

ACT 96

S.B. NO. 1396

A Bill for an Act Relating to Economic Development.

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

SECTION 1. The legislature finds that Hawaii is experiencing a climate emergency. The effects of climate change, such as rising temperatures, prolonged droughts, and increasingly destructive and deadly weather events, are felt across the island chain. These impacts threaten not only our vibrant ecosystems but also the people of Hawaii and the State's economic sustainability. To ensure the health and safety of Hawaii's lands, waters, and people, as well as its economic viability, successful mitigation of and adaptation to climate change are imperative.

The legislature further finds that economic development cannot be separated from environmental stewardship. Hawaii's economy is deeply reliant on its natural resources, from tourism and agriculture to marine industries and renewable energy. Degradation of these resources due to climate change and environmental mismanagement will result in significant financial losses across multiple sectors. By investing in sustainability, the State secures long-term economic stability while preserving its unique landscapes and biodiversity.

The legislature also finds that climate resilience must be integrated into all economic planning efforts. Resiliency measures, such as sustainable land use practices, shoreline protection, and forestry projects, ensure that Hawaii's economy remains robust in the face of climate-related disasters. Without proactive investment, businesses and communities will continue to suffer financial losses due to increased flooding, wildfires, and extreme weather events.

The legislature additionally finds that investing in Hawaii's environment is, in itself, economic development. Furthermore, the legislature finds that as contemplated, the transient accommodations tax is intended to be applied fully and equitably whenever a transient accommodation is furnished within the State. Whereas hotel and lodging establishments have complied with and pay their due share of transient accommodations taxes, tax collections on short-term rental operators have fallen short. Moreover, there is currently no transient accommodations tax levied on cruise ships, which in 2024, accounted for 972,820 passenger port calls at port facilities under the jurisdiction of the department of transportation. Supporting sustainable practices protects the islands' unique ecosystems while simultaneously fostering economic growth. This support in-

cludes funding renewable energy projects, enhancing conservation efforts, and promoting environmental tourism initiatives. These investments preserve natural resources, reduce carbon footprints, and stimulate economic opportunities, such as job creation in renewable energy sectors and eco-friendly tourism.

In addition, the legislature finds that Hawaii has an opportunity to be a global leader in sustainable innovation. By investing in conservation-focused business models, the State can attract investors and industries that prioritize sustainability. These initiatives not only protect the environment but also diversify the economy, reducing reliance on tourism and traditional extractive industries.

The legislature further finds that Hawaii's cultural heritage and traditions are deeply connected to its natural environment. The protection and restoration of forests, coral reefs, and coastal ecosystems safeguard the foundation of Native Hawaiian practices and knowledge systems. Investing in environmental conservation ensures that these traditions can continue to thrive, enriching community well-being and cultural tourism.

The legislature also finds that a failure to act now will result in increased costs in the future. The economic burden of climate inaction will far exceed the cost of proactive investment in mitigation and adaptation strategies. Infrastructure damage, loss of biodiversity, increased health issues due to heat and pollution, and disruptions to tourism and agriculture will place a heavy financial strain on the State if environmental action is delayed.

The legislature additionally finds that a strong commitment to environmental sustainability enhances Hawaii's reputation as a world-class destination for ecotourism. Travelers are increasingly seeking destinations that prioritize sustainability, and by investing in conservation efforts, renewable energy, and sustainable tourism practices, Hawaii can maintain its competitive edge in the global tourism market while ensuring the long-term viability of its natural resources.

The legislature therefore declares that investment in climate resilience and environmental sustainability is a fundamental component of Hawaii's economic development strategy. By prioritizing policies and funding mechanisms that support climate action, conservation, and sustainable industries, Hawaii can build a more resilient, prosperous, and environmentally secure future for all residents and visitors.

Accordingly, the purpose of this Act is to:

- (1) Increase the transient accommodations tax rate for transient accommodations and resort time shares;
- (2) Assess the transient accommodations tax on the gross receipts derived from cruise fares;
- (3) Require the governor to request in the executive budget or supplemental budget that an amount of general funds that approximates the additional transient accommodations tax revenue generated by this Act be expended equally to advance certain climate change mitigation and tourism projects; and
- (4) Amend the allowable uses of the special land and development fund and the portion of transient accommodations tax collections that are allocated to the special land and development fund.

SECTION 2. Chapter 37, Hawaii Revised Statutes, is amended by adding a new section to part IV to be appropriately designated and to read as follows:

“§37- Climate change and tourism destination management; projects; budget request. The governor shall request, in the budget or the supplemental budget submitted to the legislature pursuant to section 37-71 or 37-72, that an amount of general funds that approximates the additional revenue generated

by any increase to the transient accommodations tax rates pursuant to section 237D-2(a)(6) and (c)(4) beginning on January 1, 2026, and section 237D-2(e) beginning on July 1, 2026, and by assessment of the transient accommodations tax on gross rental proceeds derived from cruise fares pursuant to section 237D-2(a) be expended equally to advance specific projects to:

- (1) Protect, manage, and restore the State's natural resources, including native forests, native plants and animals, aquatic resources, coastal lands, and freshwater resources;
- (2) Increase the resilience of structures and infrastructure to natural and climate-related disasters, such as hurricanes and sea level rise, and perform hazard mitigation activities, such as wildfire and flood mitigation; and
- (3) Improve the visitor experience, mitigate the impacts of tourism on the natural environment, ensure that the State's natural resources are maintained for future residents and visitors, and support destination management, such as park improvements and beach improvement, nourishment, and maintenance projects."

SECTION 3. Section 171-19, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) There is created in the department a special fund to be designated as the "special land and development fund". Subject to the Hawaiian Homes Commission Act of 1920, as amended, and section 5(f) of the Admission Act of 1959, all proceeds of sale of public lands, including interest on deferred payments; all moneys collected under section 171-58 for mineral and water rights; all rents from leases, licenses, and permits derived from public lands; all moneys collected from lessees of public lands within industrial parks; all fees, fines, and other administrative charges collected under this chapter and chapter 183C; a portion of the highway fuel tax collected under chapter 243; a portion of the transient accommodations tax under chapter 237D; all moneys collected by the department for the commercial use of public trails and trail accesses under the jurisdiction of the department; and private contributions for the management, maintenance, and development of trails and accesses shall be set apart in the fund and shall be used only as authorized by the legislature for the following purposes:

- (1) To reimburse the general fund of the State for advances made that are required to be reimbursed from the proceeds derived from sales, leases, licenses, or permits of public lands;
- (2) For the planning, development, management, operations, or maintenance of all lands and improvements under the control and management of the board pursuant to title 12, including but not limited to permanent or temporary staff positions who may be appointed without regard to chapter 76;
- (3) To repurchase any land, including improvements, in the exercise by the board of any right of repurchase specifically reserved in any patent, deed, lease, or other documents or as provided by law;
- (4) For the payment of all appraisal fees; provided that all fees reimbursed to the board shall be deposited in the fund;
- (5) For the payment of publication notices as required under this chapter; provided that all or a portion of the expenditures may be charged to the purchaser or lessee of public lands or any interest therein under rules adopted by the board;

- (6) For the management, maintenance, and development of trails and trail accesses under the jurisdiction of the department;
- (7) For the payment to private land developers who have contracted with the board for development of public lands under section 171-60;
- (8) For the payment of debt service on revenue bonds issued by the department, including revenue bonds issued for the purposes of section 237D-6.5(b)(4), and the establishment of debt service and other reserves deemed necessary by the board;
- (9) To reimburse the general fund for debt service on general obligation bonds issued to finance departmental projects, including projects under section 237D-6.5(b)(4), where the bonds are designated to be reimbursed from the special land and development fund;
- (10) For the protection, planning, management, and regulation of water resources under chapter 174C; ~~[and]~~
- ~~(11)~~ For the purposes of section 237D-6.5(b)(4); and
- ~~[(11)]~~ (12) For other purposes of this chapter."

SECTION 4. Section 237D-1, Hawaii Revised Statutes, is amended as follows:

1. By adding three new definitions to be appropriately inserted and to read:

"Cruise fare" means the total amount paid by a transient for a cruise ship cabin on a cruise ship, inclusive of any mandatory fees imposed by a cruise ship operator, owner, or representative thereof on a transient for the use of shipboard services, facilities, meals, and onboard entertainment, but does not include optional charges for shipboard services, meals, excursions, and onboard entertainment beyond the mandatory fee amount.

"Cruise ship" means any ship that docks at any port in the State that charges a fee for and provides cruise ship cabins to transients.

"Cruise ship cabin" means an accommodation or living quarter on a cruise ship that is provided to a transient."

2. By amending the definition of "gross rental" or "gross rental proceeds" to read:

"Gross rental" or "gross rental proceeds" means the gross receipts, cash or accrued, of the taxpayer received as compensation for the furnishing of transient accommodations or entering into arrangements to furnish transient accommodations and the value proceeding or accruing from the furnishing of transient accommodations or entering into arrangements to furnish transient accommodations, including resort fees without any deductions on account of the cost of property or services sold, the cost of materials used, labor cost, taxes, royalties, interest, discounts, or any other expenses whatsoever. "Gross rental" or "gross rental proceeds" includes the gross receipts derived from cruise fares. Every taxpayer shall be presumed to be dealing on a cash basis unless the taxpayer proves to the satisfaction of the department of taxation that the taxpayer is dealing on an accrual basis and the taxpayer's books are so kept, or unless the taxpayer employs or is required to employ the accrual basis for the purposes of the tax imposed by chapter 237 for any taxable year in which event the taxpayer shall report the taxpayer's gross income for the purposes of this chapter on the accrual basis for the same period.

The words "gross rental" or "gross rental proceeds" shall not be construed to include the amounts of taxes imposed by chapter 237 or this chapter on operators of transient accommodations, transient accommodations brokers,

travel agencies, and tour packagers and passed on, collected, and received from the consumer as part of the receipts received as compensation for the furnishing of transient accommodations or entering into arrangements to furnish transient accommodations.

Where transient accommodations are furnished through arrangements made by a transient accommodations broker, travel agency, or tour packager at noncommissionable negotiated contract rates and the gross income is divided between the operator of transient accommodations on the one hand and the transient accommodations broker, travel agency, or tour packager on the other hand, the tax imposed by this chapter shall apply to each operator and transient accommodations broker, travel agency, or tour packager with respect to that person's respective portion of the proceeds and no more.

For purposes of this definition, where the operator maintains a schedule of rates for identifiable groups of individuals, such as kamaainas, upon which the accommodations are leased, let, or rented, gross rental or gross rental proceeds means the receipts collected and received based upon the scheduled rates and recorded as receipts in its books and records."

SECTION 5. Section 237D-2, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:
“(a) There is levied and shall be assessed and collected each month a tax of:

- (1) Five per cent for the period beginning on January 1, 1987, to June 30, 1994;
- (2) Six per cent for the period beginning on July 1, 1994, to December 31, 1998;
- (3) 7.25 per cent for the period beginning on January 1, 1999, to June 30, 2009;
- (4) 8.25 per cent for the period beginning on July 1, 2009, to June 30, 2010; ~~[and]~~
- (5) 9.25 per cent for the period beginning on July 1, 2010~~[-and thereafter-]~~ to December 31, 2025; and
- (6) Ten per cent for the period beginning on January 1, 2026, and thereafter.

on the gross rental or gross rental proceeds derived from furnishing transient accommodations~~[-]; provided that an operator of a cruise ship shall be assessed and pay a tax of eleven per cent under this subsection on all gross rental proceeds derived from cruise fares prorated by the percentage of days docked at any port in the State in comparison to the total number of days of the voyage.”~~

2. By amending subsection (c) to read:
“(c) There is levied and shall be assessed and collected each month, on the occupant of a resort time share vacation unit, a transient accommodations tax of:

- (1) 7.25 per cent on the fair market rental value until December 31, 2015;
- (2) 8.25 per cent on the fair market rental value for the period beginning on January 1, 2016, to December 31, 2016; ~~[and]~~
- (3) 9.25 per cent on the fair market rental value for the period beginning on January 1, 2017, ~~[and thereafter-]~~ to December 31, 2025; and
- (4) Ten per cent on the fair market rental value for the period beginning on January 1, 2026, and thereafter.”

3. By amending subsection (e) to read:

“(e) Notwithstanding the tax rates established in subsections ~~[(a)(5)]~~ (a)(6) and ~~[(e)(3)]~~ (c)(4), the tax rates levied, assessed, and collected pursuant to subsections (a) and (c) shall be ~~[10.25]~~ eleven per cent for the period beginning on January 1, 2018, to December 31, 2030; provided that:

- (1) The tax revenues levied, assessed, and collected pursuant to this subsection that are in excess of the revenues realized from the levy, assessment, and collection of tax at the ~~[9.25]~~ ten per cent rate shall be deposited quarterly into the mass transit special fund established under section 248-2.7; and
- (2) If a court of competent jurisdiction determines that the amount of county surcharge on state tax revenues deducted and withheld by the State, pursuant to section 248-2.6, violates statutory or constitutional law and, as a result, awards moneys to a county with a population greater than five hundred thousand, then an amount equal to the monetary award shall be deducted and withheld from the tax revenues deposited under paragraph (1) into the mass transit special fund, and those funds shall be a general fund realization of the State.

The remaining tax revenues levied, assessed, and collected at the ~~[9.25]~~ ten per cent tax rate pursuant to subsections (a) and (c) shall be deposited into the general fund in accordance with section 237D-6.5(b).”

SECTION 6. Section 237D-6.5, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Except for the revenues collected pursuant to section 237D-2(e), revenues collected under this chapter shall be distributed in the following priority, with the excess revenues to be deposited into the general fund:

- (1) \$1,500,000 shall be allocated to the Turtle Bay conservation easement special fund beginning July 1, 2015, for the reimbursement to the state general fund of debt service on reimbursable general obligation bonds, including ongoing expenses related to the issuance of the bonds, the proceeds of which were used to acquire the conservation easement and other real property interests in Turtle Bay, Oahu, for the protection, preservation, and enhancement of natural resources important to the State, until the bonds are fully amortized;
- (2) \$11,000,000 shall be allocated to the convention center enterprise special fund established under section 201B-8;
- (3) An allocation shall be deposited into the tourism emergency special fund, established in section 201B-10, in a manner sufficient to maintain a fund balance of \$5,000,000 in the tourism emergency special fund; and
- (4) \$3,000,000 shall be allocated to the special land and development fund established under section 171-19~~[- provided that the allocation shall be expended in accordance with the Hawaii tourism authority strategic plan]~~ for:
 - (A) The protection, preservation, maintenance, and enhancement of natural resources, including beaches~~[- important to the visitor industry]~~;
 - (B) Planning, construction, and repair of facilities; ~~[and]~~
 - (C) Operation ~~[and]~~, maintenance, and improvement costs of public lands, including beaches~~[- connected with enhancing the visitor experience.]; and~~

(D) Any related debt service and financing agreement costs.

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.”

SECTION 7. 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 that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 8. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.²

SECTION 9. This Act shall take effect on January 1, 2026; provided that section 2 shall take effect on July 1, 2025.

(Approved May 27, 2025.)

Note

1. No opening quotation mark.
2. Edited pursuant to HRS §23G-16.5.