

STAND. COM. REP. NO. **3012**

Honolulu, Hawaii

**FEB 28 2020**

RE: S.B. No. 2084  
S.D. 1

Honorable Ronald D. Kouchi  
President of the Senate  
Thirtieth State Legislature  
Regular Session of 2020  
State of Hawaii

Sir:

Your Committee on Ways and Means, to which was referred S.B. No. 2084 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.

More specifically, this measure clarifies that the definition of "resident person" under the Hawaii Real Property Tax Act does not include foreign partnerships, foreign limited liability partnerships, foreign limited partnerships, or foreign limited liability companies.

Your Committee received testimony in support of this measure from two individuals.

Your Committee received testimony in opposition to this measure from one individual.

Your Committee received comments on this measure from the Department of Taxation and Tax Foundation of Hawaii.

Your Committee finds that pursuant to section 235-68, Hawaii Revised Statutes, commonly referred to as the Hawaii Real Property Tax Act, whenever real property in the State is transferred, the



buyer or transferee is required to withhold a percentage of the amount realized from the transfer. However, an exemption to this requirement is granted if the seller or transferor is a "resident person" and is not required to recognize any gain or loss on the transfer. Under the Hawaii Real Property Tax Act, the term "resident person" currently includes foreign partnerships, foreign limited liability partnerships, foreign limited partnerships, and foreign limited liability companies that are qualified to transact business in the State.

Your Committee also finds that, due to this exemption, the State loses tax revenues whenever a nonresident fails to pay the taxes due on a real property transfer. Removing foreign partnerships, foreign limited liability partnerships, foreign limited partnerships, and foreign limited liability companies from the definition of "resident person" would ensure that taxes would be properly withheld on all transfers involving nonresidents.

Your Committee further finds that subjecting nonresidents to this withholding requirement would not increase their tax burden, as the amount of taxes owed would remain the same. The only difference would be the manner in which the taxes are collected. Your Committee therefore finds that imposing this withholding requirement on nonresidents would promote the State's legitimate interest in securing the payment of taxes before the revenue leaves the State.

Your Committee has amended this measure by:

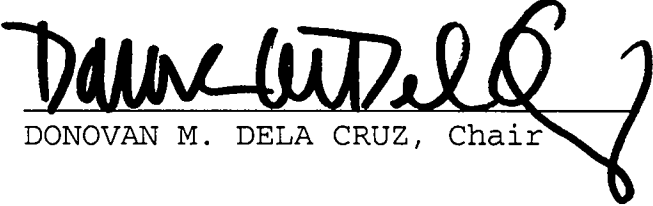
- (1) Adding a purpose section to the measure;
- (2) Clarifying that the measure applies to real estate dispositions that occur on or after January 1, 2021; and
- (3) Changing the effective date to July 1, 2050, to facilitate further discussion on the measure.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2084, as amended herein, and recommends that it pass Second



Reading in the form attached hereto as S.B. No. 2084, S.D. 1, and  
be placed on the calendar for Third Reading.

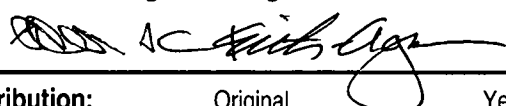
Respectfully submitted on  
behalf of the members of the  
Committee on Ways and Means,

  
DONOVAN M. DELA CRUZ, Chair



The Senate  
Thirtieth Legislature  
State of Hawai'i

**Record of Votes**  
**Committee on Ways and Means**  
**WAM**

Bill / Resolution No.:* <b>SB 2084</b>	Committee Referral: <b>WAM</b>	Date: <b>2/4/20</b>		
<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
DELA CRUZ, Donovan M. (C)	X			
KEITH-AGARAN, Gilbert S.C. (VC)	X			
ENGLISH, J. Kalani	X			
HARIMOTO, Breene	X			
INOUYE, Lorraine R.	X			
KAHELE, Kaiali'i				X
KANUHA, Dru Mamo	X			
KIDANI, Michelle N.	X			
MORIWAKI, Sharon Y.	X			
RIVIERE, Gil	X			
SHIMABUKURO, Maile S.L.	X			
TANIGUCHI, Brian T.	X			
FEVELLA, Kurt	X			
<b>TOTAL</b>	<b>12</b>			<b>1</b>
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
<b>Distribution:</b> Original    Yellow    Pink    Goldenrod File with Committee Report    Clerk's Office    Drafting Agency    Committee File Copy				

\*Only one measure per Record of Votes