be expended from the  
11 tourism special fund for development and  
12 implementation of initiatives to take advantage  
13 of expanded visa programs and increased travel  
14 opportunities for international visitors to  
15 Hawaii;

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

17 (i) \$1,000,000 shall be allocated for the  
18 operation of a Hawaiian center and the  
19 museum of Hawaiian music and dance at the  
20 Hawaii convention center; and



1                   (ii) 0.5 per cent of the \$82,000,000 shall be  
2                   transferred to a sub-account in the tourism  
3                   special fund to provide funding for a safety  
4                   and security budget, in accordance with the  
5                   Hawaii tourism strategic plan 2005-2015; and  
6           (C) Of the revenues remaining in the tourism special  
7           fund after revenues have been deposited as  
8           provided in this paragraph and except for any sum  
9           authorized by the legislature for expenditure  
10           from revenues subject to this paragraph,  
11           beginning July 1, 2007, funds shall be deposited  
12           into the tourism emergency special fund,  
13           established in section 201B-10, in a manner  
14           sufficient to maintain a fund balance of  
15           \$5,000,000 in the tourism emergency special fund;  
16   ~~[(4) \$103,000,000 shall be allocated as follows: Kauai~~  
17   ~~county shall receive 14.5 per cent, Hawaii county~~  
18   ~~shall receive 18.6 per cent, city and county of~~  
19   ~~Honolulu shall receive 44.1 per cent, and Maui county~~  
20   ~~shall receive 22.8 per cent; provided that commencing~~  
21   ~~with fiscal year 2018-2019, a sum that represents the~~



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

12 [(+5)] (4) \$3,000,000 shall be allocated to the special land  
13 and development fund established under section 171-19;  
14 provided that the allocation shall be expended in  
15 accordance with the Hawaii tourism authority strategic  
16 plan for:

- 17 (A) The protection, preservation, maintenance, and
- 18 enhancement of natural resources, including
- 19 beaches, important to the visitor industry;
- 20 (B) Planning, construction, and repair of facilities;
- 21 and



1           (C) Operation and maintenance costs of public lands,  
 2                           including beaches, connected with enhancing the  
 3                           visitor experience.

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

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

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

18           SECTION 6. Statutory material to be repealed is bracketed  
 19 and stricken. New statutory material is underscored.



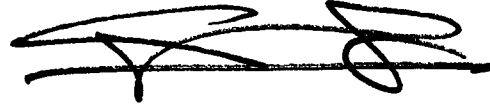
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1 SECTION 7. This Act shall take effect upon its approval.

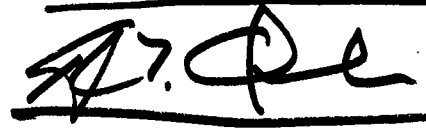
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INTRODUCED BY:





Scott. Sam



JAN 24 2019





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**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 7%. Repeals the distribution of transit accommodations tax revenues to the counties.

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

