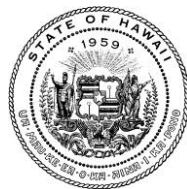


JOSH GREEN M.D.  
GOVERNOR

SYLVIA LUKE  
LT. GOVERNOR



STATE OF HAWAII  
DEPARTMENT OF TAXATION

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GARY S. SUGANUMA  
DIRECTOR

KRISTEN M.R. SAKAMOTO  
DEPUTY DIRECTOR

**TESTIMONY OF  
GARY S. SUGANUMA, DIRECTOR OF TAXATION**

**TESTIMONY ON THE FOLLOWING MEASURE:**

H.B. No. 2416, Relating to Taxation.

**BEFORE THE:**

House Committees on Housing and Tourism

**DATE:** Friday, February 2, 2024

**TIME:** 9:50 a.m.

**LOCATION:** State Capitol, Room 312

Chairs Evslin and Quinlan, Vice-Chairs Aiu and Hussey-Burdick, and Members of the Committees:

The Department of Taxation ("Department") supports the Governor's initiative to address the State's affordable housing needs in H.B. 2416, an Administration measure, and offers the following comments for your consideration.

HB 2416 provides tax relief to persons who convert their short-term rental properties into long-term housing by establishing a one-time tax amnesty program, excluding capital gains from State income tax, and creating an exemption from the conveyance tax. The bill is effective on January 1, 2024, provided that the capital gains exclusion shall apply to taxable years beginning after December 31, 2023 and shall be repealed on January 1, 2026, and the conveyance tax exemption shall take effect on July 1, 2024 and shall be repealed on January 1, 2026.

**Amnesty Program**

Section 2 of the bill creates a tax amnesty program to be developed and administered by the Director of Taxation. Under the amnesty program, any taxpayer who, after June 30, 2024, but prior to December 31, 2025, converts a transient accommodation into a long-term rental in accordance with the measure's requirements would be eligible for amnesty in the form of waiver of criminal prosecution and any fines,

penalties, and interest that may be assessed for general excise (GET) and transient accommodation (TAT) taxes. The amnesty would apply to taxable periods beginning after December 31, 2014 and ending before January 1, 2024; the Director would begin accepting applications from qualified applicants from January 1, 2025, through December 31, 2025. Granting of amnesty would not waive any underlying taxes owed, and may be canceled if the taxpayer fails to provide sufficient evidence of the long-term rental status of the property, gives false information in their application, or fails to adhere to a payment plan for owed taxes.

### **Capital Gains Exclusion**

Section 3 of the bill adds a new section to chapter 235, HRS, to exclude from income tax capital gains from the sale of certain short-term rental properties to qualified buyers, provided that:

- (1) The short-term rental property is sold to a qualified buyer for a sales price of not more than \$2,000,000;
- (2) The sale closes after June 30, 2024 and before January 1, 2026;
- (3) The taxpayer obtains from a qualified buyer a declaration, signed under penalty of perjury, stating their intent to make the property their primary residence for not less than two years;
- (4) The property was furnished as a transient accommodation, as defined in section 237D-1, HRS, during the period from January 1, 2023, to July 1, 2024;
- (5) Outstanding taxes owed under chapters 235, 237, and 237D for the short-term rental of the property are paid prior to closing; and
- (6) The taxpayer files electronically all forms required by the Director.

Qualified buyers are individuals who intend to immediately occupy and make the property their primary residence and also lack close family, business, or property ownership ties to the seller or property. They also cannot have an ownership interest in any other real property.

### **Conveyance Tax Exemption**

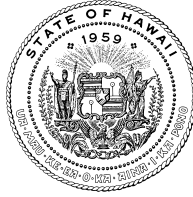
Section 4 of the bill amends section 247-3, HRS, to exempt from conveyance tax any document or instrument conveying real property during the period from June 30, 2024, to December 31, 2025, provided that:

- (1) The conveyance is to an individual and does not have a value above \$2,000,000;
- (2) The conveyance is not to an immediate family member of any owner of the property;
- (3) The individual to whom the property is conveyed does not have a direct or

- indirect ownership interest in any other real property; and
- (4) That individual intends to immediately occupy the property as their primary residence for at least two years;
  - (5) The property was furnished as a transient accommodation, as defined in section 237D-1, HRS, during the period from January 1, 2023, to June 30, 2024; and
  - (6) All outstanding income, general excise, or transient accommodations taxes incurred on gross income or gross rental proceeds received for furnishing the property as a transient accommodation have been paid.

Section 5 of the bill amends section 247-6, HRS, to require that before obtaining the new exemption in section 4, any party to the document or instrument must file: 1) a declaration by the transferee, signed under penalty of perjury, that declares their intent to make the property their primary residence for not less than two years, and 2) certificates from the appropriate parties that all requirements of the new exemption have been met.

The Department is able to administer this bill as drafted. Thank you for the opportunity to provide testimony in support of this important measure.



EXECUTIVE CHAMBERS  
KE KE'ENA O KE KIA'ĀINA

JOSH GREEN, M.D.  
GOVERNOR  
KE KIA'ĀINA

**House Committees on Housing and Tourism**

Friday, February 2, 2024

9:50 a.m.

State Capitol, Conference Room 312 and Videoconference

**In Strong Support**

**H.B. No. 2416, Relating to Taxation**

Chairs Evslin and Quinlan, Vice Chairs Aiu and Hussey-Burdick, and members of the House Committees on Housing and Tourism:

Thank you for the opportunity to testify on H.B. No. 2416, Relating to Taxation. The Office of the Governor is in strong support of this bill.

Hawaii's housing crisis continues to be one of the greatest challenges facing our State and affecting the lives of residents and communities. Housing costs in Hawaii are among the most expensive in the nation. This reality, compounded by the lack of housing availability and housing affordability, is especially acute for lower-income households. However, middle-income families and individuals also struggle as well.

Factors contributing to the shortage of affordable housing for residents are the number of short-term rental market and vacant investment properties. According to the University of Hawaii Economic Research Organization, in a tight housing market with high prices and barriers to creating new supply, removing supply from the long-term housing market could harm residents by raising housing costs.

H.B. No. 2416 would provide tax amnesty to qualified owners of short-term rentals who convert their eligible properties to long-term rentals. Such a sale to an "owner-occupier" or to a qualified buyer who turns the property into a long-term rental would be exempt from the capital gains tax, conveyance tax, and general excise tax. The conversion of short-term rentals to long-term would increase the housing supply for residents. This bill is but one of several Administration proposals that is aimed at providing greater access and opportunities to housing for residents.

There is shared interest in addressing our statewide housing crisis. The Office of the Governor looks forward to continued work with your Committees and other members of the Legislature to address the housing needs of residents.

Thank you for the opportunity to provide testimony on this measure.

# TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 305

Honolulu, Hawaii 96813 Tel. 536-4587

**SUBJECT:** INCOME, CONVEYANCE, GENERAL EXCISE, TRANSIENT ACCOMMODATIONS, Tax Amnesty Program and Other Incentives to Convert to Long-Term Rental

**BILL NUMBER:** HB 2416, SB 3105

**INTRODUCED BY:** HB by SAIKI; SB by KOUCHI (Governor's Package)

**EXECUTIVE SUMMARY:** Requires the Director of Taxation to develop and administer a one-time tax amnesty program that would waive criminal prosecution, fines, penalties, and interest related to general excise tax and transient accommodations tax for qualified owners who convert an eligible property to a long-term rental through a two-year written resident lease agreement, subject to certain conditions. Provides a conveyance tax exemption for certain real property furnished as a transient accommodation during the period from January 1, 2023, to July 1, 2024. Provides an income tax exemption for capital gains from the sale of certain short-term rental properties furnished as transient accommodation and closing after June 30, 2024, and before January 1, 2026, subject to certain conditions.

**SYNOPSIS:** Part I of the bill, which will not be codified, requires DOTAX to develop and administer a one-time amnesty program.

Eligible taxpayers are those who, after June 30, 2024, but before December 31, 2025, convert a transient accommodation to a long-term rental by entering into a written residential lease agreement for a term of at least 24 months with an individual not an immediate family member of the taxpayer or who does not have a direct or indirect ownership interest in the property. Taxpayers will be required to file any outstanding returns and pay any necessary taxes, but the State will not criminally prosecute and will waive penalties and interest. Taxpayers already under criminal investigation for tax crimes as of the time their application to the program is filed will not qualify for relief. Relief granted may be rescinded if the taxpayer can't produce evidence that the property has been leased out, if the taxpayer provided false information in its application or in the required returns, or if the taxpayer defaults on the installment payment plan with DOTAX (if the taxpayer made one).

Part II of the bill amends chapter 235, HRS, to exclude capital gains from the sale of qualified short-term rental property to a qualified buyer if: (1) the sales price is not more than \$2 million; (2) the sale closes after June 30, 2024, and before January 1, 2026; (3) the buyer signs a declaration that the buyer intends to occupy the property as the buyer's primary residence for not less than two years; (4) any outstanding income, GE, or TA taxes upon the short-term rental are paid prior to closing; and (5) the taxpayer electronically files all returns required by DOTAX.

Defines a "qualified buyer" as an individual who: (1) Is not an immediate family member of any owner of the qualified short-term rental property; (2) Does not have a direct or indirect

ownership interest in the qualified short-term rental property; (3) Does not have a direct or indirect ownership interest in any other real property; and (4) Intends to immediately occupy the qualified short-term rental property as their primary residence for a period of not less than two years.

Defines “qualified short-term rental property” as real property in the State that was furnished as a transient accommodation, as defined in section 237D-1, during the period from January 1, 2023, to July 1, 2024.

Part III of the bill amends section 247-3, HRS, to add a conveyance tax exemption for any document or instrument conveying real property during the period from June 30, 2024, to December 31, 2025, with a value of not more than \$2,000,000 to an individual who: (A) Is not an immediate family member of any owner of the property; (B) Does not have a direct or indirect ownership interest in the property; (C) Does not have a direct or indirect ownership interest in any other real property; and (D) Intends to immediately occupy the property as the individual’s primary residence for a period of not less than two years; provided that the property was furnished as a transient accommodation, as defined in section 237D-1, during the period from January 1, 2023, to June 30, 2024; and provided further that all outstanding taxes imposed under chapters 235, 237, and 237D for gross income, gross rental, or gross rental proceeds received for the furnishing of the property as a transient accommodation have been paid.

EFFECTIVE DATE: July 1, 2024, Part 2 shall be applicable to taxable years beginning after December 31, 2023 and shall be repealed January 1, 2026; Part 3 shall take effect July 1, 2024 and repealed January 1, 2026.

STAFF COMMENTS: This bill is sponsored by the Office of the Governor and is designated as GOV-15 (24). The justification sheet accompanying the bill states that it “is part of a comprehensive housing strategy to address the affordable housing needs of our State. The tax exemptions in this bill are intended to free up affordable housing units for families and individuals. Increasing the number of long-term rentals and the conversion of short-term rentals for sale to owner-occupants through tax benefits would provide residents with greater access to housing.”

The bill appears to be an ambitious attempt to have private owners convert their vacation rental and B&B units into longer-term rentals or owner-occupied dwellings.

Digested: 1/31/2024

**HB-2416**

Submitted on: 1/31/2024 6:30:25 PM

Testimony for HSG on 2/2/2024 9:50:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Julia Estigoy-Kahoonei	Individual	Oppose	Written Testimony Only

Comments:

There should be no amnesty whatsoever to those who convert single family homes into transient accommodations. Those who own property here and do not live in the home should pay triple property tax

**HB-2416**

Submitted on: 2/1/2024 9:45:28 PM

Testimony for HSG on 2/2/2024 9:50:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Angela Melody Young	CAREs	Support	Remotely Via Zoom

Comments:

CAREs testifies in strong support.