

STAND. COM. REP. NO.

3202

Honolulu, Hawaii

APR 05 2012

RE: H.B. No. 2328  
H.D. 1  
S.D. 1

Honorable Shan S. Tsutsui  
President of the Senate  
Twenty-Sixth State Legislature  
Regular Session of 2012  
State of Hawaii

Sir:

Your Committee on Ways and Means, to which was referred H.B. No. 2328, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO TAXATION,"

begs leave to report as follows:

The purpose and intent of this measure is to provide for the more efficient collection of estate and transfer taxes. More specifically, this measure establishes a new chapter in the Hawaii Revised Statutes governing estate and generation-skipping transfer taxes.

The Department of Taxation and the Hawaii Association of Realtors testified in support of this measure.

Your Committee finds that this measure will improve the Hawaii estate tax law by bringing the law into compliance with the federal estate tax, providing the Department of Taxation with the necessary powers to enforce the tax, and providing necessary protections for taxpayers. Your Committee also finds that this measure will restore the Hawaii generation-skipping transfer tax, which has been dormant since 2005.

Your Committee notes that S.B. No. 2112, S.D. 1, which amends the sunset provision of Act 166, Session Laws of Hawaii 2007, to extend the exemption from taxation of capital gains realized from the sale of leased fee interest in condominium units to association of apartment owners or residential cooperative

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corporations from January 1, 2013, to January 1, 2018, crossed over to the House of Representatives, but has not been scheduled for a hearing. Your Committee finds that extending this exemption is necessary to encourage landowners to sell condominium lessees the fee interest in their units and thereby promote the long-term stability in Hawaii's condominium housing market.

Your Committee has amended this measure by:

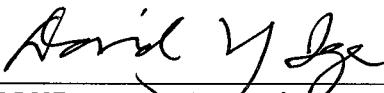
- (1) Correcting a reference to the Internal Revenue Code;
- (2) Providing that the new chapter of the Hawaii Revised Statutes shall apply to civil union partners with the same force and effect as if they were "husband and wife", "spouses", or other terms that describe persons in a legal marital relationship;
- (3) Clarifying that a Hawaii transfer tax return shall be required to be filed whenever a federal estate tax return or applicable generation-skipping transfer tax return is required to be filed;
- (4) Clarifying that the circuit court shall have jurisdiction to hear and determine questions in relation to the Hawaii estate tax and the tax appeal court shall have jurisdiction to hear and determine questions in relation to the Hawaii generation-skipping transfer tax;
- (5) Replacing the term "guardian of the estate" with "conservator of the estate";
- (6) Providing that Chapter 236D, Hawaii Revised Statutes, shall not apply to decedents dying or taxable transfers occurring after December 31, 2011;
- (7) Inserting language from S.B. No. 2112, S.D. 1, extending the sunset provision of Act 166, Session Laws of Hawaii 2007, from January 1, 2013, to January 1, 2018, to extend the exemption from taxation of capital gains realized from the sale of leased fee interest in condominium units to association of apartment owners or residential cooperative corporations;



- (8) Changing the effective date of the measure to July 1, 2050, to facilitate further discussion on the measure; and
- (9) Making technical nonsubstantive amendments for the purposes of consistency, clarity, and style.

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 H.B. No. 2328, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2328, H.D. 1, 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,

  
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DAVID Y. IGE, Chair



The Senate  
Twenty-Sixth Legislature  
State of Hawai'i

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

Bill / Resolution No.:* <b>HB2328 HD1</b>	Committee Referral: <b>WAM</b>	Date: <b>3-22-12</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: <div style="display: flex; justify-content: space-between;"> <span><input type="checkbox"/> Pass, unamended 2312</span> <span><input checked="" type="checkbox"/> Pass, with amendments 2311</span> <span><input type="checkbox"/> Hold 2310</span> <span><input type="checkbox"/> Recommit 2313</span> </div>				
<b>Members</b>	<b>Aye</b>	<b>Aye (WR)</b>	<b>Nay</b>	<b>Excused</b>
IGE, David Y. (C)	/			
KIDANI, Michelle N. (VC)	/			
CHUN OAKLAND, Suzanne	/			
DELA CRUZ, Donovan M.	/			
ENGLISH, J. Kalani	/			
ESPERO, Will	/			
FUKUNAGA, Carol	/			
KIM, Donna Mercado	/			
KAHELE, Gilbert	/			
KOUCHI, Ronald D.	/			
RYAN, Pohai	/			
TOKUDA, Jill N.	/			
WAKAI, Glenn	/			
SLOM, Sam		/		
<b>TOTAL</b>	<b>13</b>	<b>1</b>	<b>0</b>	<b>0</b>
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: <i>Michelle N. Kidani</i>				
<b>Distribution:</b> <div style="display: flex; justify-content: space-between; font-size: small;"> <span>Original File with Committee Report</span> <span>Yellow Clerk's Office</span> <span>Pink Drafting Agency</span> <span>Goldenrod Committee File Copy</span> </div>				

**\*Only one measure per Record of Votes**