

Honolulu, Hawaii

MAR 02 2018

RE: S.B. No. 3067
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Twenty-Ninth State Legislature
Regular Session of 2018
State of Hawaii

Sir:

Your Committee on Ways and Means, to which was referred S.B. No. 3067 entitled:

"A BILL FOR AN ACT RELATING TO TAXATION,"

begs leave to report as follows:

The purpose and intent of this measure is to improve the collection of income taxes from nonresident shareholders of real estate investment trusts.

More specifically, this measure:

- (1) Requires that real estate investment trusts file returns reporting their shareholders' pro rata shares of income attributable to this State;
- (2) Requires the Department of Taxation to allow real estate investment trusts to file composite returns and make composite payments on behalf of their nonresident shareholders;
- (3) Authorizes the Department of Taxation to allow real estate investment trusts to file composite returns and make composite payments on behalf of their resident shareholders;



- (4) Requires real estate investment trusts to file with the Department of Taxation agreements obtained from their nonresident shareholders to file returns and pay taxes on their pro rata share of income attributable to the State; and
- (5) Requires real estate investment trusts to withhold taxes for shareholders who do not agree to file returns or pay taxes on their pro rata share of income attributable to the State.

Your Committee received testimony in support of this measure from Fergus and Company; Hawaii Appleseed Center for Law and Economic Justice; ILWU 142; Steiner and Associates; and twenty-eight individuals.

Your Committee received testimony in opposition to this measure from Alexander and Baldwin; Douglas Emmett, Inc.; GGP Inc.; Land Use Research Foundation of Hawaii; Nareit; Park Hotels and Resorts Inc.; and Public Storage.

Your Committee received comments on this measure from the Department of Taxation; Tax Foundation of Hawaii; and one individual.

Your Committee finds that a real estate investment trust is a corporation that owns income-producing real estate and that is required to distribute at least ninety percent of its taxable income in the form of dividends to its shareholders. Under federal and state tax law, a real estate investment trust is not taxed on income that it pays out as dividends. Rather, the shareholders of the real estate investment trust are taxed on the dividends they receive. Your Committee also finds that most shareholders of real estate investment trusts that own real estate in the State are not Hawaii residents and, therefore, pay taxes on their dividend income to states other than Hawaii.

Your Committee has amended this measure by:

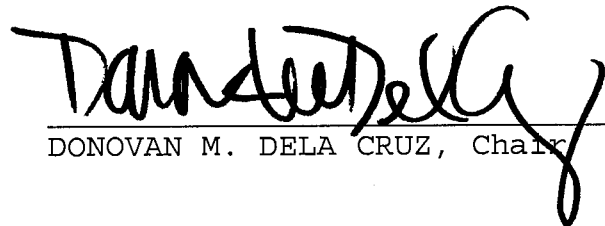
- (1) Deleting provisions requiring the Department of Taxation to allow real estate investment trusts to file composite returns and make composite payments on behalf of their nonresident shareholders;



- (2) Deleting provisions requiring real estate investment trusts to obtain and file agreements from a nonresident shareholder or to withhold and pay to the State an amount equal to the taxes owed on the nonresident shareholder's pro rata share of income attributable to the State;
- (3) Adding provisions requiring real estate investment trusts to withhold and pay to the State a minimum tax on behalf of any shareholder, regardless of residency status, in an amount equal to five percent of the shareholder's pro rata share of income attributable to the State;
- (4) Adding a definition of the term "real estate investment trust shareholder";
- (5) Changing the effective date to July 1, 2050, to facilitate further discussion on the measure; and
- (6) Making technical nonsubstantive amendments for the purposes of clarity, consistency, 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 S.B. No. 3067, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3067, 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,


DONOVAN M. DELA CRUZ, Chair



The Senate
Twenty-Ninth Legislature
State of Hawai'i

Record of Votes
Committee on Ways and Means
WAM

Bill / Resolution No.:* <div style="font-size: 1.2em; font-family: cursive;">SB 3067</div>	Committee Referral: <div style="font-size: 1.2em; font-family: cursive;">WAM</div>	Date: <div style="font-size: 1.2em; font-family: cursive;">2/21/18 10:24</div>		
<input checked="" type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: <u>PASS WITH AMENDMENTS</u>				
The Recommendation is: <div style="display: flex; justify-content: space-between; align-items: flex-start;"> <div><input type="checkbox"/> Pass, unamended 2312</div> <div><input checked="" type="checkbox"/> Pass, with amendments 2311</div> <div><input type="checkbox"/> Hold 2310</div> <div><input type="checkbox"/> Recommit 2313</div> </div>				
Members	Aye	Aye (WR)	Nay	Excused
DELA CRUZ, Donovan M. (C)	X			
KEITH-AGARAN, Gilbert S.C. (VC)	X			
ENGLISH, J. Kalani		X		
GALUTERIA, Brickwood			X	
HARIMOTO, Breene		X		
INOUE, Lorraine R.			X	
KAHELE, Kaiali'i		X		
KIDANI, Michelle N.			X	
RIVIERE, Gil	X			
SHIMABUKURO, Maile S.L.				X
WAKAI, Glenn		X		
		X		
TOTAL	3	4	3	1
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: <div style="font-size: 1.5em; font-family: cursive;">AC [Signature]</div>				
<div style="display: flex; justify-content: space-between; font-size: 0.8em;"> <div>Distribution: Original File with Committee Report</div> <div>Yellow Clerk's Office</div> <div>Pink Drafting Agency</div> <div>Goldenrod Committee File Copy</div> </div>				

*Only one measure per Record of Votes