

# S.B. NO. 2893

JAN 23 2014

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## A BILL FOR AN ACT

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RELATING TO TRUST FUND LIABILITY FOR AMOUNTS PASSED ON AS TAX.

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

1           SECTION 1. Chapter 231, Hawaii Revised Statutes, is  
2 amended by adding a new section to be appropriately designated  
3 and to read as follows:

4           "§231-       Certain amounts held in trust; liability for  
5 certain amounts. For all taxes set forth in title 14, where the  
6 amount is passed on as the tax owed by the taxpayer for the  
7 transaction and is separately stated or accounted for in a  
8 receipt, contract, invoice, billing, or other evidence of the  
9 business activity, those amounts shall be held in trust for the  
10 benefit of the State and be remitted to the State in the manner  
11 and at the time required by applicable provisions of title 14.  
12 Any taxpayer subject to this section shall remit to the State an  
13 amount no less than the amount of tax passed on as described  
14 above.

15           A taxpayer is conclusively presumed to be liable for any  
16 amounts collected as a recovery of that taxpayer's liability as  
17 described above. In addition to these tax amounts, the taxpayer

S.B. NO. 2893

1 shall also be liable for any applicable penalties and interest  
2 that may be assessed by as provided in section 231-39."

3 SECTION 2. New statutory material is underscored.


4 SECTION 3. This Act shall take effect upon its approval.

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INTRODUCED BY: 

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BY REQUEST

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**Report Title:**

Taxes; Trust Fund Liability for Taxes Passed On

**Description:**

Creates trust fund liability for any title 14, Hawaii Revised Statutes, tax that is passed on and creates a conclusive presumption of liability for any title 14 tax amounts passed on.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

JUSTIFICATION SHEET

DEPARTMENT: Taxation

TITLE: A BILL FOR AN ACT RELATING TO TRUST FUND LIABILITY FOR AMOUNTS PASSED ON AS TAX.

PURPOSE: Creates trust fund liability for any title 14 tax that is separately passed on and creates a conclusive presumption that a taxpayer is liable for any tax amounts separately passed on.

MEANS: Add a new section to chapter 231, Hawaii Revised Statutes.

JUSTIFICATION: The Department has found that taxpayers often visibly pass on title 14 taxes such as general excise tax or transient accommodations tax and do not remit these amounts to the Department.

Impact on the public: The public will benefit from this new provision because there will be certainty that any amount paid as tax will be remitted to the State and not retained by the taxpayer.

Impact on the department and other agencies: The Department will have an easier time with assessment and collection in cases where any title 14 tax is passed on.

GENERAL FUND: Pending.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: None.

OTHER AFFECTED AGENCIES: None.

EFFECTIVE DATE: Upon approval.