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**DEPARTMENT OF TAXATION**

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

**TESTIMONY ON THE FOLLOWING MEASURE:**

S.B. No. 884, S.D.1, Relating to Leasehold Conversion

**BEFORE THE:**

Senate Committee on Ways and Means

**DATE:** Wednesday, March 1, 2023

**TIME:** 10:10 a.m.

**LOCATION:** State Capitol, Room 211

Chair Dela Cruz, Vice-Chair Keith-Agaran, and Members of the Committee:

The Department of Taxation ("Department") offers the following comments regarding S.B. 884, S.D.1, for your consideration.

S.B. 884, S.D.1, seeks to amend section 235-7(a), Hawaii Revised Statutes (HRS), to exclude from gross income, adjusted gross income, and taxable income, 100 percent of the gain realized by a "fee simple owner" who sells a "leased fee interest" in certain "condominium projects," "cooperative projects," or planned unit developments, for units sold to the Association of the Apartment Owners (AOAO) or the Residential Cooperative Corporation of the leased units.

The measure has a defective effective date of July 1, 2050, and applies to taxable years beginning after December 31, 2022 and ending prior to January 1, 2030. The Act is repealed, and section 235-7(a) is reenacted in its prior form on January 1, 2030.

The Department notes that this is a reinstatement of a tax law that was previously enacted as Act 166, Session Laws of Hawaii (SLH) 2007, which had an effective date for taxable years beginning after December 31, 2007 and ending before January 1, 2013. Act 220, SLH 2012, extended the sunset date from January 1, 2013, to January 1, 2018.

Should the measure be amended to include an appropriate effective date, the Department would be able to administer the bill for tax years beginning after December 31, 2022, and the expected revenue loss (\$ in millions) would be as follows:

<b>FY 2024</b>	<b>FY 2025</b>	<b>FY 2026</b>	<b>FY 2027</b>	<b>FY 2028</b>	<b>FY 2029</b>
-1.43	-1.43	-1.43	-1.43	-1.43	-1.43

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

TAX FOUNDATION OF HAWAII **LATE**

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SUBJECT: INCOME, Tax Holiday for Gain from Leased Fee Interest Sale

BILL NUMBER: SB 884 SD 1

INTRODUCED BY: Senate Committee on Commerce and Consumer Protection

EXECUTIVE SUMMARY: Excludes from taxation one hundred per cent of the gain realized by a fee simple owner from the sale of a leased fee interest in units within a condominium project, cooperative project, or planned unit development to the association of apartment owners or the residential cooperative housing corporation of the leasehold units. Applies to taxable years beginning after 12/31/2022 and ending prior to 1/1/2030.

SYNOPSIS: Amends section 235-7, HRS, to add a new paragraph excluding 100% of the gain realized by a fee simple owner from the sale of a leased fee interest in units within a condominium project, cooperative project, or planned unit development to the association of apartment owners or the residential cooperative housing corporation of the leasehold units.

Terms used in the exclusion are defined by cross-reference to section 514C-1 or 516-1, HRS.

EFFECTIVE DATE: July 1, 2050.

STAFF COMMENTS: This bill establishes a period during which a sale of a leased fee interest will not be subject to state income tax. It cannot and does not affect capital gain tax assessed by the federal government, however, which is much larger in amount than the comparable tax that the state otherwise would have imposed. It is questionable whether the behavior sought to be encouraged by this credit, namely the permanent sale of a leasehold, would be worth the cost to the public fisc.

Digested: 2/27/2023

**SB-884-SD-1**

Submitted on: 2/27/2023 11:25:46 AM

Testimony for WAM on 3/1/2023 10:10:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Derek Wong	Individual	Support	Written Testimony Only

Comments:

I support SB884 to encourage the sale of fee interests to condominium lessees and to continue the goals and objectives of the previous Act 166 enacted in 2007 to incentivize such sales at the present time.

This is an opportunity to extend and renew the efforts to stabilize the condominium market.

**SB-884-SD-1**

Submitted on: 2/27/2023 1:58:33 PM

Testimony for WAM on 3/1/2023 10:10:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Bryant Wong	Individual	Support	Written Testimony Only

Comments:

I support SB884 SD1. Capital gains taxes are a major deterrent in selling leased fee interests. The passage of SB884 SD1 would eliminate that significant disincentive. This, in turn, would let the free market work more efficiently in the transition from leased fee to fee simple ownership. In the end, this bill would encourage more fee simple conversions. If the concern is the potential loss of Hawaii state tax revenue, the current status quo discourages such sales thus negating the realization of that revenue. Thank you for considering this testimony.

**SB-884-SD-1**

Submitted on: 2/28/2023 12:10:48 AM

Testimony for WAM on 3/1/2023 10:10:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Debbie Oride	Individual	Support	Written Testimony Only

Comments:

**I hereby support SB884 (Companion HB1121) to encourage the sale of the fee interest to condominium leasees and to continue the goals and objectives of the previous Act 166 enacted in 2007.**