
A BILL FOR AN ACT

RELATING TO THE CONVEYANCE TAX.

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

1 SECTION 1. The legislature finds that current law exempts
2 from the conveyance tax, the conveyance of real property from a
3 testamentary trust to a beneficiary of the trust. The intent of
4 this provision is to eliminate the conveyance tax burden for
5 beneficiaries of a person that who passed away, whether the
6 property being conveyed is done so immediately following the
7 person's death, or deferred in trust.

8 The legislature further finds that testamentary trusts
9 often consist of numerous beneficiaries and various types of
10 properties, conditions that make it extremely difficult to
11 provide an equitable distribution of assets directly to all
12 beneficiaries. Co-tenancy of beneficiaries may also lead to
13 unmanageable problems. Because of these difficulties, the
14 terminating trust normally establishes a succeeding entity such
15 as a corporation, partnership, or limited liability company to
16 permit continued ownership by the trust's beneficiaries.
17 However, the conveyance tax exemption is applicable only if the



1 succeeding entity is established by beneficiaries after asset
2 distribution.

3 The purpose of this Act is to streamline the administration
4 of conveyance tax exemptions by exempting from the conveyance
5 tax any document or instrument conveying real property from a
6 testamentary trust to any entity owned by the trust for the
7 purpose of distributing ownership interests in the entity to a
8 beneficiary under the trust.

9 SECTION 2. Section 247-3, Hawaii Revised Statutes, is
10 amended to read as follows:

11 **"§247-3 Exemptions.** The tax imposed by section 247-1
12 shall not apply to:

13 (1) Any document or instrument that is executed prior to
14 January 1, 1967;

15 (2) Any document or instrument that is given to secure a
16 debt or obligation;

17 (3) Any document or instrument that only confirms or
18 corrects a deed, lease, sublease, assignment,
19 transfer, or conveyance previously recorded or filed;

20 (4) Any document or instrument between husband and wife,
21 reciprocal beneficiaries, or parent and child, in
22 which only a nominal consideration is paid;



- 1 (5) Any document or instrument in which there is a
2 consideration of \$100 or less paid or to be paid;
- 3 (6) Any document or instrument conveying real property
4 that is executed pursuant to an agreement of sale, and
5 where applicable, any assignment of the agreement of
6 sale, or assignments thereof; provided that the taxes
7 under this chapter have been fully paid upon the
8 agreement of sale, and where applicable, upon such
9 assignment or assignments of agreements of sale;
- 10 (7) Any deed, lease, sublease, assignment of lease,
11 agreement of sale, assignment of agreement of sale,
12 instrument or writing in which the United States or
13 any agency or instrumentality thereof or the State or
14 any agency, instrumentality, or governmental or
15 political subdivision thereof are the only parties
16 thereto;
- 17 (8) Any document or instrument executed pursuant to a tax
18 sale conducted by the United States or any agency or
19 instrumentality thereof or the State or any agency,
20 instrumentality, or governmental or political
21 subdivision thereof for delinquent taxes or
22 assessments;



- 1 (9) Any document or instrument conveying real property to
2 the United States or any agency or instrumentality
3 thereof or the State or any agency, instrumentality,
4 or governmental or political subdivision thereof
5 pursuant to the threat of the exercise or the exercise
6 of the power of eminent domain;
- 7 (10) Any document or instrument that solely conveys or
8 grants an easement or easements;
- 9 (11) Any document or instrument whereby owners partition
10 their property, whether by mutual agreement or
11 judicial action; provided that the value of each
12 owner's interest in the property after partition is
13 equal in value to that owner's interest before
14 partition;
- 15 (12) Any document or instrument between marital partners or
16 reciprocal beneficiaries who are parties to a divorce
17 action or termination of reciprocal beneficiary
18 relationship that is executed pursuant to an order of
19 the court in the divorce action or termination of
20 reciprocal beneficiary relationship;



1 (13) Any document or instrument conveying real property
2 from a testamentary trust to [~~a beneficiary under the~~
3 ~~trust,~~]:

4 (A) A beneficiary under the trust; or

5 (B) Any entity owned by the testamentary trust for
6 the purpose of distributing ownership interests
7 in the entity to a beneficiary under the trust;

8 (14) Any document or instrument conveying real property
9 from a grantor to the grantor's revocable living
10 trust, or from a grantor's revocable living trust to
11 the grantor as beneficiary of the trust;

12 (15) Any document or instrument conveying real property, or
13 any interest therein, from an entity that is a party
14 to a merger or consolidation under chapter 414, 414D,
15 415A, 421, 421C, 425, 425E, or 428 to the surviving or
16 new entity;

17 (16) Any document or instrument conveying real property, or
18 any interest therein, from a dissolving limited
19 partnership to its corporate general partner that
20 owns, directly or indirectly, at least a ninety per
21 cent interest in the partnership, determined by
22 applying section 318 (with respect to constructive



1 ownership of stock) of the federal Internal Revenue
2 Code of 1986, as amended, to the constructive
3 ownership of interests in the partnership; and
4 (17) Any document or instrument conveying real property to
5 any nonprofit or for-profit organization that has been
6 certified by the housing and community development
7 corporation of Hawaii for low-income housing
8 development."

9 SECTION 3. Statutory material to be repealed is bracketed
10 and stricken. New statutory material is underscored.

11 SECTION 4. This Act shall take effect upon its approval.

12

INTRODUCED BY:

Wayne R. Ferraro

JAN 25 2006



Report Title:

Exemptions; Conveyance Tax; Testamentary Trusts

Description:

Exempts from the conveyance tax any documents or instruments conveying real property from a testamentary trust to an entity owned by the trust for the purpose of distributing ownership interests in the entity to a beneficiary under the trust.

