

SECTION 4. Notwithstanding the sums hereinabove stated as interest upon judgments against the State, payment of interest shall be limited to the period from the date of judgment, if applicable, to thirty days after the effective date of this Act, as provided in section 662-8, Hawaii Revised Statutes, for those cases to which the statute applies.

SECTION 5. All unexpended and unencumbered balances of the appropriations made in this Act as of the close of business on June 30, 2015, shall lapse.

SECTION 6. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act, which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 7. This Act shall take effect upon its approval.

(Approved May 13, 2014.)

## ACT 81

H.B. NO. 2434

A Bill for an Act Relating to the Transient Accommodations Tax.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to establish a method to use transient accommodations tax revenues to pay for the debt service on revenue bonds, the proceeds of which will be used to acquire the conservation easement in Turtle Bay, Oahu. This Act:

- (1) Authorizes the Hawaii tourism authority to issue \$40,000,000 in revenue bonds and use the proceeds to acquire a conservation easement in Turtle Bay, Oahu;
- (2) Allocates transient accommodations tax revenues of \$3,000,000 annually to the Hawaii tourism authority for use to pay the debt service on the revenue bonds;
- (3) Reduces the transient accommodations tax revenue allocation to the convention center enterprise special fund from \$33,000,000 to \$26,500,000; and
- (4) Requires the Hawaii tourism authority and department of budget and finance to restructure the convention center debt owed to the department to accommodate an annual payment for debt service of not more than \$16,500,000.

As a result of the events specified above, this Act is intended to produce an additional \$3,500,000 in transient accommodations tax revenues to the general fund.

SECTION 2. Chapter 201B, Hawaii Revised Statutes, is amended by adding two new sections to be appropriately designated and to read as follows:

**“§201B-A Revenue bonds for conservation easement in Turtle Bay, Oahu.**

- (a) As authorized by section 6 of Act , Session Laws of Hawaii 2014, the authority shall issue revenue bonds to acquire a conservation easement in Turtle

Bay, Oahu. The public shall have perpetual public access to said conservation easement. The conservation easement shall be in compliance with chapter 198.

Prior to executing the agreement to acquire the conservation easement, the authority shall:

- (1) Obtain an appraisal and perform its due diligence on the conservation easement and property rights proposed to be acquired; and
- (2) Offer to hold an informational briefing for the legislature. The offer shall be made through the president of the senate and speaker of the house of representatives.

(b) For the purpose of this section, the authority shall be deemed a "department" and the acquisition of the conservation easement shall be deemed an "undertaking" under chapter 39.

(c) The revenue bonds issued to acquire the conservation easement shall be secured by and payable from the transient accommodations tax revenues allocated to the Turtle Bay conservation easement special fund established pursuant to section 201B-B. For this purpose, the revenues allocated shall be deemed "user taxes" for the undertaking.

(d) The revenue bonds shall be issued in accordance with chapter 39, part III. The authority shall request the director of finance, on behalf of the authority, to perform the duties specified under section 39-68 regarding the preparation, sale, and administration of the revenue bonds.

**§201B-B Turtle Bay conservation easement special fund.** (a) There is established the Turtle Bay conservation easement special fund.

(b) Transient accommodations tax revenues allocated to the Turtle Bay conservation easement special fund pursuant to section 237D-6.5 shall be deposited into the special fund. All interest earned on the moneys in the special fund shall be credited to the special fund.

(c) Moneys in the Turtle Bay conservation easement special fund shall be expended to pay the debt service on revenue bonds issued to acquire the conservation easement in Turtle Bay, Oahu, pursuant to section 201B-A.

(d) The Turtle Bay conservation easement special fund shall be exempt from the central service expenses of section 36-27 and departmental administrative expenses of section 36-30."

SECTION 3. Section 201B-8, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Moneys in the convention center enterprise special fund shall be used by the authority for the payment of any and all ~~[debt service]~~ of the following:

- (1) Debt owed to the department of budget and finance relating to the convention center~~[- any expense]~~; provided that, after the restructuring required by section 5 of Act ., Session Laws of Hawaii 2014, the annual debt service payment owed to the department shall not exceed \$16,500,000 from fiscal year 2014-2015 until fully retired; and
- (2) Expenses arising from any and all use, operation, maintenance, alteration, improvement, or any unforeseen or unplanned repairs of the convention center, including without limitation the food and beverage service and parking service provided at the convention center facility, the sale of souvenirs, logo items, or other items, for any future major repair, maintenance, and improvement of the convention center facility as a commercial enterprise or as a world class facility for conventions, entertainment, or public events, and for marketing the facility pursuant to section 201B-7(a)(7)."

SECTION 4. Section 237D-6.5, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Revenues collected under this chapter shall be distributed as follows, with the excess revenues to be deposited into the general fund:

- (1) ~~[\$33,000,000]~~ \$26,500,000 shall be allocated to the convention center enterprise special fund established under section 201B-8;
- (2) \$82,000,000 shall be allocated to the tourism special fund established under section 201B-11; provided that:
  - (A) Beginning on July 1, 2012, and ending on June 30, 2015, \$2,000,000 shall be expended from the tourism special fund for development and implementation of initiatives to take advantage of expanded visa programs and increased travel opportunities for international visitors to Hawaii;
  - (B) Of the \$82,000,000 allocated:
    - (i) \$1,000,000 shall be allocated for the operation of a Hawaiian center and the museum of Hawaiian music and dance at the Hawaii convention center; and
    - (ii) 0.5 per cent of the \$82,000,000 shall be transferred to a sub-account in the tourism special fund to provide funding for a safety and security budget, in accordance with the Hawaii tourism strategic plan 2005-2015; and
  - (C) Of the revenues remaining in the tourism special fund after revenues have been deposited as provided in this paragraph and except for any sum authorized by the legislature for expenditure from revenues subject to this paragraph, beginning July 1, 2007, funds shall be deposited into the tourism emergency trust fund, established in section 201B-10, in a manner sufficient to maintain a fund balance of \$5,000,000 in the tourism emergency trust fund;
- (3) \$93,000,000 shall be allocated as follows: Kauai county shall receive 14.5 per cent, Hawaii county shall receive 18.6 per cent, city and county of Honolulu shall receive 44.1 per cent, and Maui county shall receive 22.8 per cent; provided that commencing with fiscal year 2018-2019, a sum that represents the difference between a county public employer’s annual required contribution for the separate trust fund established under section 87A-42 and the amount of the county public employer’s contributions into that trust fund shall be retained by the state director of finance and deposited to the credit of the county public employer’s annual required contribution into that trust fund in each fiscal year, as provided in section 87A-42, if the respective county fails to remit the total amount of the county’s required annual contributions, as required under section 87A-43; ~~[and]~~
- (4) \$3,000,000 shall be allocated to the Turtle Bay conservation easement special fund established under section 201B-B for the payment of debt service on revenue bonds, the proceeds of which were used to acquire the conservation easement in Turtle Bay, Oahu, until the bonds are fully amortized; and
- ~~[(4)]~~ (5) Of the excess revenues deposited into the general fund pursuant to this subsection, \$3,000,000 shall be allocated subject to the mutual agreement of the board of land and natural resources and the board of directors of the Hawaii tourism authority in accordance with the Hawaii tourism authority strategic plan for:

- (A) The protection, preservation, and enhancement of natural resources important to the visitor industry;
- (B) Planning, construction, and repair of facilities; and
- (C) Operation and maintenance costs of public lands connected with enhancing the visitor experience.

All transient accommodations taxes shall be paid into the state treasury each month within ten days after collection and shall be kept by the state director of finance in special accounts for distribution as provided in this subsection.

As used in this subsection, "fiscal year" means the twelve-month period beginning on July 1 of a calendar year and ending on June 30 of the following calendar year."

SECTION 5. (a) The executive director of the Hawaii tourism authority and the director of finance shall enter into negotiations to restructure the debt owed to the department of budget and finance for the convention center so that the annual amount payable on the debt service is not more than \$16,500,000 until fully retired.

(b) If the debt is not restructured as required under subsection (a), no state funds, including revenue bond funds, shall be expended to acquire any conservation easement or other real property interest in Turtle Bay, Oahu, notwithstanding the authorization under section 201B-A, Hawaii Revised Statutes, and sections 6 and 7 of this Act.

SECTION 6. (a) The board of directors of the Hawaii tourism authority, with the approval of the governor, is authorized to issue revenue bonds in the sum of \$40,000,000 or so much thereof as may be necessary for fiscal year 2014-2015 for the purpose of acquiring a conservation easement in Turtle Bay, Oahu, as authorized under section 201B-A, Hawaii Revised Statutes.

(b) The board of directors, with the approval of the governor, shall issue the revenue bonds under such terms, conditions, and maturity dates that do not require any debt service payment to exceed \$3,000,000 in any fiscal year.

(c) If the board of directors cannot issue revenue bonds in accordance with the conditions of this section or section 201B-A or chapter 39, part III, Hawaii Revised Statutes, no state funds shall be expended to acquire any conservation easement or other real property interest in Turtle Bay, Oahu.

SECTION 7. There is appropriated out of the revenue bond proceeds authorized by section 6 of this Act the sum of \$40,000,000 or so much thereof as may be necessary for fiscal year 2014-2015 to carry out the purpose of section 6; provided that any unexpended or unencumbered balance of the appropriation shall not lapse at the end of fiscal year 2014-2015 and shall lapse instead on June 30, 2016.

The sum appropriated shall be expended by the Hawaii tourism authority for the purpose of this Act.

SECTION 8. This Act shall not be severable. If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, then the entire Act shall be invalid.

SECTION 9. 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 10.** Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.<sup>1</sup>

**SECTION 11.** This Act shall take effect on July 1, 2014.

(Approved May 19, 2014.)

**Note**

1. Edited pursuant to HRS §23G-16.5.