



GOV. MSG. NO. 1180

EXECUTIVE CHAMBERS
HONOLULU

DAVID Y. IGE
GOVERNOR

June 24, 2021

The Honorable Ronald D. Kouchi,
President
and Members of the Senate
Thirty First State Legislature
State Capitol, Room 409
Honolulu, Hawai'i 96813

The Honorable Scott K. Saiki,
Speaker and Members of the
House of Representatives
Thirty First State Legislature
State Capitol, Room 431
Honolulu, Hawai'i 96813

Dear President Kouchi, Speaker Saiki, and Members of the Legislature:

This is to inform you that on June 24, 2021, the following bill was signed into law:

HB0286 HD1 SD2

RELATING TO REAL ESTATE INVESTMENT
TRUSTS
ACT 078 (21)

Sincerely,

DAVID Y. IGE
Governor, State of Hawai'i

A BILL FOR AN ACT

RELATING TO REAL ESTATE INVESTMENT TRUSTS.

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

1 SECTION 1. The legislature finds that real estate
2 investment trusts play a significant role in Hawaii's economy,
3 and that the State would benefit from the accurate collection of
4 data about their economic activities.

5 The legislature recognizes that the assets of and revenues
6 generated by real estate investment trusts may not have been
7 reported to and accurately recorded by the State. The
8 legislature notes that there are no state tax forms specifically
9 for real estate investment trusts, nor are there any clear
10 methods for real estate investment trusts to annually report
11 their financial status and declare profits, losses, deductions,
12 and credits to the State. As Hawaii faces major budget
13 shortfalls this year and for several years to come, it is
14 imperative that all business entities provide accurate reporting
15 of their assets and generated revenues.

16 The legislature further finds that a real estate investment
17 trust should be required to notify the department of taxation of



1 its presence in the State and to annually report the same tax
2 information they provide to the Internal Revenue Service.

3 Accordingly, the purpose of this Act is to authorize the
4 department of taxation to require real estate investment trusts
5 operating in the State to notify the State of the real estate
6 investment trusts' existence and annually report information
7 required by the department, including a copy of the real estate
8 investment trusts' federal tax return, with the real estate
9 investment trusts' state tax return.

10 SECTION 2. Section 235-71, Hawaii Revised Statutes, is
11 amended by amending subsection (d) to read as follows:

12 "(d) In the case of a real estate investment trust there
13 is imposed on the taxable income, computed as provided in
14 sections 857 and 858 of the Internal Revenue Code but with the
15 changes and adjustments made by this chapter (without prejudice
16 to the generality of the foregoing, the deduction for dividends
17 paid is limited to such amount of dividends as is attributable
18 to income taxable under this chapter), a tax consisting in the
19 sum of the following: 4.4 per cent if the taxable income is not
20 over \$25,000, 5.4 per cent if over \$25,000 but not over
21 \$100,000, and on all over \$100,000, 6.4 per cent. In addition



1 to any other penalty provided by law any real estate investment
2 trust whose tax liability for any taxable year is deemed to be
3 increased pursuant to section 859(b)(2)(A) or 860(c)(1)(A) after
4 December 31, 1978, (relating to interest and additions to tax
5 determined with respect to the amount of the deduction for
6 deficiency dividends allowed) of the Internal Revenue Code shall
7 pay a penalty in an amount equal to the amount of interest for
8 which ~~[such]~~ the trust is liable that is attributable solely to
9 ~~[such]~~ the increase. The penalty payable under this subsection
10 with respect to any determination shall not exceed one-half of
11 the amount of the deduction allowed by section 859(a), or 860(a)
12 after December 31, 1978, of the Internal Revenue Code for ~~[such]~~
13 the taxable year.

14 Notwithstanding the foregoing, beginning January 1, 2022,
15 the department shall require a real estate investment trust
16 subject to this chapter to:

17 (1) Notify the department, in the manner prescribed by the
18 department, of its operation as a real estate
19 investment trust in the State no later than fifteen
20 days from the first day of operation in the State;
21 provided that, for real estate investment trusts



- 1 operating in the State as of July 1, 2021, the
2 department shall be notified no later than January 15,
3 2022;
- 4 (2) Properly designate on its tax return that it is a real
5 estate investment trust, as required by the
6 department;
- 7 (3) Complete its tax return in the specific manner
8 required by the department, including following line-
9 by-line instructions; and
- 10 (4) Submit a copy of the real estate investment trust's
11 federal tax return covering the same period with each
12 state tax return that the real estate investment trust
13 files with the department under this chapter.
- 14 Any real estate investment trust that fails to comply with these
15 requirements shall be assessed a penalty of \$50 per day."

16 SECTION 3. Statutory material to be repealed is bracketed
17 and stricken. New statutory material is underscored.

18 SECTION 4. This Act, upon its approval, shall apply to
19 taxable years beginning after December 31, 2021.



H.B. NO. 286
H.D. 1
S.D. 2

APPROVED this 24th day of JUN, 2021

A handwritten signature in black ink, reading "David I. Ige". The signature is written in a cursive style with a large, sweeping flourish under the name.

GOVERNOR OF THE STATE OF HAWAII

HB No. 286, HD 1, SD 2

THE HOUSE OF REPRESENTATIVES OF THE STATE OF HAWAII

Date: April 22, 2021
Honolulu, Hawaii

We hereby certify that the above-referenced Bill on this day passed Final Reading in the House of Representatives of the Thirty-First Legislature of the State of Hawaii, Regular Session of 2021.



Scott K. Saiki
Speaker
House of Representatives





Brian L. Takeshita
Chief Clerk
House of Representatives

THE SENATE OF THE STATE OF HAWAI'I

Date: April 9, 2021
Honolulu, Hawaii 96813

We hereby certify that the foregoing Bill this day passed Third Reading in the Senate of the Thirty-First Legislature of the State of Hawai'i, Regular Session of 2021.


President of the Senate


Clerk of the Senate