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# A BILL FOR AN ACT

RELATING TO LEASEHOLD CONVERSION.

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

1           SECTION 1. The legislature finds that the legislature  
2 enacted Act 166, Session Laws of Hawaii 2007 (Act 166), which  
3 provided an income tax exemption of one hundred per cent of  
4 capital gains realized by a fee simple owner during taxable  
5 years 2008-2012 from the sale of a leased fee interest in units  
6 within a condominium project, cooperative project, or planned  
7 unit development to the association of apartment owners or  
8 residential cooperative corporations of the leasehold units.  
9 The purpose of Act 166 was to encourage landowners to sell  
10 condominium lessees the fee interest in their units, and thereby  
11 promote long-term stability in Hawaii's condominium and  
12 cooperative housing market. Act 166 sunset on  
13 December 31, 2012.

14           The legislature finds that today, many condominium units  
15 are still held in leasehold. Accordingly, the purpose of this  
16 Act is to reestablish an income tax exemption of one hundred per  
17 cent of capital gains realized from sales of leased fee interest



1 in condominium units, cooperative projects, or planned unit  
2 developments to association of apartment owners or residential  
3 cooperative corporations.

4 SECTION 2. Section 235-7, Hawaii Revised Statutes, is  
5 amended by amending subsection (a) to read as follows:

6 "(a) There shall be excluded from gross income, adjusted  
7 gross income, and taxable income:

8 (1) Income not subject to taxation by the State under the  
9 Constitution and laws of the United States;

10 (2) Rights, benefits, and other income exempted from  
11 taxation by section 88-91, having to do with the state  
12 retirement system, and the rights, benefits, and other  
13 income, comparable to the rights, benefits, and other  
14 income exempted by section 88-91, under any other  
15 public retirement system;

16 (3) Any compensation received in the form of a pension for  
17 past services;

18 (4) Compensation paid to a patient affected with Hansen's  
19 disease employed by the State or the United States in  
20 any hospital, settlement, or place for the treatment  
21 of Hansen's disease;



- 1 (5) Except as otherwise expressly provided, payments made  
2 by the United States or this State, under an act of  
3 Congress or a law of this State, which by express  
4 provision or administrative regulation or  
5 interpretation are exempt from both the normal and  
6 surtaxes of the United States, even though not so  
7 exempted by the Internal Revenue Code itself;
- 8 (6) Any income expressly exempted or excluded from the  
9 measure of the tax imposed by this chapter by any  
10 other law of the State, it being the intent of this  
11 chapter not to repeal or supersede any [~~such~~] express  
12 exemption or exclusion;
- 13 (7) Income received by each member of the reserve  
14 components of the Army, Navy, Air Force, Marine Corps,  
15 or Coast Guard of the United States of America, and  
16 the Hawaii National Guard as compensation for  
17 performance of duty, equivalent to pay received for  
18 forty-eight drills (equivalent of twelve weekends) and  
19 fifteen days of annual duty, at an:



- 1 (A) E-1 pay grade after eight years of service;  
2 provided that this subparagraph shall apply to  
3 taxable years beginning after December 31, 2004;
- 4 (B) E-2 pay grade after eight years of service;  
5 provided that this subparagraph shall apply to  
6 taxable years beginning after December 31, 2005;
- 7 (C) E-3 pay grade after eight years of service;  
8 provided that this subparagraph shall apply to  
9 taxable years beginning after December 31, 2006;
- 10 (D) E-4 pay grade after eight years of service;  
11 provided that this subparagraph shall apply to  
12 taxable years beginning after December 31, 2007;  
13 and
- 14 (E) E-5 pay grade after eight years of service;  
15 provided that this subparagraph shall apply to  
16 taxable years beginning after December 31, 2008;
- 17 (8) Income derived from the operation of ships or aircraft  
18 if the income is exempt under the Internal Revenue  
19 Code pursuant to the provisions of an income tax  
20 treaty or agreement entered into by and between the  
21 United States and a foreign country[+];[+] provided



1 that the tax laws of the local governments of that  
2 country reciprocally exempt from the application of  
3 all of their net income taxes, the income derived from  
4 the operation of ships or aircraft that are documented  
5 or registered under the laws of the United States;

6 (9) The value of legal services provided by a legal  
7 service plan to a taxpayer, the taxpayer's spouse, and  
8 the taxpayer's dependents;

9 (10) Amounts paid, directly or indirectly, by a legal  
10 service plan to a taxpayer as payment or reimbursement  
11 for the provision of legal services to the taxpayer,  
12 the taxpayer's spouse, and the taxpayer's dependents;

13 (11) Contributions by an employer to a legal service plan  
14 for compensation (through insurance or otherwise) to  
15 the employer's employees for the costs of legal  
16 services incurred by the employer's employees, their  
17 spouses, and their dependents; [~~and~~]

18 (12) Amounts received in the form of a monthly surcharge by  
19 a utility acting on behalf of an affected utility  
20 under section 269-16.3; provided that amounts retained



1 by the acting utility for collection or other costs  
2 shall not be included in this exemption[-]; and

3 (13) One hundred per cent of the gain realized by a fee  
4 simple owner from the sale of a leased fee interest in  
5 units within a condominium project, cooperative  
6 project, or planned unit development to the  
7 association of apartment owners or the residential  
8 cooperative housing corporation of the leasehold  
9 units.

10 For purposes of this paragraph:

11 "Condominium project" has the same meaning as in  
12 section 514C-1;

13 "Cooperative project" has the same meaning as in  
14 section 514C-1;

15 "Fee simple owner" has the same meaning as in  
16 section 516-1, and includes legal and equitable  
17 owners;

18 "Leased fee interest" has the same meaning as in  
19 section 516-1; and

20 "Legal and equitable owners" has the same meaning  
21 as in section 516-1."



1 SECTION 3. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3 SECTION 4. This Act shall take effect on July 1, 3000, and  
4 shall apply to taxable years beginning after December 31, 2022,  
5 and shall not apply to taxable years beginning after December  
6 31, 2029; provided that on January 1, 2030, this Act shall be  
7 repealed and section 235-7(a), Hawaii Revised Statutes, shall be  
8 reenacted in the form in which it read on the day prior to the  
9 effective date of this Act.



**Report Title:**

Income Tax; Exemption; Leased Fee Interest Sale; Condominiums;  
Cooperative Projects; Planned Community Associations; Capital  
Gains

**Description:**

Excludes from taxation one hundred per cent of the gain realized by a fee simple owner from the sale of a leased fee interest in units within a condominium project, cooperative project, or planned unit development to the association of apartment owners or the residential cooperative housing corporation of the leasehold units. Applies to taxable years beginning after 12/31/2022 and does not apply to taxable years beginning after 12/31/2029. Effective 7/1/3000. (HD1)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

