



EXECUTIVE CHAMBERS
HONOLULU

LINDA LINGLE
GOVERNOR

GOV. MSG. NO. 829

July 11, 2006

The Honorable Robert Bunda, President
and Members of the Senate
Twenty-Third State Legislature
State Capitol, Room 003
Honolulu, Hawaii 96813

Dear Mr. President and Members of the Senate:

I am transmitting herewith HB1800 HD1 SD1 CD1, without my approval, and with the statement of objections relating to the measure.

HB1800 HD1 SD1 CD1

A BILL FOR AN ACT RELATING TO SALE OF REAL
PROPERTY.

Sincerely,

LINDA LINGLE

VETO

HOUSE OF REPRESENTATIVES
TWENTY-THIRD LEGISLATURE, 2006
STATE OF HAWAII

H.B. NO. 1800
H.D. 1
S.D. 1
C.D. 1

A BILL FOR AN ACT

RELATING TO SALE OF REAL PROPERTY.

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

1 SECTION 1. Section 235-68, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:
3 "(b). Unless otherwise provided in this section, every
4 transferee shall deduct and withhold a tax equal to [~~five~~] eight
5 and one-quarter per cent of the amount realized on the
6 disposition of Hawaii real property. Every person required to
7 withhold a tax under this section is made liable for the tax and
8 is relieved of liability for or upon the claim or demand of any
9 other person for the amount of any payments to the department
10 made in accordance with this section."

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 Statutory material to be repealed is bracketed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

13 SECTION 3. This Act shall take effect upon its approval,
14 and shall apply to taxable years beginning after December 31,
15 2006.

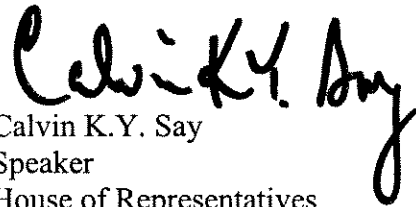


HB No. 1800 HD 1 SD 1 CD 1

THE HOUSE OF REPRESENTATIVES OF THE STATE OF HAWAII

Date: May 2, 2006
Honolulu, Hawaii

We hereby certify that the foregoing Bill on this day passed Final Reading in the House of Representatives of the Twenty-Third Legislature of the State of Hawaii, Regular Session of 2006.



Calvin K.Y. Say
Speaker
House of Representatives



Patricia Mau-Shimizu
Chief Clerk
House of Representatives

THE SENATE OF THE STATE OF HAWAII

Date: May 2, 2006
Honolulu, Hawaii

We hereby certify that the foregoing Bill on this day passed Final Reading in the Senate of the Twenty-Third Legislature of the State of Hawaii, Regular Session of 2006.



Robert Bunda
President of the Senate



Paul Kawaguchi
Clerk of the Senate

P R O C L A M A T I O N

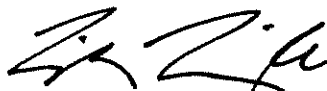
WHEREAS, under Section 16 of Article III of the Constitution of the State of Hawaii, the Governor is required to give notice, by a proclamation, of the Governor's plan to return with the Governor's objections any bill presented to the Governor less than ten days before adjournment sine die or presented to the Governor after adjournment sine die of the Legislature; and

WHEREAS, House Bill No. 1800, entitled "A Bill for an Act Relating to Sale of Real Property," passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, House Bill No. 1800 is unacceptable to the Governor of the State of Hawaii;

NOW, THEREFORE, I, LINDA LINGLE, Governor of the State of Hawaii, do hereby issue this proclamation, pursuant to the provisions of Section 16 of Article III of the Constitution of the State of Hawaii, giving notice of my plan to return House Bill No. 1800 with my objections thereon to the Legislature as provided by said Section 16 of Article III of the Constitution.

DONE at the State Capitol, Honolulu,
State of Hawaii, this 26th
day of June, 2006



LINDA LINGLE
Governor of Hawaii

EXECUTIVE CHAMBERS

HONOLULU

July 10, 2006

STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 1800

Honorable Members
Twenty-Third Legislature
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, House Bill No. 1800, entitled "A Bill for an Act Relating to Sale of Real Property."

This measure increases the income tax withheld on the sale of real property in Hawaii by a nonresident seller from five percent to eight and a quarter percent of the amount realized from the sale.

This bill unnecessarily increases the income tax withholding on the sale of real property by nonresident sellers to ensure proper payment of taxes owed to the State are paid. The Department of Taxation reported that the current withholding of five percent is already excessive and large refunds are being issued because the five percent withholding is almost always larger than the tax on the gains on the sale of the property. Further, this bill fails to recognize that many land transactions involve 1031 exchanges wherein the seller is not liable for taxes if they purchase a property of the same or higher value within 18 months.

Moreover, this bill does not increase tax revenue or affect the proper assessment of tax because the capital gains tax remains unchanged at seven and a quarter percent. Instead, this bill will increase the burden on the Department of Taxation to process more claims and issue more refunds to taxpayers.

It should be noted that when the withholding tax rate was previously increased, the Legislature had to reverse their

STATEMENT OF OBJECTIONS
HOUSE BILL NO. 1800
Page 2

decision within a short period of time. In 1990, Act 213 required a buyer to withhold nine percent of the amount realized on the sale of Hawaii real property from a nonresident seller. Due to the overwhelming dissatisfaction expressed by the public, the Legislature in the very next session reduced the withholding amount to the current five percent by Act 279, Session Laws of Hawaii 1991. In effect, Act 213 of 1990 was operative for only seven months (i.e., January 1, 1991, through July 31, 1991).

For the foregoing reasons, I am returning House Bill No. 1800 without my approval.

Respectfully,

A handwritten signature in black ink, appearing to read "Linda Lingle", written in a cursive style.

LINDA LINGLE
Governor of Hawaii