

## ACT 52

H.B. NO. 2217

A Bill for an Act Relating to Amending or Repealing Hawaii Real Property Tax Laws for the Purpose of Deleting Obsolete or Unnecessary Provisions.

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

SECTION 1. The legislature finds that article VIII, section 3, of the state constitution provides that the taxation of real property in the State has been transferred to the several counties. Pursuant to the Supreme Court of Hawaii's decision in *State ex rel. Anzai v. City & County of Honolulu*, 99 Hawaii 508, 57 P.3d 433 (2002), the need for numerous provisions in the Hawaii Revised Statutes governing the taxation of real property in the State lapsed decades ago, and those provisions are no longer of any force or effect.

SECTION 2. Section 239-5, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) Notwithstanding subsection (a), the rate of tax upon the portion of the gross income of:

- (1) A public utility that consists of the receipts from the sale of its products or services to another public utility that resells such products or services shall be one-half of one per cent; or
- (2) A public utility engaged in the business of selling telecommunication services to a person defined in section 237-13(6)(C) who resells such products or services, shall be one-half of one per cent;

provided that the resale of the products, services, or telecommunication services is subject to taxation under this section or subject to taxation at the highest rate under section 237-13(6); and provided further that ~~the public utility's exemption from real property taxes imposed by chapter 246 shall be reduced by the proportion that its public utility gross income described herein bears to its total public utility gross income. Whenever~~ whenever the public utility has other public utility gross income, the gross income from the sale of its products or services to another public utility or a person subject to section 237-13(6)(C) shall be included

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in applying subsection (a) in determining the rate of tax upon the other public utility gross income. The department shall have the authority to implement the tax rate changes in paragraph (2) by prescribing tax forms and instructions that require tax reporting and payment by deduction, allocation, or any other method to determine tax liability with due regard to the tax rate changes.”

SECTION 3. Section 342G-61, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§342G-61]]~~ **Solid waste collection surcharge.** Each county may assess residential real property owners in their respective county an annual solid waste collection surcharge based on the partial costs of solid waste collection. Notice of this surcharge shall be included with the notice of assessment required by ~~[section 246-43]~~ county ordinance.”

SECTION 4. Section 248-1, Hawaii Revised Statutes, is amended by amending the definition of “property” or “real property” to read as follows:

““Property” or “real property” ~~[has the meaning defined by section 246-1-]~~ means and includes all land and appurtenances thereof and the buildings, structures, fences, and improvements erected on or affixed to the same, and any fixture that is erected on or affixed to such land, buildings, structures, fences, and improvements, including all machinery and other mechanical or other allied equipment and the foundations thereof, whose use thereof is necessary to the utility of such land, buildings, structures, fences, and improvements, or whose removal therefrom cannot be accomplished without substantial damage to such land, buildings, structures, fences, and improvements, excluding, however, any growing crops.”

SECTION 5. Section 205-14, Hawaii Revised Statutes, is repealed.

SECTION 6. Section 248-5, Hawaii Revised Statutes, is repealed.

SECTION 7. Chapter 246, Hawaii Revised Statutes, is repealed.

SECTION 8. Chapter 246A, Hawaii Revised Statutes, is repealed.<sup>1</sup>

SECTION 9. This Act shall take effect on July 1, 2016.

(Approved June 6, 2016.)

**Note**

1. No Ramseyer section.