



EXECUTIVE CHAMBERS  
HONOLULU

LINDA LINGLE  
GOVERNOR

GOV. MSG. NO. 834

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 SB2076 SD2 HD2 CD1, without my approval, and with the statement of objections relating to the measure.

SB2076 SD2 HD2 CD1

A BILL FOR AN ACT RELATING TO LEASEHOLD  
CONVERSION.

Sincerely,

A handwritten signature in black ink, appearing to read "Linda Lingle".

LINDA LINGLE

VETO

THE SENATE  
TWENTY-THIRD LEGISLATURE, 2006  
STATE OF HAWAII

S.B. NO. 2076  
S.D. 2  
H.D. 2  
C.D. 1

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## A BILL FOR AN ACT

RELATING TO LEASEHOLD CONVERSION.

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

1           SECTION 1. The legislature finds that in 1967, in response  
2 to ideological forces fighting an oligopolistic land tenure  
3 system in Hawaii and spurred on by more practical reasons of  
4 increasing lease rents on renegotiations, the legislature  
5 enacted Act 307, Session Laws of Hawaii 1967 (Act 307), codified  
6 as chapter 516, Hawaii Revised Statutes (chapter 516).

7           Chapter 516 allows lessees of long-term leasehold interests  
8 in single-family residential development tracts to purchase the  
9 fee interest of their residential lots through a condemnation  
10 process involving the fee simple landowner and what is now the  
11 housing and community development corporation of Hawaii. The  
12 latter party would condemn the fee interest, paying the fee  
13 owner fair compensation for the fee interest and, in turn, sell  
14 the acquired fee interest to the leasehold homeowner. In 1984,  
15 following extended litigation, the United States Supreme Court  
16 ruled in *Hawaii Housing Authority v. Midkiff*, that Act 307 did  
17 not violate the United States Constitution. Shortly thereafter,  
18 in *Hawaii Housing Authority v. Lyman*, the supreme court of Hawaii

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1 SECTION 4. This Act shall take effect on July 1, 2006, and  
2 shall apply to taxable years beginning after December 31, 2006,  
3 and ending prior to January 1, 2009; provided that on January 1,  
4 2009, this Act shall be repealed and section 235-7(a), Hawaii  
5 Revised Statutes, shall be reenacted in the form in which it  
6 read on the day prior to the effective date of this Act.



**THE SENATE OF THE STATE OF HAWAII**

Date: May 2, 2006  
Honolulu, Hawaii 96813

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



President of the Senate

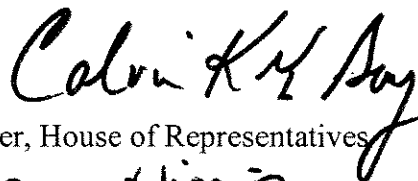


Clerk of the Senate

**THE HOUSE OF REPRESENTATIVES  
OF THE STATE OF HAWAII**

Date: May 2, 2006  
Honolulu, Hawaii 96813

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



Speaker, House of Representatives



Clerk, House of Representatives

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, Senate Bill No. 2076, entitled "A Bill for an Act Relating to Leasehold Conversion," passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, Senate Bill No. 2076 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 Senate Bill No. 2076 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



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LINDA LINGLE  
Governor of Hawaii

EXECUTIVE CHAMBERS

HONOLULU

July 10, 2006

STATEMENT OF OBJECTIONS TO SENATE BILL NO. 2076

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, Senate Bill No. 2076, entitled "A Bill for an Act Relating to Leasehold Conversion."

The purpose of Senate Bill No. 2076 is to allow, for a limited time, a fee owner to exclude from taxable income one hundred percent of the gain realized from: (1) the sale of the leased fee interest in a residential house lot or multi-family residential leasehold unit to the lessee of the house lot or unit; or (2) the sale of the leased fee interest in a multi-family residential leasehold property to the association of apartment owners or the residential cooperative corporation of the multi-family residential leasehold property. The total exclusion may not exceed an aggregate cap of \$800,000 for "all taxpayers in the State in any tax year."

Although the provision of an incentive for fee owners to sell the fee interest in their residential real property is an idea that has merit, this bill is objectionable because it provides an inadequate incentive for a significant number of owners to sell their leased fee interest. Moreover, the cost and time necessary to implement the bill for two years far outweigh the benefits. This bill will provide an incentive for only a few fee owners to sell their leased fee interest since the maximum tax savings available under the cap would be \$58,000 per year. On the other hand, to implement the bill, the Department of Taxation will be faced with the administrative burdens of establishing guidelines, training personnel, gearing up for a public information campaign, creating and printing the exemption

form, and reviewing an unknown number of claims.

The aggregate cap frustrates the laudable purpose to promote widespread leasehold conversion. The aggregate cap of \$800,000 is very low and will easily be exceeded by the sale of just one or two single-family homes, or maybe three or four condominium units. This bill provides no criteria or guidelines for the Department of Taxation to determine which of the fee owners would qualify for the exclusion from income of up to \$800,000 "in the aggregate for all taxpayers in the State in any tax year." Consequently, the Department of Taxation will also be faced with tax appeals and litigation regarding this bill.

For the foregoing reasons, I am returning Senate Bill No. 2076 without my approval.

Respectfully,



LINDA LINGLE  
Governor of Hawaii