

---

---

# A BILL FOR AN ACT

RELATING TO EDUCATION FUNDING.

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

1           SECTION 1. The Hawaii Revised Statutes is amended by  
2 adding a new chapter to be appropriately designated and to read  
3 as follows:

4   "CHAPTER

5           EDUCATION SURCHARGE ON RESIDENTIAL INVESTMENT PROPERTY AND  
6   VISITOR ACCOMMODATIONS

7           § -1 Definitions. As used in this chapter:

8           "Department" means the department of   .

9           "Operator" means any person, corporation, copartnership,  
10 company, or other private business entity that operates one or  
11 more visitor accommodation, whether as owner or proprietor or as  
12 lessee, sublessee, mortgagee in possession, licensee, or  
13 otherwise, or engaging or continuing in any service business  
14 that involves the furnishing of visitor accommodations.

15           "Plan manager" shall have the same meaning as in section  
16 237D-1.

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



1 "Residential investment property" means all land that is  
 2 dedicated for residential use for which the owner does not  
 3 qualify for a county homeowner's exemption, including  
 4 appurtenances thereof and the buildings, structures, fences, and  
 5 improvements erected on or affixed to the same, and any fixture  
 6 that is erected on or affixed to the land, buildings,  
 7 structures, fences, and improvements, including all machinery  
 8 and other mechanical or allied equipment and the foundations  
 9 thereof, and including apartments and condominiums.

10 "Visitor accommodation" means all transient accommodations  
 11 and resort time share vacation units, as defined in section  
 12 237D-1, and any other dwelling or lodging located in the State  
 13 and let by an owner or operator for less than one hundred eighty  
 14 days.

15 **§ -2 Education surcharges on residential investment**  
 16 **property and visitor accommodations; establishment; purpose.**

17 (a) There is established an education surcharge on residential  
 18 investment property and an education surcharge on visitor  
 19 accommodations in the State. The purpose of the education  
 20 surcharges is to increase funding for the department of  
 21 education.



1 (b) Revenue generated by the education surcharges on  
2 residential investment property and visitor accommodations shall  
3 be deposited into the education special fund established by  
4 section -10 and shall be in addition to all other funds  
5 appropriated for the department of education.

6 § -3 **Applicability.** (a) There shall be levied,  
7 assessed, and collected an education surcharge on residential  
8 investment property and an education surcharge on visitor  
9 accommodations as provided in this chapter.

10 (b) The education surcharges on residential investment  
11 property and visitor accommodations shall be imposed statewide  
12 on all:

13 (1) Residential investment properties; and

14 (2) Visitor accommodations, regardless of occupancy.

15 (c) A corporation, copartnership, company, or other  
16 private business entity that owns or operates residential  
17 investment property or one or more visitor accommodation shall  
18 be subject to any applicable education surcharge established by  
19 this chapter. Property of a corporation, copartnership,  
20 company, or other private business entity shall be assessed the  
21 education surcharge under its corporate or firm name.



1 (d) A person or private business that is a wholly owned  
2 subsidiary or acting as an agent or on behalf of a corporation  
3 having its principal place of business outside the State shall  
4 be subject to any applicable education surcharge on residential  
5 investment property established by this chapter.

6 (e) Every personal representative, trustee, guardian, or  
7 other fiduciary shall be responsible for the performance of all  
8 acts required by this chapter with respect to any applicable  
9 education surcharge on residential investment property or  
10 visitor accommodations in their fiduciary capacity and shall be  
11 liable for the payment of an education surcharge on residential  
12 investment property or visitor accommodations held in the  
13 fiduciary's capacity, but shall not be personally liable and may  
14 retain, out of the money or other property which may be obtained  
15 in the fiduciary's capacity, so much as may be necessary to pay  
16 the education surcharge, recoup the payment thereof, or recover  
17 the amount paid from the beneficiary to whom property or visitor  
18 accommodations subject to an education surcharge pursuant to  
19 this chapter have been distributed.

20 (f) No education surcharge shall be established upon any  
21 property that is not subject to property taxation.



1 (g) The penalties provided by section 231-39 for failure  
2 to file a tax return shall be imposed on the amount of the  
3 applicable education surcharge for failure to file a return  
4 pursuant to section -5(f), or failure to pay, file appropriate  
5 documentation with regard to, or correctly report the amount of  
6 the surcharge.

7 § -4 Education surcharge on residential investment

8 property; levy; assessment. (a) There is levied and shall be  
9 assessed and collected each year on all residential investment  
10 property in the State an education surcharge as follows:

11		
12	Property value	Surcharge per \$1,000 of total property value
13	\$ and over	\$7.50

14 (b) The education surcharge on residential investment  
15 property shall be imposed on the most recent valuation that is  
16 assessed by the county where the property is located for the  
17 purpose of determining the annual county property tax liability.

18 (c) For the purposes of this chapter, life tenants,  
19 personal representatives, trustees, guardians, or other  
20 fiduciaries may be, and persons holding government property  
21 under an agreement for the conveyance of the same to such



1 persons shall be, considered as owners during the time any  
2 residential investment property is held or controlled by them as  
3 such, including:

4 (1) Lessees holding under any government lease during the  
5 time any residential investment property is held;

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

8 (3) Persons holding any residential investment property  
9 under an agreement to purchase the same;

10 (4) Persons holding any residential investment property  
11 under a lease for a term to last during the lifetime  
12 of the lessee; and

13 (5) Persons bearing tax liability on the property during  
14 the time period for which an education surcharge on  
15 the property has been assessed.

16 **§ -5 Education surcharge on residential investment**

17 **property; notice and returns.** (a) Notices of the amount of the  
18 education surcharge on residential investment property shall be  
19 transmitted by each county through the United States mail to any  
20 property owner subject to the education surcharge. Notice of  
21 the education surcharge amount shall be transmitted no later



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

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

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

16 (d) 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 residential investment property,  
20 or portion thereof, covered by the return, may be in dispute.



1 (e) No owner shall be deemed to be aggrieved by any  
2 assessment made upon the owner's property that is based upon the  
3 opinion of value set forth in the owner's return unless the  
4 owner shows lack of uniformity or inequality as set forth in  
5 section 232-3.

6 (f) Failure to file a return required under this section  
7 shall render the owner liable for payment of an additional sum  
8 equal to the sum defined in and prescribed for failure to file a  
9 tax return under section 231-39(b)(1).

10 (g) If any return is sent by United States registered or  
11 certified mail, a record authenticated by the United States  
12 Postal Service of the registration or certification shall be  
13 considered evidence that the return was delivered to the county  
14 director of finance. The date of registration or certification  
15 shall be deemed the postmarked date for filing purposes.

16 (h) Each county director of finance shall make publicly  
17 available a form for a return related to the education surcharge  
18 on residential investment property for use in collecting the  
19 education surcharge.

20 § -6 Education surcharge on residential investment  
21 property; appeals. (a) Any owner of residential investment





1 property who is aggrieved by an assessment used to determine the  
2 amount of the education surcharge on residential investment  
3 property for any year may appeal from the assessment in the  
4 manner provided in the case of real property tax appeals.

5 (b) Each of the counties shall by ordinance provide for  
6 appeals from assessments used to determine the amount of the  
7 education surcharge in the same manner as provided in the case  
8 of real property tax appeals.

9 (c) Any county decision on an appeal for relief from the  
10 education surcharge may be appealed to the tax appeal court as  
11 provided in chapter 232.

12 **§ -7 Education surcharge on visitor accommodations;**  
13 **levy; assessment.** (a) There is levied and shall be assessed  
14 and collected each year on all visitor accommodations in the  
15 State an education surcharge.

16 (b) The education surcharge shall be:  
17 (1) \$ per day for each visitor accommodation  
18 furnished by an operator or plan manager at a cost of  
19 less than \$150 per day; and



1           (2) \$           per day for each visitor accommodation  
2           furnished by an operator or plan manager at a cost of  
3           \$150 per day or greater.

4           (c) On or before the final day of each calendar month,  
5 every operator or plan manager subject to an education surcharge  
6 on visitor accommodations during the preceding calendar month  
7 shall file a sworn return with the county director of finance  
8 using a form that the county director of finance shall prescribe  
9 together with a remittance for the amount of the education  
10 surcharge required by this section.

11           (d) Notwithstanding subsection (c), the county director of  
12 finance, for good cause and in writing, may permit an operator  
13 or plan manager to file a return required by this section and  
14 make payments thereon:

15           (1) On a quarterly basis during the calendar or fiscal  
16           year, the return and payment to be made on or before  
17           the final day of the calendar month after the close of  
18           each quarter; or

19           (2) On a semiannual basis during the calendar or fiscal  
20           year, the return and payment to be made no later than



1           the final day of the calendar month after the close of  
2           each six-month period;  
3 provided that the county director of finance is satisfied that  
4 the grant of the permit will not unduly jeopardize the  
5 collection of the surcharge due thereon or the operator's or  
6 plan manager's total surcharge liability.

7           (e) The county director of finance, for good cause and in  
8 writing, may permit an operator or plan manager to make monthly  
9 payments based on the operator's or plan manager's estimated  
10 quarterly or semiannual surcharge liability; provided that the  
11 operator or plan manager files a reconciliation return at the  
12 end of each quarter or each six-month period during the calendar  
13 or fiscal year.

14           (f) If an operator or plan manager filing a return on a  
15 quarterly or semiannual basis, as provided in this section,  
16 becomes delinquent in either the filing of the return or the  
17 payment of the education surcharge due thereon, or if the  
18 liability of an operator or plan manager who possesses a permit  
19 to file a return and make payments on a quarterly or semiannual  
20 basis exceeds \$5,000 during the calendar year, or if the county  
21 director of finance determines that a quarterly or semiannual



1 filing of return would unduly jeopardize the proper  
2 administration of this chapter, including the assessment or  
3 collection of the education surcharge on visitor accommodations,  
4 the county director of finance, at any time, may revoke an  
5 operator's or plan manager's permit, in which case the operator  
6 or plan manager shall then be required to file an immediate  
7 return and make payments thereon as provided in subsection (c).

8 (g) Payments collected by the department under this  
9 section shall be deposited into the education special fund  
10 established by section -10.

11 **§ -8 Education surcharge on residential investment**  
12 **property; disposition of proceeds.** (a) The education surcharge  
13 on residential investment property shall be collected by the  
14 counties in accordance with this section. All moneys collected  
15 by the counties pursuant to the establishment of the education  
16 surcharge shall be paid into each county's treasury within ten  
17 working days after collection and shall be placed by each  
18 county's director of finance in a special account. Out of the  
19 revenues generated by the education surcharge paid into each  
20 respective county treasury special account, the director of  
21 finance of each county shall deduct five per cent of the gross



1 proceeds of a respective county's education surcharge collection  
2 to reimburse the county for the costs of assessment, collection,  
3 and disposition of the education surcharge incurred by the  
4 county.

5 (b) The amounts deducted for costs of assessment,  
6 collection, and disposition of the education surcharge pursuant  
7 to subsection (a) shall be withheld from payment to the State by  
8 each county out of the revenue generated by the education  
9 surcharge for the current calendar year.

10 (c) For the purpose of this section, the costs of  
11 assessment, collection, and disposition of the education  
12 surcharge shall include any and all costs, direct or indirect,  
13 that are deemed necessary and proper to effectively administer  
14 this chapter.

15 (d) After the deduction and withholding of the costs under  
16 subsections (a) and (b), the director of finance of each county  
17 shall, on a quarterly basis, remit the remaining balance of  
18 revenue collected under the education surcharge to the state  
19 director of finance. The quarterly remittance shall be made  
20 after the education surcharge has been deposited into a county



1 treasury special account and after the disposition of any  
2 appeal.

3 (e) Education surcharge payments received by the state  
4 director of finance from the counties shall be deposited into  
5 the education special fund established by section -10.

6 § -9 Enforcement. (a) The department shall administer  
7 and enforce this chapter; provided that each county director of  
8 finance and the state director of finance, as applicable, shall  
9 administer and enforce:

10 (1) The examinations of books and records by any person or  
11 private entity subject to the education surcharge on  
12 residential investment property or the education  
13 surcharge on visitor accommodations; and

14 (2) Procedure and powers upon failure or refusal by a  
15 person or private entity to file a return, sworn  
16 return, or proper return.

17 (b) The department may contract with any state or county  
18 department or agency for the purposes of implementing or  
19 enforcing this chapter.

20 (c) The department shall adopt, amend, or repeal rules  
21 pursuant to chapter 91 to carry out this chapter.



1           §   -10   **Education special fund.**   (a)   There is established  
2   within the state treasury a special fund to be known as the  
3   education special fund to be administered by the department and  
4   into which shall be deposited:

- 5           (1)   Proceeds of the education surcharge on residential  
6               investment property established under section     -4;
- 7           (2)   Proceeds of the education surcharge on visitor  
8               accommodations established under section     -7;
- 9           (3)   All other funds received by the department and legally  
10            available for the purposes of the education special  
11            fund; and
- 12           (4)   Interest accrued on all amounts in the education  
13               special fund.

14           (b)   The education special fund shall not be subject to  
15   sections 36-27, 36-30, and 37-53.   Expenditures from the special  
16   fund shall be subject to sections 37-31 and 37-33 through 37-40.  
17   Funds that are credited and transferred back to property owners  
18   from the special fund shall not be considered income and shall  
19   not be subject to state or county taxes.



1 (c) All amounts in the education special fund shall be  
2 exempt from all taxes and surcharges imposed by the State or the  
3 counties."

4 SECTION 2. This Act shall take effect on July 1, 2050.





**Report Title:**

Education Surcharge; Residential Investment Properties; Visitor Accommodations

**Description:**

Establishes education surcharges on residential investment properties and visitor accommodations for the purpose of funding public education. (SB686 HD1)

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

