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Honolulu, Hawaii

MAR 05 2015

RE: S.B. No. 118
S.D. 1

Honorable Donna Mercado Kim
President of the Senate
Twenty-Eighth State Legislature
Regular Session of 2015
State of Hawaii

Madam:

Your Committee on Ways and Means, to which was referred S.B. No. 118 entitled:

"A BILL FOR AN ACT RELATING TO REAL ESTATE INVESTMENT TRUSTS,"

begs leave to report as follows:

The purpose and intent of this measure is to disallow the dividends paid income tax deduction for real estate investment trusts.

Your Committee received testimony in support of this measure from the Bojim Investments, Commercial Properties of Maui, Hawaii Government Employees Association, Hawaii State AFL-CIO, Long Services Inc., Matt Levi Investigations, St. Francis of Neumann Communities, Savio Associates LLC, The Savio Group, Sofos Realty Corporation, TMC General Contracting, UNITE HERE Local 5, and sixty-nine individuals. Your Committee received testimony in opposition to this measure from Albert C. Kobayashi Inc., CNL Lifestyle Properties Inc., General Growth Properties, Hawaii Association of Realtors, Kobayashi Group LLC, Land Use Research Foundation of Hawaii, The MacNaughton Group, National Association of Real Estate Investment Trusts Inc., Public Storage, The Shidler Group, Taubman Centers, and one individual. Your Committee received comments on this measure from Department of Taxation, Tax Foundation of Hawaii, and two individuals.

Your Committee finds that the issue of real estate investment trusts is very controversial.



Supporters of this measure contend that the dividends paid by real estate investment trusts should not be deductible, effectively taxing those amounts before distribution. They feel that repealing the deduction will promote fairness in the treatment of similar, but differently organized, business entities and generate revenues for state programs. Supporters also feel that the dividends should be taxed by the State before distribution outside Hawaii, where the State's taxing authority does not extend.

Opponents contend that this measure will discourage the operation of real estate investment trusts in Hawaii. They contend that this measure will hurt the local economy, serve as a barrier to capital flow into the State, and reduce opportunities for small investors to pool with others to participate in real estate development opportunities. Opponents also contend that the State may lose revenues because of the possible abandonment of the Hawaii market by real estate investment trusts or engagement in tax avoidance strategies, such as relocation to low-taxing jurisdictions.

Unfortunately, your Committee's diligent effort to obtain data on the economic impact of real estate investment trusts in Hawaii or tax revenues generated or avoided by such trusts has been unsuccessful. Without the data, your Committee is hesitant to act favorably on this measure. Thus, your Committee has amended this measure to require a comprehensive study on the impact of real estate investment trusts. The study is intended to provide data on and evaluate the contentions and arguments of supporters and opponents of this measure. Your Committee finds that such a study is necessary before taking action on a measure that may or may not have substantial impacts on the economy of the State.

Your Committee has amended this measure by:

- (1) Deleting its contents and inserting language requiring the Department of Business, Economic Development, and Tourism, with the assistance of the Department of Taxation, to study the impact of real estate investment trusts in Hawaii and the possible effect of repealing the dividends paid income tax deduction for real estate investment trusts;



- (2) Appropriating an unspecified amount of funds to the Department of Business, Economic Development, and Tourism to perform the study; and
- (3) Providing for a July 1, 2015, effective date of the appropriation section.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 118, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 118, S.D. 1, and be placed on the calendar for Third Reading.

Respectfully submitted on
behalf of the members of the
Committee on Ways and Means,

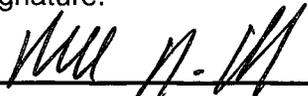


JILL N. TOKUDA, Chair



The Senate
 Twenty-Eighth Legislature
 State of Hawai'i

Record of Votes
Committee on Ways and Means
WAM

Bill / Resolution No.:* SB118	Committee Referral: WAM	Date: 2/18/15		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
TOKUDA, Jill N. (C)	✓			
KOUCHI, Ronald D. (VC)	✓			
CHUN OAKLAND, Suzanne	✓			
DELA CRUZ, Donovan M.				✓
ENGLISH, J. Kalani	✓			
GALUTERIA, Brickwood				✓
HARIMOTO, Breene	✓			
INOUE, Lorraine R.	✓			
RIVIERE, Gil	✓			
RUDERMAN, Russell E.	✓			
SLOM, Sam			✓	
TOTAL	8	0	1	2
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes