

STAND. COM. REP. NO.

184

Honolulu, Hawaii

FEB 12 2019

RE: S.B. No. 712
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirtieth State Legislature
Regular Session of 2019
State of Hawaii

Sir:

Your Committee on Commerce, Consumer Protection, and Health,
to which was referred S.B. No. 712 entitled:

"A BILL FOR AN ACT RELATING TO TAXATION,"

begs leave to report as follows:

The purpose and intent of this measure is to amend the Hawaii Real Property Tax Act by removing foreign partnerships, foreign limited liability companies, and foreign limited liability partnerships from the definition of "resident person".

Your Committee received testimony in support of this measure from one individual. Your Committee received comments on this measure from the Department of Taxation, Department of the Attorney General, and Tax Foundation of Hawaii.

Your Committee finds that the Hawaii Real Property Tax Act (HARPTA) is a method of collecting taxes that may be due on a real estate transaction. Your Committee notes that as HARPTA is not a tax on real estate transactions and Hawaii's state income tax requirements apply equally to residents and nonresidents, this measure does not impose a burden on interstate commerce. Furthermore, residents and nonresidents must both pay Hawaii income tax on capital gains recognized on the sale of real property located in Hawaii, unless the gain can be excluded under Hawaii income tax law. Many nonresidents never realized they were subject to Hawaii taxation and did not file a Hawaii income tax



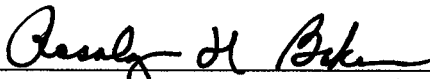
return or pay taxes when they sold a Hawaii property. HARPTA therefore requires a purchaser to withhold a percentage of the sales price when acquiring Hawaii real property from a nonresident seller and remit the amount withheld directly to the State. However, sellers and transferors who are Hawaii resident persons are exempt from this requirement. This measure removes foreign partnerships, foreign limited liability companies, and foreign limited liability partnerships from the definition of "resident person", making these entities ineligible for the HARPTA withholding exemption.

Your Committee has amended this measure by:

- (1) Clarifying the foreign entities that are expressly excluded from the definition of "resident person" under HARPTA;
- (2) Specifying that the measure applies to taxable years beginning after December 31, 2019; and
- (3) Inserting an effective date of July 1, 2050, to encourage further discussion.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection, and Health that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 712, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 712, S.D. 1, and be referred to your Committee on Ways and Means.

Respectfully submitted on
behalf of the members of the
Committee on Commerce, Consumer
Protection, and Health,



ROSALYN H. BAKER, Chair



The Senate
Thirtieth Legislature
State of Hawai'i

Record of Votes
Committee on Commerce, Consumer Protection, and Health
CPH

Bill / Resolution No.:*	Committee Referral:	Date:		
SB 712	CPH, WAM	2/6/19		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
BAKER, Rosalyn H. (C)	✓			
CHANG, Stanley (VC)	✓			
KEOHOKALOLE, Jarrett	✓			
NISHIHARA, Clarence K.				✓
RUDERMAN, Russell E.	✓			
THIELEN, Laura H.	✓			
FEVELLA, Kurt	✓			
TOTAL	6			1
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes