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# A BILL FOR AN ACT

RELATING TO REAL ESTATE INVESTMENT TRUSTS.

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

1           SECTION 1. The legislature finds that real estate  
2 investment trusts play a significant role in Hawaii's economy,  
3 and that the State would benefit from the accurate collection of  
4 data about their economic activities.

5           The legislature recognizes that the assets and revenues  
6 generated by real estate investment trusts may have not been  
7 reported to and recorded accurately by the State. The  
8 legislature notes that there are no state tax forms specifically  
9 for real estate investment trusts, nor are there any clear  
10 methods for real estate investment trusts to annually report  
11 their statuses and deductions to the State. As Hawaii faces  
12 major budget shortfalls this year and several years to come, it  
13 is imperative that all corporations provide accurate reporting  
14 of its assets and revenues generated.

15           The legislature further finds that real estate investment  
16 trusts should notify the State and annually report assets and



1 revenues, the same information provided to the Internal Revenue  
2 Service.

3 Accordingly, the purpose of this Act is to authorize the  
4 department of taxation to require estate investment trusts  
5 operating in the State to notify the State of the real estate  
6 investment trusts' existence and annually provide the  
7 information required by the department, including a copy of the  
8 real estate investment trusts' federal return with the real  
9 estate investment trusts' state tax return.

10 SECTION 2. Section 235-71, Hawaii Revised Statutes, is  
11 amended by amending subsection (d) to read as follows:

12 "(d) In the case of a real estate investment trust there  
13 is imposed on the taxable income, computed as provided in  
14 sections 857 and 858 of the Internal Revenue Code but with the  
15 changes and adjustments made by this chapter (without prejudice  
16 to the generality of the foregoing, the deduction for dividends  
17 paid is limited to such amount of dividends as is attributable  
18 to income taxable under this chapter), a tax consisting in the  
19 sum of the following: 4.4 per cent if the taxable income is not  
20 over \$25,000, 5.4 per cent if over \$25,000 but not over  
21 \$100,000, and on all over \$100,000, 6.4 per cent. In addition



1 to any other penalty provided by law any real estate investment  
2 trust whose tax liability for any taxable year is deemed to be  
3 increased pursuant to section 859(b)(2)(A) or 860(c)(1)(A) after  
4 December 31, 1978, (relating to interest and additions to tax  
5 determined with respect to the amount of the deduction for  
6 deficiency dividends allowed) of the Internal Revenue Code shall  
7 pay a penalty in an amount equal to the amount of interest for  
8 which such trust is liable that is attributable solely to such  
9 increase. The penalty payable under this subsection with  
10 respect to any determination shall not exceed one-half of the  
11 amount of the deduction allowed by section 859(a), or 860(a)  
12 after December 31, 1978, of the Internal Revenue Code for such  
13 taxable year.

14 Notwithstanding the foregoing, for taxable years beginning  
15 after December 31, 2020, the department may require a real  
16 estate investment trust subject to this chapter to:

17 (1) Notify the department, in the manner prescribed by the  
18 department, of its operation as a real estate  
19 investment trust in the State no later than ninety  
20 days from the first day of operation in the State;  
21 provided that for real estate investment trusts



1           operating in the State as of July 1, 2021, the  
2           department shall be notified no later than October 31,  
3           2021;

4           (2) Properly designate on its tax return that it is a real  
5           estate investment trust as required by the department;

6           (3) Complete its tax return in the specific manner  
7           required by the department, including following line-  
8           by-line instructions; and

9           (4) Submit a copy of the federal return covering the same  
10           period with each Hawaii return.

11 Any real estate investment trust that fails to comply with these  
12 requirements may be assessed a penalty of \$50 per day."

13           SECTION 3. New statutory material is underscored.

14           SECTION 4. This Act shall take effect on July 1, 2050, and  
15 shall apply to taxable years beginning after December 31, 2020.



# H.B. NO. 286 H.D. 1

**Report Title:**

Real Estate Investment Trusts; Department of Taxation; Reporting Requirements; Penalties

**Description:**

Authorizes the department of taxation to require real estate investment trusts to notify the department of its presence within the State and to report the assets and revenues generated annually. Effective 7/1/2050. (HD1)

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

