

JAN 23 2025

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# A BILL FOR AN ACT

RELATING TO VACANT HOMES.

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

1       SECTION 1. The legislature finds that Hawaii residents  
2 substantially subsidize the State's infrastructure through  
3 various forms of taxation, which directly enhances property  
4 values and development opportunities throughout Hawaii. The  
5 legislature further finds that an increasing number of  
6 residential properties are being purchased as second homes and  
7 left largely unoccupied throughout the year, creating adverse  
8 impacts on local communities and failing to contribute  
9 proportionally to the local economy that sustains their value.

10       The legislature additionally finds that vacant second homes  
11 benefit from publicly funded infrastructure, services, and  
12 improvements while not generating the economic activity  
13 typically associated with occupied residences. This creates an  
14 inequitable burden on Hawaii residents who continuously support  
15 local businesses and contribute to the vitality of their  
16 communities through daily economic activity.



1       The purpose of this Act is to recover lost funds from  
2 vacant homes by establishing an equitable tax structure for  
3 vacant second homes by:

4       (1)   Implementing a surcharge equivalent to the general  
5           excise tax on the:

6           (A)   Average market rental rates to incentivize  
7               property owners to either occupy their properties  
8               or make them available for long-term rental,  
9               thereby contributing to Hawaii's housing  
10              inventory and local economy; and

11          (B)   Potential purchases a typical household would  
12               have made had the property been occupied as a  
13               primary residence; and

14       (2)   Using the revenues of the surcharge for a rental  
15           assistance program similar to the federal section 8  
16           tenant-based housing assistance program.

17       SECTION 2. Chapter 201H, Hawaii Revised Statutes, is  
18 amended by adding a new section to part I to be appropriately  
19 designated and to read as follows:



1       "§201H-       Vacant homes special fund. (a) There is  
2       established a vacant homes special fund into which shall be  
3       deposited the following moneys:

4           (1) Appropriations by the legislature;

5           (2) Gifts, donations, and grants from public agencies and  
6           private persons; and

7           (3) All proceeds collected by the department of taxation  
8           pursuant to chapter 237, part       .

9       All interest earned or accrued on moneys deposited in the  
10       fund shall become part of the fund. The fund shall be  
11       administered by the department; provided that the department may  
12       contract with a public or private agency to provide the  
13       day-to-day management of the fund.

14       (b) Subject to legislative authorization, moneys from the  
15       fund may be appropriated to the counties for:

16           (1) Enforcement of chapter 237, part       ; and

17           (2) Rental assistance programs similar to the federal  
18           section 8 tenant-based housing assistance payment  
19           program of the United States Housing Act of 1937, as  
20           amended."



SECTION 3. Chapter 237, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

**"PART . VACANCY SURCHARGE**

**§237-A Definitions.** For the purposes of this part:

"Individual" means a natural person.

"Residential real property" means fee simple or leasehold real property on which is situated:

(1) At least one dwelling unit; or

(2) A residential condominium or cooperative apartment, the primary use of which is occupancy as a residence; that is not subject to taxation pursuant to chapter 237D.

**§237-B Imposition of surcharge.** (a) There is hereby levied and shall be assessed and collected annually, a surcharge against persons licensed pursuant to section 237-9 on account of the person's vacant residential real property in the State. The surcharge shall be measured by the application of rates against the average annual rental value of the residential real property and any general excise tax the State would have collected had the residential real property been occupied and occupants made purchase at spending levels consistent with occupants in that



1 residential real property size and zip code. The surcharge  
2 shall be in addition to any other taxes under this chapter, if  
3 any.

4 (b) All surcharges under this part shall be paid by the  
5 owner of the vacant residential real property.

6 (c) Any residential real property dwelling unit that was  
7 vacant for one hundred eighty days or more during the previous  
8 year shall be assessed a surcharge of:

9 (1) Four per cent of the average annual rental value of  
10 the residential real property published pursuant to  
11 section 237-D; and

12 (2) Four per cent of the amount of general excise tax the  
13 State would have collected had the residential real  
14 property been occupied and occupants made purchases at  
15 spending levels consistent with occupants in that  
16 residential real property size and zip code;

17 provided that if the residential real property consists of more  
18 than one dwelling unit, then the surcharge shall be calculated  
19 on the proportional average annual rental value of the vacant  
20 dwelling unit published pursuant to section 237-D.



(d) Residential real property shall be considered occupied on any day that the residential real property was:

(1) The primary, legal, or voting residence of any individual;

(2) The temporary residence of a military service member or dependent;

(3) The temporary residence of a student;

(4) Rented to an individual for fair market value pursuant to a long-term or short-term rental agreement; or

(5) Lawfully leased, let, or rented for fair market value and for which taxes were paid under chapter 237D.

**§237-C Exemptions.** (a) The surcharge imposed by this part shall not apply for the following periods of vacancy:

(1) For a twelve-month period of vacancy following the death of a registered owner;

(2) For a twenty-four-month period of vacancy for residential real property undergoing redevelopment or major renovations for which the owner can demonstrate tenancy is untenable;



(3) For a twelve-month period of vacancy during which an owner or lessee resides in a hospital or a long-term or supportive-care facility;

(4) For the first six-month period of vacancy during which the owner or lessee is required to live elsewhere to satisfy an employment requirement;

(5) For any period of vacancy necessary to comply with a court order or executive order; or

(6) For any period of vacancy during which the owner or lessee is serving in the military and deployed to another location.

(b) This part shall not apply to any residential real property:

(1) Owned by the United States or for which the United States is a lessee;

(2) Owned by the State and not leased to a private party;

(3) For which the State is the lessee;

(4) Owned by a county and not leased to a private party;

or

(5) For which a county is the lessee.



**§237-D Average annual rental value; calculation. (a)**

Before January 15 of each year, the department of business, economic development, and tourism shall publish on its website a list of average annual rental values for residential real property.

(b) The list of average annual rental values shall include values specific to each geographic region, the size of the residential real property, the number of bedrooms, the number of bathrooms, and other characteristics deemed relevant to rental value by the department of business, economic development, and tourism.

(c) Each owner assessed a surcharge pursuant to section 237-B shall calculate the surcharge based upon the applicable average annual rental value divided by three hundred sixty-five days, then multiplied by the total number of days the residential real property was vacant.

(d) The director of business, economic development, and tourism may adopt, amend, or repeal rules pursuant to chapter 91 to carry out this section.

**§237-E Return and payments; penalties. (a) On or before**

February 20 of each year, each owner of residential real





1 property shall file a return with the director of taxation in a  
2 form pursuant to subsection (b) and notwithstanding section  
3 237-30, shall remit the amount of any surcharge required by  
4 section 237-B.

5 (b) The director of taxation shall prescribe the form of  
6 the return. The return shall:

7 (1) State the number of days during the previous year that  
8 the residential real property was:

9 (A) Occupied for any reason specified by section  
10 237-B(d);

11 (B) Vacant for any reason specified by section  
12 237-C(a); and

13 (C) Vacant for any reason not specified by section  
14 237-C(a);

15 (2) Require the submission of any documents necessary to  
16 support the information submitted pursuant to  
17 paragraph (1); and

18 (3) Include a certification, signed and subject to penalty  
19 pursuant to section 710-1063, that the statements made  
20 are true and correct to the best of the owner's  
21 knowledge, information, and belief.



1       **§237-F Assessment of surcharge upon failure to make**  
2 **return; limitation period; penalty; exceptions; extension by**  
3 **agreement.** (a) If any owner of a residential real property  
4 fails to make a return as required by this part, fails to obtain  
5 a license pursuant to section 237-9, or fails to remit the  
6 amount of any surcharge required by this part, the director of  
7 taxation shall make an estimate of the surcharge liability of  
8 the owner from any information the director of taxation obtains  
9 and, according to the estimate so made, assess any surcharges,  
10 interest, and penalty due from the owner, give notice of the  
11 assessment to the owner and make demand upon the owner for  
12 payment.

13       (b) The penalty for failure to submit a return and the  
14 surcharges under to this section shall be the greater of:

15       (1) No more than \$                   per day for each day after  
16           February 20 or a date specified by the director of  
17           taxation that the return is not filed; or

18       (2) An amount equal to the surcharge that would have been  
19           imposed under this part.

20 The penalty imposed shall be in addition to any surcharge and  
21 interest owed.



1 (c) Interest shall be calculated on the sum owed at the  
2 rate of eight per cent a year.

3 (d) The assessment shall be presumed to be correct until  
4 and unless, upon an appeal duly taken as provided in  
5 section 237-42, the contrary shall be clearly proved by the  
6 owner assessed, and the burden of proof upon that appeal shall  
7 be upon the owner assessed to disprove the correctness of the  
8 assessment.

9 (e) After a return is filed under this part, the director  
10 of taxation shall cause the return to be examined and may make  
11 further audits or investigation as the director of taxation  
12 considers necessary. If the director of taxation determines  
13 that there is a deficiency with respect to the payment of any  
14 surcharge due under this part, the director of taxation shall  
15 assess the surcharge and interest due, give notice of the  
16 assessment to the owner liable, and make demand upon the owner  
17 for payment.

18 (f) Except as otherwise provided by this section, the  
19 amount of surcharge, interest, or penalty imposed by this part  
20 shall be assessed or levied within three years after the return  
21 was filed, or within three years of the due date prescribed for



1 the filing of the return, whichever is later, and no proceeding  
2 in court without assessment for the collection of any of the  
3 surcharge, interest, or penalty shall begin after the expiration  
4 of the period. Where the assessment of the surcharge, interest,  
5 or penalty imposed under this part has been made within the  
6 period of limitation applicable thereto, the surcharge,  
7 interest, or penalty may be collected by levy or by a proceeding  
8 in court under chapter 231; provided that the levy is made or  
9 the proceeding began within fifteen years after the assessment  
10 of the surcharge, interest, or penalty. Notwithstanding any  
11 other provision to the contrary in this section, the limitation  
12 on collection after assessment in this section shall be  
13 suspended for the period:

- 14 (1) The owner or lessee agrees to suspend the period;  
15 (2) The assets of the owner or lessee are in control or  
16 custody of a court in any proceeding before any court  
17 of the United States or any state, and for six months  
18 thereafter;  
19 (3) An offer in compromise under section 231-3(10) is  
20 pending; and



1           (4) During which the owner or lessee is outside the State  
2           if the period of absence is for a continuous period of  
3           at least six months; provided that if at the time of  
4           the owner's return to the State the period of  
5           limitations on collection after assessment would  
6           expire before the expiration of six months from the  
7           date of the owner's return, the period shall not  
8           expire before the expiration of the six months.

9           (g) In the case of a false or fraudulent return with  
10          intent to evade the surcharge, or of a failure to file the  
11          annual return, the surcharge, interest, or penalty may be  
12          assessed or levied at any time; provided that the burden of  
13          proof with respect to the issues of falsity or fraud and intent  
14          to evade surcharge shall be upon the State.

15          (h) Where, before the expiration of the period prescribed  
16          in subsection (f), both the department and the owner have  
17          consented in writing to the assessment or levy of the surcharge,  
18          interest, or penalty after the date fixed by subsection (f), the  
19          surcharge, interest, or penalty may be assessed or levied at any  
20          time prior to the expiration of the period agreed upon. The  
21          period so agreed upon may be extended by subsequent agreements



1 in writing made before the expiration of the period previously  
2 agreed upon.

3       **§237-G Overpayment; refunds.** (a) Upon application by an  
4 owner, if the director of taxation determines that any  
5 surcharge, interest, or penalty has been paid more than once, or  
6 has been erroneously or illegally collected or computed, the  
7 surcharge, interest, or penalty shall be credited by the  
8 director of taxation on any surcharges or taxes then due from  
9 the owner under this part. The director of taxation shall  
10 refund the balance to the owner or the owner's successors,  
11 administrators, executors, or assigns in accordance with section  
12 231-23. No credit or refund shall be allowed for any surcharge,  
13 interest, or penalty imposed by this part, unless a claim for a  
14 credit or refund is filed as follows:

15       (1) If a return is timely filed, or is filed within three  
16 years after the date prescribed for filing the return,  
17 then the credit or refund shall be claimed within  
18 three years after the date the return was filed or the  
19 date prescribed for filing the return, whichever is  
20 later; or



1           (2) If a return is not filed, or is filed more than three  
2           years after the date prescribed for filing the return,  
3           a claim for credit or refund shall be filed within:  
4           (A) Three years after the payment of the surcharge;  
5           or  
6           (B) Three years after the date prescribed for the  
7           filing of the return,  
8 whichever is later.

9           Paragraphs (1) and (2) are mutually exclusive; provided  
10 that this limitation shall not apply to a credit or refund  
11 pursuant to an appeal made under section 237-42.

12           (b) As to all surcharge payments for which a refund or  
13 credit is not authorized by this section, including, without  
14 prejudice to the generality of the foregoing, cases of  
15 unconstitutionality, the remedies provided by appeal or by  
16 section 40-35 are exclusive.

17           **§237-H Records to be kept; examination.** Every owner of  
18 residential real property shall keep in the English language  
19 within the State, and preserve for a period of three years,  
20 suitable records relating to the surcharge levied and assessed  
21 under this part, and other books, records of account, and



1 invoices as may be required by the department, and all those  
2 books, records, and invoices shall be open for examination at  
3 any time by the department or the Multistate Tax Commission  
4 under chapter 255, or the authorized representative thereof.

5       **§237-I Reward.** The department may remit a reward of up to  
6 twenty-five per cent of collected surcharge, interest, and  
7 penalty on a single unreported violation to an individual who  
8 provides evidence leading to the determination that a  
9 residential real property was vacant for more than one hundred  
10 eighty days and for which a surcharge is owed under this part;  
11 provided that the person providing the evidence is not the  
12 owner, related to the owner, employed by the owner, or employed  
13 in a position related to the enforcement of this part or any  
14 other tax law.

15       **§237-J Disposition of tax revenues.** Notwithstanding  
16 section 237-31, all revenues collected under this part shall be  
17 paid into the vacant homes special fund established pursuant to  
18 section 201H- .

19       **§237-K County disclosure of residential properties not**  
20 **occupied by an owner.** No later than January 1 of each year,  
21 each county shall provide to the director of taxation a list of





1 residential real properties that are classified as not being  
2 occupied by the owner, including residential property classified  
3 as "non owner occupied", "residential A", or "residential  
4 investor".

5       **§237-L Administration and enforcement; rules.** (a) All of  
6 the other provisions of chapter 237 not inconsistent with this  
7 part and that may appropriately be applied to the taxes,  
8 persons, circumstances, and situations involved in this part,  
9 including, without prejudice to the generality of the foregoing,  
10 provisions as to penalties and interest, and provisions granting  
11 administrative powers to the department, and provisions for the  
12 assessment, levy, and collection of taxes, shall be applicable  
13 to the surcharges imposed by this part as if the surcharges are  
14 taxes, and to the assessment, levy, and collection thereof.

15       (b) The director of taxation may adopt, amend, or repeal  
16 rules pursuant to chapter 91 to carry out this part."

17       SECTION 4. Section 237-9, Hawaii Revised Statutes, is  
18 amended by amending subsection (a) to read as follows:

19       "(a) Except as provided in this section, any person who  
20 has a gross income or gross proceeds of sales or value of  
21 products upon which a privilege tax or surcharge is imposed by



1 this chapter, as a condition precedent to engaging or continuing  
2 in [~~such~~] the business, or who owns residential real property in  
3 the State that is not used as the owner's primary residence,  
4 shall in writing apply for and obtain from the department of  
5 taxation, upon a one-time payment of the sum of \$20, a license  
6 to engage in and to conduct [~~such~~] the business, upon condition  
7 that the person shall pay the taxes, surcharges, or both,  
8 accruing to the State under this chapter, and the person shall  
9 thereby be duly licensed to engage in and conduct the business.  
10 The license shall not be transferable and shall be valid only  
11 for the person in whose name it is issued and for the  
12 transaction of business at the place designated therein. The  
13 license may be inspected and examined, and shall at all times be  
14 conspicuously displayed at the place for which it is issued[~~-~~];  
15 provided that any license obtained because the person owns  
16 residential real property in the State that is not used as the  
17 owner's primary residence shall be displayed as required by the  
18 director of taxation by rule."

19 SECTION 5. Chapter 237, Hawaii Revised Statutes, is  
20 amended by designating sections 237-1 to 237-7 as part I and  
21 inserting a title before section 237-1 to read as follows:



**"PART I. DEFINITIONS"**

SECTION 6. Chapter 237, Hawaii Revised Statutes, is amended by designating sections 237-8 to 237-49 as part II and inserting a title before section 237-8 to read as follows:

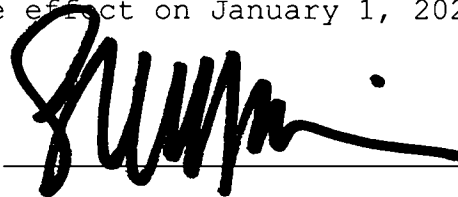
**"PART II. ADMINISTRATION"**

SECTION 7. In codifying the new sections added by section 2 of this Act, the revisor of statutes shall substitute appropriate section numbers for the letters used in designating the new sections in this Act.

SECTION 8. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 9. This Act shall take effect on January 1, 2026.

INTRODUCED BY: \_\_\_\_\_

A handwritten signature in black ink, appearing to be 'J. H. ...', is written over a horizontal line.

# S.B. NO. 1214

**Report Title:**

DOTAX; DBEDT; HHFDC; Counties; Vacant Home Surcharge; GET

**Description:**

Establishes a Vacant Homes Special Fund under the Hawaii Housing Finance and Development Corporation for rental assistance programs. Establishes a general excise tax surcharge on an owner that allows a residential real property to remain vacant for 180 days or more a year. Requires persons who own residential real property, but do not live there, to obtain a general excise tax license. Requires the counties to disclose to the Department of Taxation a list of properties classified as not being occupied by an owner of that property. Requires the Department of Business, Economic Development, and Tourism to calculate average annual rental value for the basis for the surcharge amount.

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

