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) Upon establishment of a registration process to verify

compliance by a transient accommodation operator or plan manager

with each applicable county land use ordinance, 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 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 taxpayer 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 as the taxation district in which the transient

accommodation or resort time share vacation unit is located.

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
taxiarn 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 prior
to 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 prior to 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 prior to 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. (SD1)

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