

S.B. NO. 1135

JAN 28 2015

A BILL FOR AN ACT

RELATING TO SECTION 237-23, HAWAII REVISED STATUTES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 237-23, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:

3 "(b) The exemptions enumerated in subsection (a) (3) to (7)
4 shall apply only:

5 (1) To those persons who shall have registered with the
6 department of taxation by filing a written application
7 for registration in such form as the department shall
8 prescribe, shall have paid the registration fee of
9 \$20, and shall have had the exemption allowed by the
10 department or by a court or tribunal of competent
11 jurisdiction upon appeal from any assessment resulting
12 from disallowance of the exemption by the department;

13 (2) To activities from which no profit inures to the
14 benefit of any private stockholder or individual,
15 except for death or other benefits to the members of
16 fraternal societies; and

17 (3) To the fraternal, religious, charitable, scientific,
18 educational, communal, or social welfare activities of

SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

INTRODUCED BY: Amra Mercado K.

TAX-03 (15)

S.B. NO. 1135

Report Title:

General Excise Tax; Nonprofit Organizations

Description:

Fixes the inadvertent repeal of wording from section 237-23, Hawaii Revised Statutes.

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JUSTIFICATION SHEET

DEPARTMENT: Taxation

TITLE: A BILL FOR AN ACT RELATING TO SECTION 237-23, HAWAII REVISED STATUTES.

PURPOSE: To fix the inadvertent repeal of wording from section 237-23, Hawaii Revised Statutes (HRS).

MEANS: Amend section 237-23(b), HRS.

JUSTIFICATION: Act 184, Session Laws of Hawaii 2012, amended section 237-23, Hawaii Revised Statutes, to add certain potable water companies to the existing exemption. In the process, the words "as such" were deleted. The words "as such" have been important in litigation in the past and deletion of this phrase may lead to confusion regarding what activities of certain organizations are exempt from taxation. Hawaii law has always held that only income from those activities that further the exempt purpose of the listed organization is exempt. For example, a potable water company would be exempt from taxation on income from its activities providing potable water, but would not be exempt on income for unrelated sales of tangible personal property. The deletion of "as such" implies that all activities of the listed organizations are exempt, rather than merely those activities that further the exempt purpose.

Impact on the public: This measure would alleviate confusion regarding application of this tax exemption.

Impact on the department and other agencies: This measure would ease administration of this tax exemption and lead to fewer

disputes regarding application of the tax exemption.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: None.

OTHER AFFECTED
AGENCIES: None.

EFFECTIVE DATE: Upon approval.