

# SENATE FLOOR AMENDMENT

FLOOR AMENDMENT NO. \_\_\_\_\_

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Date APR 14 2009

TO: H.B. No. 611, H.D. 1, S.D. 1

SECTION 1. House Bill No. 611, H.D. 1, S.D. 1, is amended by amending the clarification in section 1, the purpose section (at page 1, lines 11-14), which expresses the legislature's intent regarding the application of the measure's amendments to section 235-110.7, Hawaii Revised Statutes, relating to the capital goods excise tax credit. As amended, the purpose clause clarifies the legislature's intent that the amendments made to section 235-110.7 apply to property placed in service in taxable years beginning before July 1, 2009, rather than taxable years beginning before January 1, 2010.

SECTION 2. House Bill No. 611, H.D. 1, S.D. 1, is amended by amending the new section 235-B, Hawaii Revised Statutes, (at page 26, lines 13-14) to delete the application of the capital goods excise tax credit under section 235-110.7, Hawaii Revised Statutes, to property purchased pursuant to a binding contract in taxable years beginning after December 31, 2011.

SECTION 3. House Bill No. 611, H.D. 1, S.D. 1, is amended by adding a new section 10 to read as follows:

"SECTION 10. The department of taxation shall perform an evaluation of the following tax exemptions and submit a report of the evaluation to the legislature by no later than twenty days prior to the convening of the 2010 regular session:

- (1) Section 237-24, Hawaii Revised Statutes (general excise tax; amounts not taxable); and
- (2) Section 237-28.1, Hawaii Revised Statutes (general excise tax; exemption of certain shipbuilding and ship repair business).

The evaluation of the tax exemptions in this section shall achieve the objectives identified and set forth in subsections (e) and (f) of section 8 of this Act."

SECTION 4. House Bill No. 611, H.D. 1, S.D. 1, is amended by adding a new part III to read as follows:

## "PART III

SECTION 11. Section 373K-2, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Where any client company uses the services of assigned employees and co-employs assigned employees with a professional employment organization, the client company and the



professional employment organization, with respect to the assigned employees, shall not be exempt from the requirements of any federal, state, or county law, including labor or employment laws, collective bargaining rights, anti-discrimination provisions, or other laws with respect to the protection and rights of employees, including chapters 377 and 378, that would apply to the assigned employees if the assigned employees were employees of the client company alone, and were not co-employees of the professional employment organization.

These employee rights shall not be abrogated by any contract or agreement between the client company and the professional employment organization, or the professional employment organization and the assigned employee, which contains terms or conditions that could not be lawfully contained in a contract or agreement directly between the client company and the assigned employee in which no professional employment organization is involved. [~~Notwithstanding any statute, local ordinance, executive order, rule, or regulation to the contrary, where the laws, rights, and protections referred to in this section define or require a determination of the "employer",~~] For purposes of chapter 237, the employer shall be deemed to be the client company and not the professional employment organization. The department of labor and industrial relations shall notify the department of taxation in writing of any violation of this subsection.""

SECTION 5. House Bill No. 611, H.D. 1, S.D. 1, is amended by renumbering the existing sections 10 and 11, as sections 12 and 13, respectively.

Offered by:

Carol Furumaga (✓)

Carried

( ) Failed to Carry

( ) Withdrawn

