



EXECUTIVE CHAMBERS
HONOLULU

NEIL ABERCROMBIE
GOVERNOR

GOV. MSG. NO. 1239

June 24, 2014

The Honorable Donna Mercado Kim,
President
and Members of the Senate
Twenty-Seventh State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

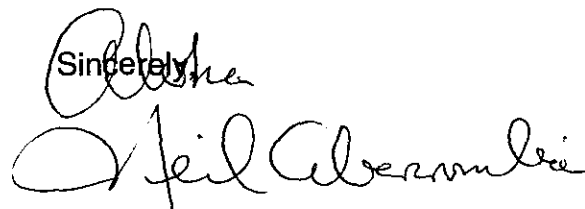
The Honorable Joseph M. Souki,
Speaker and Members of the
House of Representatives
Twenty-Seventh State Legislature
State Capitol, Room 431
Honolulu, Hawaii 96813

Dear President Kim, Speaker Souki, and Members of the Legislature:

This is to inform you that on June 24, 2014, the following bill was signed into law:

SB2779 SD1 HD1 CD1

RELATING TO FINANCIAL AUDIT OF THE
STATE OF HAWAII BY THE LEGISLATIVE
AUDITOR
ACT 136 (14)

Sincerely,


NEIL ABERCROMBIE
Governor, State of Hawaii

A BILL FOR AN ACT

RELATING TO FINANCIAL AUDIT OF THE STATE OF HAWAII BY THE
LEGISLATIVE AUDITOR.

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

1 SECTION 1. The purpose of this Act is to specifically
 2 authorize the department of taxation to release certain
 3 otherwise confidential information to the auditor or the
 4 auditor's authorized agents, for the purpose of conducting the
 5 annual certified financial audit pursuant to section 23-5,
 6 Hawaii Revised Statutes. This measure also ensures that the
 7 auditor and its authorized agents keep the disclosed information
 8 confidential by increasing the class of offense for unlawful
 9 disclosure from a misdemeanor to a class C felony.

10 SECTION 2. Section 23-5, Hawaii Revised Statutes, is
 11 amended by amending subsection (a) to read as follows:

12 "(a) The auditor may examine and inspect all accounts,
 13 books, records, files, papers, and documents and all financial
 14 affairs of every department, office, agency, and political
 15 subdivision[-]; provided that:

16 (1) Upon written request by the auditor, the department of
 17 taxation shall provide to the auditor access to tax



1 returns but only to the extent necessary and relevant
2 to the scope of the comprehensive annual financial
3 report audit of the State; and

4 (2) Tax return information provided to the auditor by the
5 department of taxation pursuant to paragraph (1) shall
6 be considered working papers of the auditor pursuant
7 to section 23-9.5."

8 SECTION 3. Section 231-18, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "§231-18 [~~Federal or other tax officials~~] Tax and other
11 officials permitted to inspect returns; reciprocal provisions.

12 Notwithstanding the provisions of any law making it unlawful for
13 any person, officer, or employee of the State to make known
14 information imparted by any tax return or permit any tax return
15 to be seen or examined by any person, it shall be lawful to
16 [~~permit~~]:

17 (1) Permit a duly accredited tax official of the United
18 States, any state or territory, any county of this
19 State, or the Multistate Tax Commission to inspect any
20 tax return of any taxpayer[~~, or to furnish~~];

21 (2) Furnish to an official, commission, or the authorized
22 representative thereof an abstract of the return or



1 supply the official, commission, or the authorized
2 representative thereof with information concerning any
3 item contained in the return or disclosed by the
4 report of any investigation of the return or of the
5 subject matter of the return for tax purposes only[-];
6 or
7 (3) Provide tax return information to the auditor pursuant
8 to section 23-5(a).

9 The Multistate Tax Commission may make the information available
10 to a duly accredited tax official of the United States, any
11 state or territory, or the authorized representative thereof,
12 for tax purposes only."

13 SECTION 4. Section 235-116, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "**§235-116 Disclosure of returns unlawful; penalty.** All
16 tax returns and return information required to be filed under
17 this chapter shall be confidential, including any copy of any
18 portion of a federal return [~~which~~] that may be attached to a
19 state tax return, or any information reflected in the copy of
20 [~~such~~] the federal return. It shall be unlawful for any person,
21 or any officer or employee of the State, including the auditor
22 or the auditor's agent with regard to tax return information



1 obtained pursuant to section 23-5(a), to make known
2 intentionally information imparted by any income tax return or
3 estimate made under sections 235-92, 235-94, 235-95, and 235-97
4 or wilfully to permit any income tax return or estimate so made
5 or copy thereof to be seen or examined by any person other than
6 the taxpayer or the taxpayer's authorized agent, persons duly
7 authorized by the State in connection with their official
8 duties, the Multistate Tax Commission or the authorized
9 representative thereof, except as otherwise provided by law[~~r~~
10 ~~and any~~]. Any offense against the foregoing provisions shall be
11 [~~punished by a fine not exceeding \$500 or by imprisonment not~~
12 ~~exceeding one year, or both.~~] punishable as a class C felony."

13 SECTION 5. Section 237-34, Hawaii Revised Statutes, is
14 amended by amending subsection (b) to read as follows:

15 "(b) All tax returns and return information required to be
16 filed under this chapter, and the report of any investigation of
17 the return or of the subject matter of the return, shall be
18 confidential. It shall be unlawful for any person or any
19 officer or employee of the State, including the auditor or the
20 auditor's agent with regard to tax return information obtained
21 pursuant to section 23-5(a), to intentionally make known
22 information imparted by any tax return or return information



1 filed pursuant to this chapter, or any report of any
2 investigation of the return or of the subject matter of the
3 return, or to wilfully permit any [~~such~~] return, return
4 information, or report so made, or any copy thereof, to be seen
5 or examined by any person; provided that for tax purposes only,
6 the taxpayer, the taxpayer's authorized agent, or persons with a
7 material interest in the return, return information, or report
8 may examine them. Unless otherwise provided by law, persons
9 with a material interest in the return, return information, or
10 report shall include:

- 11 (1) Trustees;
- 12 (2) Partners;
- 13 (3) Persons named in a board resolution or a one per cent
14 shareholder in the case of a corporate return;
- 15 (4) The person authorized to act for a corporation in
16 dissolution;
- 17 (5) The shareholder of an S corporation;
- 18 (6) The personal representative, trustee, heir, or
19 beneficiary of an estate or trust in the case of the
20 estate's or decedent's return;
- 21 (7) The committee, trustee, or guardian of any person in
22 paragraphs (1) [~~to~~] through (6) who is incompetent;



- 1 (8) The trustee in bankruptcy or receiver, and the
2 attorney-in-fact of any person in paragraphs (1) [~~to~~]
3 through (7);
- 4 (9) Persons duly authorized by the State in connection
5 with their official duties;
- 6 (10) Any duly accredited tax official of the United States
7 or of any state or territory;
- 8 (11) The Multistate Tax Commission or its authorized
9 representative;
- 10 (12) Members of a limited liability company; and
- 11 (13) A person contractually obligated to pay the taxes
12 assessed against another when the latter person is
13 under audit by the department.

14 Any violation of this subsection shall be a [~~misdemeanor~~]
15 class C felony."

16 SECTION 6. Section 237D-13, Hawaii Revised Statutes, is
17 amended by amending subsection (a) to read as follows:

18 "(a) All tax returns and return information required to be
19 filed under this chapter, and the report of any investigation of
20 the return or of the subject matter of the return, shall be
21 confidential. It shall be unlawful for any person or any
22 officer or employee of the State, including the auditor or the



1 auditor's agent with regard to tax return information obtained
2 pursuant to section 23-5(a), to intentionally make known
3 information imparted by any tax return or return information
4 filed pursuant to this chapter, or any report of any
5 investigation of the return or of the subject matter of the
6 return, or to wilfully permit any return, return information, or
7 report so made, or any copy thereof, to be seen or examined by
8 any person; provided that for tax purposes only the taxpayer,
9 the taxpayer's authorized agent, or persons with a material
10 interest in the return, return information, or report may
11 examine them. Unless otherwise provided by law, persons with a
12 material interest in the return, return information, or report
13 shall include:

- 14 (1) Trustees;
- 15 (2) Partners;
- 16 (3) Persons named in a board resolution or a one per cent
17 shareholder in the case of a corporate return;
- 18 (4) The person authorized to act for a corporation in
19 dissolution;
- 20 (5) The shareholder of an S corporation;



- 1 (6) The personal representative, trustee, heir, or
- 2 beneficiary of an estate or trust in the case of the
- 3 estate's or decedent's return;
- 4 (7) The committee, trustee, or guardian of any person in
- 5 paragraphs (1) [~~to~~] through (6) who is incompetent;
- 6 (8) The trustee in bankruptcy or receiver, and the
- 7 attorney-in-fact of any person in paragraphs (1) [~~to~~]
- 8 through (7);
- 9 (9) Persons duly authorized by the State in connection
- 10 with their official duties;
- 11 (10) Any duly accredited tax official of the United States,
- 12 or of any state or territory, or of any county of this
- 13 State;
- 14 (11) The Multistate Tax Commission or its authorized
- 15 representative; and
- 16 (12) Members of a limited liability company.

17 Any violation of this subsection shall be a [~~misdemeanor~~] class
18 C felony. Nothing in this subsection shall prohibit the
19 publication of statistics [~~so~~] that are classified [~~as~~] to
20 prevent the identification of particular reports or returns and
21 the items of the reports or returns."

1 SECTION 7. Section 251-12, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "(a) All tax returns and return information required to be
4 filed under this chapter, and the report of any investigation of
5 the return or of the subject matter of the return, shall be
6 confidential. It shall be unlawful for any person or any
7 officer or employee of the State, including the auditor or the
8 auditor's agent with regard to tax return information obtained
9 pursuant to section 23-5(a), to intentionally make known
10 information imparted by any tax return or return information
11 filed pursuant to this chapter, or any report of any
12 investigation of the return or of the subject matter of the
13 return, or to wilfully permit any [~~sueh~~] tax return, return
14 information, or report so made, or any copy thereof, to be seen
15 or examined by any person; provided that for surcharge tax
16 purposes only the lessor or tour vehicle operator, the lessor's
17 or tour vehicle operator's authorized agent, or persons with a
18 material interest in the return, return information, or report
19 may examine them. Unless otherwise provided by law, persons
20 with a material interest in the return, return information, or
21 report shall include:

22 (1) Trustees;



- 1 (2) Partners;
- 2 (3) Persons named in a board resolution or a one per cent
3 shareholder in the case of a corporate return;
- 4 (4) The person authorized to act for a corporation in
5 dissolution;
- 6 (5) The shareholder of an S corporation;
- 7 (6) The personal representative, trustee, heir, or
8 beneficiary of an estate or trust in the case of the
9 estate's or decedent's return;
- 10 (7) The committee, trustee, or guardian of any person in
11 paragraphs (1) [~~to~~] through (6) who is incompetent;
- 12 (8) The trustee in bankruptcy or receiver, and the
13 attorney-in-fact of any person in paragraphs (1) [~~to~~]
14 through (7);
- 15 (9) Persons duly authorized by the State in connection
16 with their official duties;
- 17 (10) Any duly accredited tax official of the United States
18 or of any state or territory;
- 19 (11) The Multistate Tax Commission or its authorized
20 representative; and
- 21 (12) Members of a limited liability company.

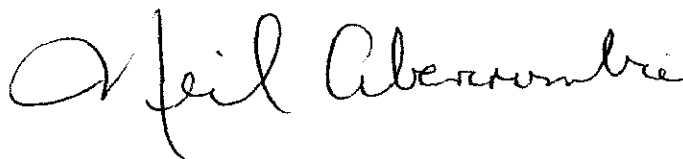


1 Any violation of this subsection shall be a [~~misdemeanor.~~] class
2 C felony. Nothing in this subsection shall prohibit the
3 publication of statistics [~~se~~] that are classified [~~as~~] to
4 prevent the identification of particular reports or returns and
5 the items of the reports or returns."

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

8 SECTION 9. This Act shall take effect upon its approval.

APPROVED this 24 day of JUN, 2014



GOVERNOR OF THE STATE OF HAWAII