MAR 1 1 2016 .

SENATE CONCURRENT RESOLUTION

REQUESTING THE TAX REVIEW COMMISSION TO ANALYZE GENERAL EXCISE TAX PYRAMIDING AS APPLIED TO TRANSIENT ACCOMMODATIONS.

WHEREAS, the Hawaii general excise tax (GET) was studied extensively by, among others, the Tax Review Commissions of 1989 and 1995, both of which recommended structural changes to the GET because of excessive pyramiding, namely where the retail tax rate is applied multiple times to the same product, service, or other economic activity before it reaches the ultimate consumer; and

WHEREAS, the sublease deduction enacted by Act 353, Session Laws of Hawaii (SLH) 1997, and codified as Hawaii Revised Statutes section 237-16.5, represented the first steps in mitigating the impacts of pyramiding, to be followed by Acts 70 and 71, SLH 1999, and Act 198, SLH 2000, which fundamentally changed the GET by eliminating much of the pyramiding as it related to the furnishing of services; and

WHEREAS, the sublease deduction is currently applied so that where both a sublessor and sublessee pay rent on the same leased property, both parties do not also pay the standard GET rate on rents received; and

WHEREAS, the Department of Taxation has taken the position that the sublease deduction cannot be applied to mitigate the impact of pyramiding where an operator of transient accommodations, such as a hotel, pays rent to a landlord and the guest pays room charges to the operator, although the room charge paid to the operator represents, at least in substantial part, a charge for occupancy of real estate, and the rent paid by the operator to the landlord is a charge for occupancy of the same real estate; and

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WHEREAS, it is expected that the Tax Review Commission will be appointed this year pursuant to Article VII, Section 3 of the Constitution of the State of Hawai'i, and that the mission of the Commission is to submit to the Legislature an evaluation of the State's tax structure, and recommend revenue and tax policy; now, therefore,

BE IT RESOLVED by the Senate of the Twenty-eighth Legislature of the State of Hawaii, Regular Session of 2016, the House of Representatives concurring, that the Tax Review Commission is requested to analyze whether the sublease deduction can and should be applied to hotels in a manner similar to other subleased real estate, and to report its findings and recommendations to the Legislature no later than twenty days prior to the convening of the 2017 Regular Session; and

BE IT FURTHER RESOLVED that certified copies of this Concurrent Resolution be transmitted to the Chairperson of the Tax Review Commission, the Governor, and the Director of Taxation.

OFFERED BY.