

JAN 20 2023

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

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



1 development to association of apartment owners or residential  
2 cooperative corporations.

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

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

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

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

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

17 (4) Compensation paid to a patient affected with Hansen's  
18 disease employed by the State or the United States in  
19 any hospital, settlement, or place for the treatment  
20 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" shall have the same meaning  
12 as provided under section 514C-1;

13 "Cooperative project" shall have the same meaning  
14 as provided under section 514C-1;

15 "Fee simple owner" shall have the same meaning as  
16 provided under section 516-1; provided that "fee  
17 simple owner" shall include legal and equitable  
18 owners;

19 "Leased fee interest" shall have the same meaning  
20 as provided under section 516-1; and



1                   "Legal and equitable owners" shall have the same  
2                   meaning as provided under section 516-1."

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

5           SECTION 4. This Act shall take effect upon its approval,  
6 and shall apply to taxable years beginning after December 31,  
7 2022, and ending prior to January 1, 2030; provided that on  
8 January 1, 2030, this Act shall be repealed and section  
9 235-7(a), Hawaii Revised Statutes, shall be reenacted in the  
10 form in which it read on the day prior to the effective date of  
11 this Act.

12

INTRODUCED BY: 



# S.B. NO. 884

**Report Title:**

Income Tax; Exemption; Leased Fee Interest Sale; 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 ending prior to 1/1/2030.

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

