

JAN 24 2024

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# A BILL FOR AN ACT

RELATING TO TAXATION.

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

PART I

SECTION 1. As used in part I of this Act:

"Department" means the department of taxation.

"Director" means the director of taxation.

"Eligible property" means a room, apartment, suite, single family dwelling, or the like, in the State for which the taxpayer received gross rental or gross rental proceeds at any time during the period from January 1, 2023, to June 30, 2024.

"Gross rental" or "gross rental proceeds" means the same as is defined in section 237D-1, Hawaii Revised Statutes.

"Long-term rental" means a room, apartment, suite, single family dwelling, or the like, which is leased, let, or rented to a person, other than a transient, for a period of one hundred eighty days or longer.

"Taxpayer" means any individual, partnership, receiver, trustee, guardian, executor, administrator, fiduciary, or any other entity of any kind subject to tax under title 14, Hawaii

S.B. NO. 3105

1 Revised Statutes, or any person required to collect and remit  
2 tax to the State under title 14, Hawaii Revised Statutes.

3 "Transient accommodations" means the same as is defined in  
4 section 237D-1, Hawaii Revised Statutes.

5 "Waiver period" means all taxable periods beginning after  
6 December 31, 2014, and ending before January 1, 2024.

7 SECTION 2. (a) The director shall develop and administer  
8 a one-time tax amnesty program as provided for in this Act. The  
9 director shall begin accepting applications for the amnesty  
10 program on January 1, 2025, and shall continue accepting  
11 applications until December 31, 2025.

12 (b) Upon satisfaction of the requirements set forth in  
13 subsection (c), the State shall waive criminal prosecution and  
14 all fines, penalties, and interest that may be assessed for the  
15 waiver period for taxes imposed under chapters 237 and 237D,  
16 Hawaii Revised Statutes, for gross income, gross rental, or  
17 gross rental proceeds received for the furnishing of an eligible  
18 property as a transient accommodation; provided that the waiver  
19 shall apply only to the eligible property for which the  
20 application for tax amnesty is granted.

S.B. NO. 3105

1 (c) The waiver authorized by subsection (a) shall be  
2 granted to a taxpayer who files an application for amnesty in  
3 the form prescribed by the director and who:

4 (1) After June 30, 2024, but prior to December 31, 2025,  
5 converts a transient accommodation to a long-term  
6 rental by entering into a written residential lease  
7 agreement for a term of at least twenty-four months  
8 for the eligible property with an individual who is  
9 not an immediate family member of the taxpayer or who  
10 does not have a direct or indirect ownership interest  
11 in the eligible property;

12 (2) Files or amends all returns as may be required by the  
13 director for the waiver period;

14 (3) Pays in full the principal amount of outstanding taxes  
15 imposed under chapters 237 and 237D, Hawaii Revised  
16 Statutes, for gross income, gross rental, or gross  
17 rental proceeds received for the furnishing of the  
18 eligible property as a transient accommodation during  
19 the waiver period; provided that the taxpayer may  
20 enter into an installment payment agreement with the  
21 department in cases of hardship, as determined by and  
22 upon the terms set forth by the director; and

S.B. NO. 3105

- 1           (4) Has not received notice, written or otherwise, that  
2           the taxpayer is the subject of a criminal  
3           investigation or criminal prosecution for nonpayment,  
4           delinquency, evasion, or fraud in relation to any  
5           federal or state taxes.
- 6           (d) Notwithstanding any provision to the contrary, any  
7 waiver granted pursuant to subsection (b) shall be canceled if:
- 8           (1) The taxpayer fails to provide sufficient evidence, as  
9           determined by the director, within thirty days of the  
10          department's written demand, that the eligible  
11          property was leased, let, or rented as a long-term  
12          rental for at least twenty-four months between the  
13          time period beginning on July 1, 2024, and ending on  
14          December 31, 2027;
- 15          (2) The taxpayer provided false information in the  
16          application for amnesty or in the returns required to  
17          be filed or amended under subsection (c)(2); or
- 18          (3) The taxpayer fails to make all installment payments as  
19          required by any installment payment agreement entered  
20          into pursuant to subsection (c)(3).
- 21          (e) No refund or credit shall be allowed for:



S.B. NO. 3105

- 1        (1) The qualified short-term rental property shall be sold  
2        to a qualified buyer for a sales price of not more  
3        than \$2,000,000;
- 4        (2) The sale of the qualified short-term rental property  
5        shall close after June 30, 2024, and before January 1,  
6        2026;
- 7        (3) The taxpayer shall obtain from the qualified buyer a  
8        declaration, signed under penalty of perjury, stating  
9        that the qualified buyer intends to immediately occupy  
10       the qualified short-term rental property as the  
11       qualified buyer's primary residence for a period of  
12       not less than two years;
- 13       (4) All outstanding taxes imposed under chapters 235, 237,  
14       and 237D for gross income, gross rental, or gross  
15       rental proceeds received for the furnishing of the  
16       qualified short-term rental property as a transient  
17       accommodation shall be paid prior to the close of the  
18       sale; and
- 19       (5) The taxpayer shall electronically file all forms and  
20       returns as required by the director.
- 21       (c) For purposes of this section:  
22       "Qualified buyer" means an individual who:



S.B. NO. 3105

- 1           (3) Any document or instrument that only confirms or  
2           corrects a deed, lease, sublease, assignment,  
3           transfer, or conveyance previously recorded or filed;
- 4           (4) Any document or instrument between husband and wife,  
5           reciprocal beneficiaries, or parent and child, in  
6           which only a nominal consideration is paid;
- 7           (5) Any document or instrument in which there is a  
8           consideration of \$100 or less paid or to be paid;
- 9           (6) Any document or instrument conveying real property  
10          that is executed pursuant to an agreement of sale, and  
11          where applicable, any assignment of the agreement of  
12          sale, or assignments thereof; provided that the taxes  
13          under this chapter have been fully paid upon the  
14          agreement of sale, and where applicable, upon such  
15          assignment or assignments of agreements of sale;
- 16          (7) Any deed, lease, sublease, assignment of lease,  
17          agreement of sale, assignment of agreement of sale,  
18          instrument or writing in which the United States or  
19          any agency or instrumentality thereof or the State or  
20          any agency, instrumentality, or governmental or  
21          political subdivision thereof are the only parties  
22          thereto;



S.B. NO. 3105

- 1           (8) Any document or instrument executed pursuant to a tax  
2           sale conducted by the United States or any agency or  
3           instrumentality thereof or the State or any agency,  
4           instrumentality, or governmental or political  
5           subdivision thereof for delinquent taxes or  
6           assessments;
- 7           (9) Any document or instrument conveying real property to  
8           the United States or any agency or instrumentality  
9           thereof or the State or any agency, instrumentality,  
10          or governmental or political subdivision thereof  
11          pursuant to the threat of the exercise or the exercise  
12          of the power of eminent domain;
- 13          (10) Any document or instrument that solely conveys or  
14          grants an easement or easements;
- 15          (11) Any document or instrument whereby owners partition  
16          their property, whether by mutual agreement or  
17          judicial action; provided that the value of each  
18          owner's interest in the property after partition is  
19          equal in value to that owner's interest before  
20          partition;
- 21          (12) Any document or instrument between marital partners or  
22          reciprocal beneficiaries who are parties to a divorce

S.B. NO. 3105

1           action or termination of reciprocal beneficiary  
2           relationship that is executed pursuant to an order of  
3           the court in the divorce action or termination of  
4           reciprocal beneficiary relationship;

5           (13) Any document or instrument conveying real property  
6           from a testamentary trust to a beneficiary under the  
7           trust;

8           (14) Any document or instrument conveying real property  
9           from a grantor to the grantor's revocable living  
10          trust, or from a grantor's revocable living trust to  
11          the grantor as beneficiary of the trust;

12          (15) Any document or instrument conveying real property, or  
13          any interest therein, from an entity that is a party  
14          to a merger or consolidation under chapter 414, 414D,  
15          415A, 421, 421C, 425, 425E, or 428 to the surviving or  
16          new entity;

17          (16) Any document or instrument conveying real property, or  
18          any interest therein, from a dissolving limited  
19          partnership to its corporate general partner that  
20          owns, directly or indirectly, at least a ninety per  
21          cent interest in the partnership, determined by  
22          applying section 318 (with respect to constructive

S.B. NO. 3105

1 ownership of stock) of the federal Internal Revenue  
2 Code of 1986, as amended, to the constructive  
3 ownership of interests in the partnership; [and]  
4 [†] (17) [†] Any document or instrument that conforms to the  
5 transfer on death deed as authorized under chapter  
6 527[-]; and  
7 (18) Any document or instrument conveying real property  
8 during the period from June 30, 2024, to December 31,  
9 2025, with a value of not more than \$2,000,000 to an  
10 individual who:  
11 (A) Is not an immediate family member of any owner of  
12 the property;  
13 (B) Does not have a direct or indirect ownership  
14 interest in the property;  
15 (C) Does not have a direct or indirect ownership  
16 interest in any other real property; and  
17 (D) Intends to immediately occupy the property as the  
18 individual's primary residence for a period of  
19 not less than two years;  
20 provided that the property was furnished as a  
21 transient accommodation, as defined in section 237D-1,  
22 during the period from January 1, 2023, to June 30,

S.B. NO. 3105

1           2024; and provided further that all outstanding taxes  
2           imposed under chapters 235, 237, and 237D for gross  
3           income, gross rental, or gross rental proceeds  
4           received for the furnishing of the property as a  
5           transient accommodation has been paid."

6           SECTION 5. Section 247-6, Hawaii Revised Statutes, is  
7 amended by amending subsection (b) to read as follows:

8           "(b) No certificate is required to be filed for any  
9 document or instrument made exempt by section 247-3, except that  
10 in the following situations, a certificate shall be filed in the  
11 manner and place that the director shall prescribe, within  
12 ninety days after the transaction or prior to the recordation or  
13 filing of the document or instrument with the registrar of  
14 conveyances or the assistant registrar of the land court or  
15 after the ninety-day period, recordation, or filing as the  
16 director shall prescribe:

17           (1) For any document or instrument described under section  
18           247-3(3), any party to the document or instrument  
19           shall file a certificate declaring that the document  
20           or instrument merely confirms or corrects a deed,  
21           lease, sublease, assignment, transfer, or conveyance  
22           previously recorded or filed.

S.B. NO. 3105

- 1           (2) For any document or instrument described under section  
2                   247-3(4), any party to the document or instrument  
3                   shall file a certificate declaring the amount of the  
4                   nominal consideration paid and marital or parental  
5                   relationship of the parties.
- 6           (3) For any document or instrument described under section  
7                   247-3(5), any party to the document or instrument  
8                   shall file a certificate declaring the reasons why the  
9                   consideration is \$100 or less.
- 10          (4) For any document or instrument described in section  
11                   247-3(6), any party to the document or instrument  
12                   shall file a certificate declaring that the document  
13                   or instrument is made pursuant to an agreement of  
14                   sale, and where applicable, an assignment or  
15                   assignments of agreements of sale.
- 16          (5) For any document or instrument described under section  
17                   247-3(8), any person made a party to the document or  
18                   instrument as grantee, assignee, or transferee shall  
19                   file a certificate declaring the full and actual  
20                   consideration of the property transferred.

S.B. NO. 3105

- 1           (6) For any document or instrument described under section  
2                   247-3(11), any party to the document or instrument  
3                   shall file a certificate declaring each owner's:  
4                   (A) Undivided interest in the real property and the  
5                               value of that interest before partition; and  
6                   (B) Proportionate interest and the value of that  
7                               interest after partition.
- 8           (7) For any document or instrument described under section  
9                   247-3(12), any party to the document or instrument  
10                  shall file a certificate declaring that the document  
11                  or instrument is made pursuant to an order of the  
12                  court and containing the court case number.
- 13          (8) For any document or instrument described under section  
14                  247-3(13), any party to the document or instrument  
15                  shall file a certificate declaring that the document  
16                  or instrument conveys real property from a  
17                  testamentary trust to a trust beneficiary.
- 18          (9) For any document or instrument described under section  
19                  247-3(14), any party to the document or instrument  
20                  shall file a certificate declaring that the document  
21                  or instrument conveys real property from the grantor

S.B. NO. 3105

1 to a grantor's revocable living trust or from a  
2 grantor's revocable living trust to the grantor.

3 (10) For any document or instrument described under section  
4 247-3(18), any party to the document or instrument  
5 shall file:

6 (A) A declaration signed under penalty of perjury by  
7 the transferee, declaring their intent to  
8 immediately occupy the property as their primary  
9 residence for a period of not less than two  
10 years; and

11 (B) Certificates from the appropriate parties  
12 declaring that all requirements in section 247-  
13 3(18) have been met."

14 PART IV

15 SECTION 6. Statutory material to be repealed is bracketed  
16 and stricken. New statutory material is underscored.

17 SECTION 7. This Act, upon its approval, shall take effect  
18 on January 1, 2024; provided that:

19 (1) Part II shall apply to taxable years beginning after  
20 December 31, 2023, and shall be repealed on January 1,  
21 2026; and





# S.B. NO. 3105

**Report Title:**

Housing; Tax Amnesty Program; Transient Accommodation; Long-Term Rental Conversions; Rentals; Tax Waivers and Exemptions; Department of Taxation

**Description:**

Requires the Director of Taxation to develop and administer a one-time tax amnesty program that would waive criminal prosecution, fines, penalties, and interest related to general excise tax and transient accommodations tax for qualified owners who convert an eligible property to a long-term rental through a two-year written resident lease agreement, subject to certain conditions. Provides a conveyance tax exemption for certain real property furnished as a transient accommodation during the period from January 1, 2023, to July 1, 2024. Provides an income tax exemption for capital gains from the sale of certain short-term rental properties furnished as transient accommodation and closing after June 30, 2024, and before January 1, 2026, subject to certain conditions.

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

## JUSTIFICATION SHEET

DEPARTMENT: Governor

TITLE: A BILL FOR AN ACT RELATING TO TAXATION.

PURPOSE: To require the Director of Taxation to develop and administer a one-time tax amnesty program that would waive criminal prosecution, fines, penalties, and interest related to general excise tax and transient accommodations tax for a certain period for qualified owners who convert an eligible property to a long-term rental through a two-year written resident lease agreement, subject to certain conditions; provide a conveyance tax exemption for certain real property furnished as a transient accommodation during the period from January 1, 2023, to June 30, 2024; and provide an income tax exemption for capital gains from the sale of certain short-term rental properties furnished as transient accommodation and closing after June 30, 2024, and before January 1, 2026, subject to certain conditions.

MEANS: Add a new section to chapter 235, Hawaii Revised Statutes (HRS); amend sections 247-3 and 247-6(b), HRS; and establish new provisions in Session Laws of Hawaii.

JUSTIFICATION: Hawaii's housing crisis represents one of the largest economic challenges facing families and individuals in our State. A June 28, 2023, report by the Economic Research Organization at the University of Hawai'i states that Hawaii residents face the highest housing costs in the nation. Housing is also the single biggest household expense in our State, making up 38 percent of household spending. The cost-burden of housing and lack of affordable housing in the State are compounded by Hawaii having the highest cost of living in the nation. Hawaii's housing crisis is detrimental to the health and well-being of individuals and

families in our State and erodes our communities.

This bill is part of a comprehensive housing strategy to address the affordable housing needs of our State. The tax exemptions in this bill are intended to free up affordable housing units for families and individuals. Increasing the number of long-term rentals and the conversion of short-term rentals for sale to owner-occupants through tax benefits would provide residents with greater access to housing.

Impact on the public: The tax relief provisions in this bill would increase the number of affordable housing rental units available to individuals and families in our State. Increased access to affordable housing is fundamental to the security, health, well-being, and prosperity of communities statewide.

Impact on the department and other agencies:  
None.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM  
DESIGNATION: None.

OTHER AFFECTED  
AGENCIES: Department of Taxation and Department of Budget and Finance.

EFFECTIVE DATE: January 1, 2024; provided that: (1) part II shall apply to taxable years beginning after December 31, 2023, and shall be repealed on January 1, 2026; and (2) part III shall take effect on July 1, 2024, and shall be repealed on January 1, 2026.