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# 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 who passed away, whether the property  
6 being conveyed is done so immediately following the person's  
7 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 on July 1, 2020.

**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.

(HB2803 HD1)

