

ACT 75

S.B. NO. 74

A Bill for an Act Relating to the Taxation of the Sale of Residential Leaseholds.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 235, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“Sec. 235- Sales of residential land to lessees; involuntary conversion. (a)

A sale by an organization exempt under section 501(c)(3), or treated as an estate or trust under Subchapter J of the Internal Revenue Code to a lessee of the entire interest in the land of the lessor organization, estate, or trust shall be an involuntary conversion of property used in trade or business or a capital asset of the lessor organization, estate, or trust and shall not be a sale of property held by the lessor organization, estate or trust in the ordinary course of a trade or business, irrespective of the number of such sales in any taxable year, if:

- (1) The lessee has a right to terminate such lease and to acquire the entire interest of the lessor in the land, which right exists by virtue of chapter 516 and not because of any private agreement or privately created condition;
 - (2) The lessee exercises his right to purchase such entire interest;
 - (3) The lessor organization, estate, or trust has held the land for a period determined under subsection (b) prior to the date of purchase by lessee; and
 - (4) The land is developed single-family residential land.
- (b) The period for which a lessor organization, estate or trust has held land, within the meaning of subsection (a)(3), shall be determined under the rules of section 1223 of the Internal Revenue Code, except that if such land shall have

been acquired by the lessor organization, estate, or trust from a decedent, within the meaning of section 1014 of the Internal Revenue Code, or if such land shall have been acquired by the lessor organization, estate, or trust from a donor, within the meaning of section 1015 (other than section 1015(c)) of the Internal Revenue Code, the holding period shall include the period during which such land shall have been held by such decedent or by such donor and also the period if any for which such land shall have been held by an inter vivos or testamentary trust estate created by such decedent or by such donor.

(c) This section shall not apply with respect to any transaction governed by section 1055 of the Internal Revenue Code.

(d) As used in this section:

- (1) "Lessee" means the original lessee and any successor who has the right under chapter 516 to bring about an involuntary conversion.
- (2) "Lessor" means any fee simple owner, any sublessor, and any person entitled to share in the rents or subrents of the land involved in an involuntary conversion described in subsection (a).

(e) The gain derived from sales qualified as involuntary conversion of property under this section shall be treated as provided in section 1033 of the Internal Revenue Code of 1954, as amended."

SECTION 2. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.*

SECTION 3. This Act shall take effect upon its approval.

(Approved May 12, 1977.)

*Edited accordingly.