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# A BILL FOR AN ACT

RELATING TO THE ESTATE AND GENERATION-SKIPPING TRANSFER TAX.

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

1           SECTION 1. Chapter 236E, Hawaii Revised Statutes, is  
2 amended by adding a new section to be appropriately designated  
3 and to read as follows:

4           "§236E- Unrealized gains surcharge. (a) In addition  
5 to the taxes imposed by this chapter, an unrealized gains  
6 surcharge equal to three per cent shall be imposed on any  
7 property transferred to a transferee in which the assessed fair  
8 market value of the transferred property exceeds the  
9 transferee's basis in an amount of \$2,000,000 or more.

10           (b) An estate shall report to the department the fair  
11 market value of any transferred property within thirty days of  
12 the transfer date.

13           (c) This section shall not apply to bona fide farms and  
14 small businesses that stay in operation with a transferee who is  
15 a relative of the transferor; provided that any transferee that  
16 sells the property within two years shall be subject to this  
17 section.



1        (d) The director of the department may require the  
2 transferor or transferee to provide information to ascertain the  
3 validity of the value and assets transferred and may adopt rules  
4 necessary to effectuate the purposes of this section pursuant to  
5 chapter 91.

6        (e) For purposes of this section, "relative" has the same  
7 meaning as in section 651C-1."

8        SECTION 2. Section 236E-6, Hawaii Revised Statutes, is  
9 amended by amending subsection (a) to read as follows:

10        "(a) An exclusion from a Hawaii taxable estate shall be  
11 allowed to the estate of every decedent against the tax imposed  
12 by section 236E-8. For the purpose of this section, the  
13 applicable exclusion amount is equal to:

14        (1) Either:

15        (A) The federal applicable exclusion amount[+] for  
16 estates that include an owner-occupied residence  
17 or a bona fide farm; or

18        (B) \$3,000,000, which shall be adjusted annually to  
19 match changes in the Consumer Price Index in the  
20 Honolulu area as reported by the United States  
21 Bureau of Labor Statistics, for estates that do



1                    not include an owner-occupied residence or a bona  
2                    fide farm;

3            (2)    The exemption equivalent of the unified credit reduced  
4                    by the amount of taxable gifts made by the decedent  
5                    that reduces the amount of the federal applicable  
6                    exclusion amount; or

7            (3)    The exemption equivalent of the unified credit on the  
8                    decedent's federal estate tax return,  
9                    as set forth for the decedent in chapter 11 of the Internal  
10                    Revenue Code as amended as of December 21, 2017, as if the  
11                    decedent died on December 31, 2017, and as further adjusted  
12                    pursuant to subsection (b)."

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

15            SECTION 4.    This Act shall take effect on July 1, 3000, and  
16                    shall apply to decedents dying or taxable transfers occurring  
17                    after December 31, 2025.



**Report Title:**

Taxation; Unrealized Gains Surcharge; Estate and Generation-Skipping Transfer Tax; Exclusion Amount

**Description:**

Establishes an unrealized gains surcharge on certain property transfers subject to the estate and generation-skipping transfer tax. Except for certain types of properties within estates, lowers the applicable exclusion amount allowed. 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.*

