

STAND. COM. REP. NO.

3515

Honolulu, Hawaii

APR 03 2024

RE: S.C.R. No. 158  
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 S.C.R. No. 158 entitled:

"SENATE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF TAXATION TO CONDUCT A STUDY ON DISALLOWING THE DIVIDENDS PAID DEDUCTION FOR REAL ESTATE INVESTMENT TRUSTS,"

begs leave to report as follows:

The purpose and intent of this measure is to request the Department of Taxation to conduct a study on disallowing the dividends paid deduction for real estate investment trusts (REITs).

Your Committee received comments on this measure from the Department of Taxation, Land Use Research Foundation of Hawaii, Hawai'i Association of REALTORS, and Nareit Hawaii.

Your Committee finds that REITs own more real estate in Hawaii per capita than in any other state. Your Committee also finds that existing state law conforms to the provisions of the Internal Revenue Code that allow dividends paid deductions for REITs. Accordingly, when REITs conduct business in Hawaii and pay dividends to shareholders who live outside the State, no Hawaii income tax is collected, because shareholders pay tax on dividends to the state in which they reside and not where the income was generated. Your Committee believes that the dividends paid deductions for REITs may be negatively affecting the State's



income tax collections, since a substantial majority of shareholders of Hawaii REITs reside outside of the State and pay tax on the dividends to their home states. Your Committee finds however, that while the State may lose out on certain income taxes because of the tax code, the capital expenditures, jobs, and other investments made by REITs to develop properties in the State likely result in many other tangible benefits for Hawaii residents. Your Committee finds that regulating and taxing REITs requires a careful and objective approach, and therefore, this measure requests that a study be conducted to determine the impacts of disallowing dividends paid deductions for REITs.

Your Committee has amended this measure by:

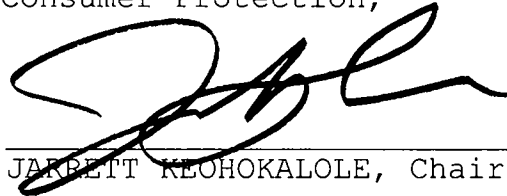
- (1) Inserting language that requests the requested study to:
  - (A) Be conducted by tax revenue experts and economists;
  - (B) Analyze REIT investments in Hawaii across ten asset classes (tower, industrial, retail, self-storage, lodging and resort, office, health care, specialty, residential, and mixed-use sectors), including affordable residential, student housing, telecommunications infrastructure, and health care facilities;
  - (C) Compare the loss of general excise taxes collected from hotels owned by REITs to any potential increase in corporate income tax revenues collected by the State;
  - (D) Show any potential tax revenue gains of REIT owners netted against the losses they incurred during the coronavirus disease 2019 (COVID-19) pandemic;
  - (E) Examine overall capital expenditures made in Hawaii by REITs during the COVID-19 pandemic as compared to the capital expenditures made by non-REIT owners, and any impact on the general excise taxes collected and construction jobs generated for the State;



- (F) Identify expected REIT projects and their potential impact on general excise taxes and corporate income taxes to be collected by the State, as well as any loss of revenues, construction, and other jobs, if REITs withdraw from those projects; and
  - (G) Include a comparison of the investments made in Hawaii of long-term REIT owners versus non-REIT owners that acquire and sell properties as a business model; and
- (2) 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 concurs with the intent and purpose of S.C.R. No. 158, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 158, S.D. 1.

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



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JARRETT KEOHOKALOLE, Chair



The Senate  
 Thirty-Second Legislature  
 State of Hawai'i

**Record of Votes**  
**Committee on Commerce and Consumer Protection**  
**CPN**

|   |                                   |                         |
|---|-----------------------------------|-------------------------|
| Bill / Resolution No.:*<br><b>SCR 158</b> | Committee Referral:<br><b>CPN</b> | Date:<br><b>3/22/24</b> |
|---|-----------------------------------|-------------------------|

The Committee is reconsidering its previous decision on this measure.  
 If so, then the previous decision was to: \_\_\_\_\_

The Recommendation is:

Pass, unamended 2312    
  Pass, with amendments 2311    
 Hold 2310    
 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                    |          |          |     | ✓        |
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| <b>TOTAL</b>                    | <b>3</b> |          |     | <b>2</b> |

Recommendation:    
 Adopted    
 Not Adopted

Chair's or Designee's Signature:  
*Carol Fukunaga*

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**\*Only one measure per Record of Votes**