A BILL FOR AN ACT

RELATING TO THE TRANSIENT ACCOMMODATIONS TAX.

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

SECTION 1. Chapter 46, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§46- County surcharge on transient accommodations tax. (a) Each county may establish a surcharge on transient accommodations tax at the rate enumerated in section 237D- . A county electing to establish this surcharge shall do so by ordinance; provided that:

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

(2) The ordinance shall be adopted prior to December 31, 2019; and

(3) No county surcharge on transient accommodations tax that may be authorized under this subsection shall be levied prior to January 1, 2021, or after December 31, 2036."
Notice of the public hearing required under paragraph (1) shall be published in a newspaper of general circulation within the county at least twice within a period of thirty days immediately preceding the date of the hearing.

(b) A county electing to exercise the authority granted under this section shall notify the director of taxation within ten days after the county has adopted a surcharge on transient accommodations tax ordinance and, beginning no earlier than January 1, 2021, the director of taxation shall levy, assess, collect, and otherwise administer the county surcharge on transient accommodations tax.

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

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

"§237D- County surcharge on transient accommodations tax; administration. (a) The county surcharge on transient accommodations tax, upon the adoption of county ordinances and in accordance with the requirements of section 46- , shall be
levied, assessed, and collected as provided in this section on all gross rental, gross rental proceeds, and fair market rental value taxable under this chapter. No county shall set the surcharge on state tax at a rate greater than two per cent of all gross rental, gross rental proceeds, and fair market rental value taxable under this chapter. All provisions of this chapter shall apply to the county surcharge on transient accommodations tax. With respect to the surcharge, the director of taxation shall have all the rights and powers provided under this chapter. In addition, the director of taxation shall have the exclusive rights and power to determine the county or counties in which a person is engaged in the business of furnishing transient accommodations and, in the case of a person engaged in the business of furnishing transient accommodations in more than one county, the director shall determine, through apportionment or other means, that portion of the surcharge on transient accommodations tax attributable to business conducted in each county.

(b) Each county surcharge on transient accommodations tax that may be adopted pursuant to section 46- , shall be levied beginning in the taxable year after the adoption of the relevant
county ordinance; provided that no surcharge on transient accommodations tax may be levied prior to January 1, 2021.

(c) The county surcharge on transient accommodations tax, if adopted, shall be imposed on the gross rental, gross rental proceeds, and fair market rental value of all written contracts that require the passing on of the taxes imposed under this chapter; provided that if the gross rental, gross rental proceeds, and fair market rental value are received as payments beginning in the taxable year in which the taxes become effective, on contracts that were entered into before June 30 of the year prior to the taxable year in which the taxes become effective and that do not provide for the passing on of increased rates of taxes, the county surcharge on transient accommodations tax shall not be imposed on the gross rental, gross rental proceeds, and fair market rental value covered under those written contracts. The county surcharge on transient accommodations tax shall be imposed on the gross rental, gross rental proceeds, and fair market rental value from all contracts entered into on or after June 30 of the year prior to the taxable year in which the taxes become effective,
regardless of whether the contract allows for the passing on of any tax or any tax increases.

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

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

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

(g) The penalties provided by section 231-39 for failure to file a tax return shall be imposed on the amount of surcharge due on the return being filed for the failure to file the schedule required to accompany the return. In addition, there shall be added to the tax an amount equal to ten per cent of the
amount of the surcharge and tax due on the return being filed for the failure to file the schedule or the failure to correctly report the assignment of the transient accommodations tax by taxation district on the schedule required under subsection (f).

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

SECTION 3. New statutory material is underscored.

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

(1) If none of the counties adopt an ordinance to levy a county surcharge on transient accommodations tax by December 31, 2019, this Act shall be repealed on December 31, 2019;
(2) If any county does not adopt an ordinance to levy a county surcharge on transient accommodations tax by December 31, 2019, it shall be prohibited from adopting an ordinance pursuant to this Act, unless otherwise authorized by the legislature through a separate legislative act; and

(3) If an ordinance to levy a county surcharge on transient accommodations tax is adopted by December 31, 2019:

(A) The ordinance shall be repealed on December 31, 2036; and

(B) This Act shall be repealed on December 31, 2036.
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.