

JAN 22 2021

---

---

# 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 be appropriately designated and to  
3 read as follows:

4           "§46-     County surcharge on transient accommodations tax.

5           (a) Upon establishment of a registration process to verify  
6 compliance by a transient accommodation operator or plan manager  
7 with each applicable county land use ordinance, each county may  
8 establish a surcharge on transient accommodations tax at the  
9 rate enumerated in section 237D- . A county electing to  
10 establish this surcharge shall do so by ordinance; provided  
11 that:

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

14           (2) The ordinance shall be adopted on or before  
15 December 31, 2022; and

16           (3) No county surcharge on transient accommodations tax  
17 that may be authorized under this subsection shall be



# S.B. NO. 642

1           levied prior to January 1, 2024, or after December 31,  
2           2036.

3 Notice of the public hearing required under paragraph (1) shall  
4 be published in a newspaper of general circulation within the  
5 county at least twice within a period of thirty days immediately  
6 preceding the date of the hearing.

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 adopted a surcharge on transient  
10 accommodations tax ordinance and, beginning no earlier than  
11 January 1, 2024, the director of taxation shall levy, assess,  
12 collect, and otherwise administer the county surcharge on  
13 transient accommodations tax.

14           (c) This surcharge on transient accommodations tax shall  
15 not affect the amounts remitted to a county under section  
16 237D-6.5."

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

20           "§237D-     County surcharge on transient accommodations  
21 tax; administration. (a) The county surcharge on transient



## S.B. NO. 642

1 accommodations tax, upon the adoption of county ordinances and  
2 in accordance with the requirements of section 46- , shall be  
3 levied, assessed, and collected as provided in this section on  
4 all gross rental, gross rental proceeds, and fair market rental  
5 value taxable under this chapter. No county shall set the  
6 surcharge on transient accommodations tax at a rate greater than  
7  per cent of all gross rental, gross rental proceeds, and  
8 fair market rental value taxable under this chapter. All  
9 provisions of this chapter shall apply to the county surcharge  
10 on transient accommodations tax. With respect to the surcharge,  
11 the director shall have all the rights and powers provided under  
12 this chapter.

13 (b) Each county surcharge on transient accommodations tax  
14 that may be adopted pursuant to section 46- shall be levied  
15 beginning in the taxable year after the adoption of the relevant  
16 county ordinance; provided that no surcharge on transient  
17 accommodations tax may be levied prior to January 1, 2024.

18 (c) The county surcharge on transient accommodations tax,  
19 if adopted, shall be imposed on the gross rental, gross rental  
20 proceeds, and fair market rental value of all written contracts  
21 that require the passing on of the taxes imposed under this



1 chapter; provided that if the gross rental, gross rental  
2 proceeds, and fair market rental value are received as payments  
3 beginning in the taxable year in which the taxes become  
4 effective, on contracts that were entered into before June 30 of  
5 the year prior to the taxable year in which the taxes become  
6 effective and the written contracts do not provide for the  
7 passing on of increased rates of taxes, the county surcharge on  
8 transient accommodations tax shall not be imposed on the gross  
9 rental, gross rental proceeds, and fair market rental value  
10 covered under the written contracts. The county surcharge on  
11 transient accommodations tax shall be imposed on the gross  
12 rental, gross rental proceeds, and fair market rental value from  
13 all contracts entered into on or after June 30 of the year prior  
14 to the taxable year in which the taxes become effective,  
15 regardless of whether the contract allows for the passing on of  
16 any tax or any tax increases.

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

20 (e) The director of taxation shall revise the transient  
21 accommodations tax forms to provide for the clear and separate



# S.B. NO. 642

1 designation of the imposition and payment of the county  
2 surchage on transient accommodations tax.

3 (f) The county surcharge on transient accommodations tax  
4 shall be assigned to the taxation district in which the  
5 transient accommodation or resort time share vacation unit is  
6 located. The taxpayer shall file a schedule with the taxpayer's  
7 periodic and annual transient accommodations tax returns  
8 summarizing the amount of taxes assigned to each taxation  
9 district.

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

19 (h) All taxpayers who file on a fiscal year basis whose  
20 fiscal year ends after December 31 of the year prior to the  
21 taxable year in which the taxes become effective shall file a



1 short period annual return for the period preceding January 1 of  
2 the taxable year in which the taxes become effective. Each  
3 fiscal year taxpayer shall also file a short period annual  
4 return for the period starting on January 1 of the taxable year  
5 in which the taxes become effective and ending before January 1  
6 of the following year."

7 SECTION 3. Chapter 248, Hawaii Revised Statutes, is  
8 amended by adding a new section to be appropriately designated  
9 and to read as follows:

10 "§248- County surcharge on transient accommodations tax;  
11 disposition of proceeds. (a) If adopted by county ordinance,  
12 all county surcharges on transient accommodations tax collected  
13 by the director of taxation shall be paid into the state  
14 treasury quarterly, within ten working days after collection,  
15 and shall be placed by the director of finance in special  
16 accounts. Out of the revenues generated by county surcharges on  
17 transient accommodations tax paid into each respective state  
18 treasury special account, the director of finance shall deduct  
19 \_\_\_\_\_ per cent of the gross proceeds of a respective county's  
20 surcharge on transient accommodations tax to reimburse the State  
21 for the costs of assessment, collection, disposition, and



## S.B. NO. 642

1 oversight of the county surcharge on transient accommodations  
2 tax incurred by the State. Amounts retained shall be general  
3 fund realizations of the State.

4 (b) The amounts deducted for costs of assessment,  
5 collection, and disposition of the county surcharge on transient  
6 accommodations tax shall be withheld from payment to the  
7 counties by the State out of the county surcharges on transient  
8 accommodations tax collected for the current calendar year.

9 (c) For the purpose of this section, the costs of  
10 assessment, collection, disposition, and oversight of the county  
11 surcharges on transient accommodations tax shall include any and  
12 all costs, direct or indirect, that are deemed necessary and  
13 proper to effectively administer this section and section  
14 237D- .

15 (d) After the deduction and withholding of the costs under  
16 subsections (a) and (b), the director of finance shall pay the  
17 remaining balance on a quarterly basis to the director of  
18 finance of each county that has adopted a county surcharge on  
19 transient accommodations tax under section 46- . The payments  
20 shall be made after the county surcharges on transient  
21 accommodations tax have been paid into the state treasury



1 special accounts. All county surcharges on transient  
2 accommodations tax collected shall be distributed by the  
3 director of finance to the county in which the county surcharge  
4 on transient accommodations tax is generated and shall be a  
5 general fund realization of the county."

6 SECTION 4. New statutory material is underscored.

7 SECTION 5. This Act shall take effect upon its approval;  
8 provided that:

9 (1) If none of the counties adopt an ordinance to levy a  
10 county surcharge on transient accommodations tax on or  
11 before December 31, 2022, this Act shall be repealed  
12 on January 1, 2023;

13 (2) If any county does not adopt an ordinance to levy a  
14 county surcharge on transient accommodations tax on or  
15 before December 31, 2022, it shall be prohibited from  
16 adopting an ordinance pursuant to this Act, unless  
17 otherwise authorized by the legislature through a  
18 separate legislative act; and

19 (3) If an ordinance to levy a county surcharge on  
20 transient accommodations tax is adopted on or before  
21 December 31, 2022:






# S.B. NO. 642

1 (A) The ordinance shall be repealed on December 31,  
2 2036; and

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

4

INTRODUCED BY: 



# S.B. NO. 642

**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. Sunsets on 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.*

