

STAND. COM. REP. NO. 3288

Honolulu, Hawaii

MAR 22 2024

RE: H.B. No. 2653
H.D. 1
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirty-Second State Legislature
Regular Session of 2024
State of Hawaii

Sir:

Your Committee on Commerce and Consumer Protection, to which was referred H.B. No. 2653, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO THE ESTATE TAX,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Conform Hawaii estate tax laws to the operative provisions of the Internal Revenue Code to decrease the burden on taxpayers and increase efficiencies in the Department of Taxation's monitoring and auditing of estate tax returns; and
- (2) Establish an estate tax deduction for the value of closely held business interests that will help ensure that locally-owned family businesses can continue to contribute to the Hawaii economy and assist families to retain the ownership interest in their family businesses.

Your Committee received testimony in support of this measure from ABC Stores; Foodland Supermarket, Ltd.; Zippy's Restaurants; KTA Super Stores; Watumull Brothers, Ltd.; Servco Pacific Inc.; Business Strategies; Finance Enterprises, Ltd.; Stanford Carr Development, LLC; Grassroot Institute of Hawaii; Altres, Inc.;



Island Insurance Companies; Title Guaranty of Hawai'i; L&L Hawaiian Barbeque; City Mill; Avalon Group; House of Finance; Big Island Subaru; Big Island Toyota; Tori Richard; HPM Building Supply; Business Consulting Resources; ProService; Y. Hata; Honolulu Disposal Service; Liliha Bakery; Yummy Restaurant Group; Finance Factors; Loyalty Enterprises; Hawaii National Bank; MacNaughton; Tony Group; MW Group; Hawaii Self Storage; Plaza Assisted Living; Continental Assets Management; Kualoa Ranch; JN Group; Chaney Brooks; Aloha Beer; Foodland; Watumull Properties Corp.; C.S. Wo; Homeworld; and two individuals.

Your Committee received testimony in opposition to this measure from the Democratic Party of Hawai'i, League of Women Voters of Hawaii, Hawaii Appleseed Center for Law and Economic Justice, Americans for Democratic Action, Hawai'i Alliance for Progressive Action, Hawai'i Children's Action Network Speaks!, and sixteen individuals.

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

Your Committee finds that the Hawaii estate tax exclusion amount, which is currently much lower than the federal amount, has been a burden to many local family businesses that tend to have large portions of their estate values held in non-liquid assets. Members of a family-owned business will often appear to have highly valuable individual estates on paper solely because of their ownership interests in the business, which, as an entity, holds assets such as goods, equipment, or commercial properties. However, these assets are often necessary for the business to operate as a going concern and cannot easily be sold without adverse consequences to the family-owned business. Your Committee finds that local small businesses are fundamental to the health of the local economy and that it is necessary for the State to take measures to ensure that an untimely death of a business owner does not lead to the closing of another treasured local establishment. Therefore, this measure aligns the state and federal exclusion amounts for estate taxes and establishes an estate tax deduction for certain closely held family businesses.

Your Committee has amended this measure by:




- (1) Clarifying that for a decedent's estate to be allowed an estate tax deduction for the value of any qualified family-owned business interest that the decedent held at the time of death, the interest in the closely held business must have been owned by the decedent, not the decedent's qualified heir;
- (2) Clarifying that if a decedent or qualified heir of the business interest, rather than just the decedent, had a material participation in the trade or business for at least five of the eight years preceding the date of death, then that interest in a closely held business may be deemed a "qualified family-owned business interest" eligible for the estate tax deduction, subject to the remaining definitional requirements;
- (3) Inserting a definition of "qualified heir" to have the same meaning as defined in section 2032A(e)(1) of the Internal Revenue Code of 1986, as amended;
- (4) Extending the implementation of the measure by one year, from decedents dying or taxable transfers occurring after December 31, 2023, to decedents dying or taxable transfers occurring after December 31, 2024; and
- (5) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Commerce and Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2653, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2653, H.D. 1, S.D. 1, and be referred to your Committee on Ways and Means.



Respectfully submitted on
behalf of the members of the
Committee on Commerce and
Consumer Protection,

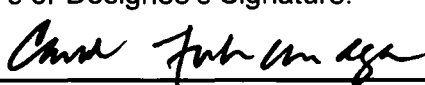


FARRETT KEOHOKALOLE, Chair



The Senate
 Thirty-Second Legislature
 State of Hawai'i

Record of Votes
Committee on Commerce and Consumer Protection
CPN

| | | | | |
|---|--|-------------------------|-----|----------|
| Bill / Resolution No.:* HB 2653, HDI | Committee Referral: CPN, WAM | Date: 3/19/24 | | |
| <input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____ | | | | |
| The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313 | | | | |
| Members | Aye | Aye (WR) | Nay | Excused |
| KEOHOKALOLE, Jarrett (C) | ✓ | | | |
| FUKUNAGA, Carol (VC) | ✓ | | | |
| MCKELVEY, Angus L.K. | | ✓ | | |
| RICHARDS, III, Herbert M. "Tim" | ✓ | | | |
| AWA, Brenton | | | | ✓ |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| TOTAL | 3 | 1 | | 1 |
| Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted | | | | |
| Chair's or Designee's Signature:  | | | | |
| Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy | | | | |

*Only one measure per Record of Votes