

JOSH GREEN M.D.
GOVERNOR

SYLVIA LUKE
LT. GOVERNOR



STATE OF HAWAII
DEPARTMENT OF TAXATION

Ka 'Oihana 'Auhau
P.O. BOX 259

HONOLULU, HAWAII 96809
PHONE NO: (808) 587-1540
FAX NO: (808) 587-1560

GARY S. SUGANUMA
DIRECTOR

KRISTEN M.R. SAKAMOTO
DEPUTY DIRECTOR

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

TESTIMONY ON THE FOLLOWING MEASURE:

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

BEFORE THE:

Senate Committee on Commerce and Consumer Protection

DATE: Thursday, February 16, 2023

TIME: 9:30 a.m.

LOCATION: State Capitol, Room 229

Chair Keohokalole, Vice-Chair Fukunaga, and Members of the Committee:

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

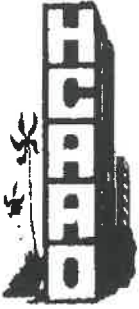
S.B. 884 seeks to amend section 235-7(a), Hawaii Revised Statutes (HRS), to exclude from gross income, adjusted gross income, and taxable income, 100 percent of the gain realized by a "fee simple owner" who sells a "leased fee interest" in certain "condominium projects," "cooperative projects," or planned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

The measure becomes effective upon approval 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 The Act is repealed, and section 235-7(a) is reenacted, on January 1, 2030.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.

The Department is able to administer the bill with its current effective date.

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



**Hawaii Council of Associations
of Apartment Owners**
DBA: Hawaii Council of Community Associations
1050 Bishop Street, #366, Honolulu, Hawaii 96813



February 13, 2023

Sen. Jarrett Keohokalole, Chair
Sen. Carol Fukunaga, Vice-Chair
Senate Committee on Commerce and Consumer Protection

Re: Testimony in Support of SB884 Re Leasehold Conversion
Hearing: Thursday, February 16, 2023, 9:30 a.m., Conf. Rm. #229

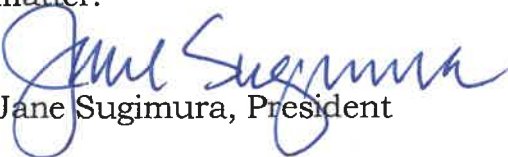
Chair Keohokalole, Vice-Chair Fukunaga and Members of the Committee:

I am Jane Sugimura, President of the Hawaii Council of Associations of Apartment Owners (HCAAO dba HCCA).

HCCA supports this bill for the following reasons:

- HCCA supported enactment of Act 166, which allowed lessees in leasehold condominiums, e.g., the Wailana at Waikiki and Discovery Bay, to buy their leased-fee interest from the lessor and avoid the risk of losing their homes when their leases expired.
- Unfortunately, Act 166 had a sunset provision that became effective on December 31, 2012, leaving many condominium units still held in leasehold, which means that those lessees may lose their homes if they cannot acquire their leased-fee interests from their lessors.
- This bill would establish an income tax exemption for capital gains realized from the sale of the leased-fee interest for lessors who sell the leased-fee interest in condos and co-op to their lessees. This tax incentive would hopefully motivate lessors to sell the leased-fee interests to their lessees and this would promote the long-term stability in Hawaii's condominium and cooperative housing market.

Accordingly, HCCA respectfully requests that you pass this bill so that lessees can buy their leased-fee interests in their condos and co-ops and can be assured that they will not lose their homes at the end of their leases. Thank you for the opportunity to testify on this matter.


Jane Sugimura, President

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 305

Honolulu, Hawaii 96813 Tel. 536-4587

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

BILL NUMBER: HB 1121, SB 884

INTRODUCED BY: HB by TAM, AMATO, BELATTI, GANADEN, MARTEN, MIZUNO;
SB by MORIWAKI, CHANG, Shimabukuro

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: Taxable years beginning after December 31, 2022, and ending prior to January 1, 2030.

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: 2/5/2023

SB-884

Submitted on: 2/10/2023 11:33:50 PM

Testimony for CPN on 2/16/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Marcia Kimura	Individual	Support	Written Testimony Only

Comments:

I am in favor of this measure.

SB-884

Submitted on: 2/12/2023 8:50:52 PM

Testimony for CPN on 2/16/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Richard Emery	Individual	Support	Written Testimony Only

Comments:

Any effort to create fee ownership for owners is desirable.

SB-884

Submitted on: 2/13/2023 9:07:56 AM

Testimony for CPN on 2/16/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
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 sunsetted 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

Submitted on: 2/13/2023 2:20:39 PM

Testimony for CPN on 2/16/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Bryant Wong	Individual	Support	Written Testimony Only

Comments:

I support SB884. Capital gains taxes are a major deterrent in selling leased fee interests. The passage of SB884 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.

SB-884

Submitted on: 2/14/2023 2:52:39 PM

Testimony for CPN on 2/16/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
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.