

TESTIMONY BY GEORGINA K. KAWAMURA  
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE  
STATE OF HAWAII  
TO THE HOUSE COMMITTEE ON HUMAN SERVICES & HOUSING  
ON  
HOUSE BILL NO. 2668

February 12, 2008

RELATING TO HOUSING.

House Bill No. 2668 authorizes, among other things, the transfer of 1) the responsibility for administering the issuance of special purpose revenue bonds for low- and moderate- income housing pursuant to Part IX of Chapter 39A, Hawaii Revised Statutes (HRS), to the Hawaii Housing Finance and Development Corporation (HHFDC), and 2) the private activity bond volume cap (the “Cap”) entirely to the State, with an allocation of eighty percent (80%) of the Cap to the HHFDC and the remainder to the Department of Budget and Finance (the “Department”).

With respect to the transfer of the administration of Part IX of Chapter 39A, HRS, to the HHFDC, the Department has no position on the proposed transfer.

The Department prefers the current allocation of the Cap wherein 50% of the Cap is allocated to the State and 50% is allocated to the counties. The current structure provides the Department with the necessary flexibility to allocate the Cap, on an as needed basis, to the various entities utilizing Special Purpose Revenue Bonds (SPRB) as authorized by the Legislature and the HHFDC.

Over the past 5 years, the State allocated its unused Cap, along with unused Cap returned to the State by the counties, to the HHFDC. The amount allocated to HHFDC over

this period was \$574.7 million, with the HHFDC utilizing \$194.3 million of the Cap provided to them. We believe that the current method of distributing the Cap has provided sufficient Cap to meet the needs of HHFDC.

Thank you for this opportunity to testify on this bill.

Linda Lingle  
GOVERNOR



ORLANDO "DAN" DAVIDSON  
EXECUTIVE DIRECTOR

**STATE OF HAWAII**

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT AND TOURISM  
HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION  
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IN REPLY REFER TO

Statement of  
**Orlando "Dan" Davidson**  
Hawaii Housing Finance and Development Corporation  
Before the

**HOUSE COMMITTEE ON HUMAN SERVICES AND HOUSING**

February 12, 2008, 8:40 a.m.  
Room 329, State Capitol

In consideration of  
**H.B. 2668**  
**RELATING TO HOUSING.**

Thank you for the opportunity to testify on H.B. 2668. The HHFDC opposes H.B. 2668, with the exception of Section 16, which permanently dedicates 50 percent of conveyance tax revenues to the Rental Housing Trust Fund (RHTF).

The HHFDC is currently authorized to issue tax-exempt revenue bonds to finance the development of low- and moderate-income housing. The issuance of Special Purpose Revenue Bonds (SPRBs) by the Department of Budget and Finance (B&F) provides not-for-profit and for-profit private organizations, as well as public instrumentalities and their qualified affiliates with another financing source. Therefore, we do not support Part II of this bill, which transfers the responsibility for administering the issuance of SPRBs from B&F to HHFDC. We would like to point out that, in 2006, there was broad support for H.B. 2991 (Act 102) which authorized B&F to issue SPRBs for the development of low- and moderate- income housing.

We oppose Part III of this bill, which would transfer the counties' private activity bond volume cap entirely to the State, with an allocation of 80 percent to the HHFDC and the remainder to the B&F. We have not run into problems with obtaining adequate private activity bond cap to meet our bond financing needs. We defer to B&F to elaborate on the importance of maintaining the current private activity bond cap allocation.

We also oppose Part IV of this bill, except for Section 16 which permanently dedicates 50 percent of conveyance tax revenues to the RHTF. The RHTF currently provides equity-gap low-interest loans and grants to finance affordable rental housing. Sections 14 and 15 of this bill would require only grants to be made. We believe this provision would negatively impact the capacity of the fund to be self-sustaining. Moreover, RHTF loans have very favorable terms to enhance project feasibility including being a second mortgage, amortized over 40+ years, below-market interest rates and a payment schedule that is contingent on the project generating a positive cash flow.



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February 12, 2008

**The Honorable Maile S.L. Shimabukuro, Chair**  
House Committee on Human Services & Housing  
State Capitol, Room 329  
Honolulu, Hawaii 96813

**RE: H.B. 2668 Relating to Housing**  
**Hearing Date: February 12, 2008 @ 8:40 a.m., Room 329**

On behalf of our 10,000 members in Hawaii, the Hawaii Association of REALTORS® (HAR) supports **Section 16** of H.B. 2668 which repeals the sunset date for the allocation of 50% of the Conveyance Tax to the Rental Housing Trust Fund.

We believe Smart Growth is our road map to sustaining and enhancing the quality of life in our communities and we believe that this bill aligns with our core principle of *providing housing opportunities*.

HAR supports mechanisms to help increase the supply of low and moderate income affordable housing such as the Rental Housing Trust Fund Program which can help integrate the use of mixed-income and mixed-use projects, special purpose revenue bonds, low-interest loans, block grants, low-income housing tax credit programs and deferred loan programs to provide rental housing opportunities.

HAR looks forward to working with our state lawmakers in building better communities by supporting quality growth, seeking sustainable economies and housing opportunities, embracing the cultural and environmental qualities we cherish, and protecting the rights of property owners.

Mahalo for the opportunity to testify.

Sincerely,

A handwritten signature in black ink, appearing to read "Craig Hirai", is written over a light gray rectangular background.

Craig Hirai, Member  
Subcommittee on Taxation and Finance  
HAR Legislative Committee

## L E G I S L A T I V E

80-82

# TAXBILLSERVICE

126 Queen Street, Suite 304

TAX FOUNDATION OF HAWAII

Honolulu, Hawaii 96813 Tel. 536-4587

**SUBJECT:** CONVEYANCE, Earmarking for rental housing trust fund

**BILL NUMBER:** SB 2979/HB 3057 (Identical); <sup>2/1 CPH</sup> SB 2225/HB 2050 (Identical); <sup>2/1 CPH</sup> SB 3174/HB 2468 (Identical); <sup>4/31 HSH</sup> HB 2514 and HB 2668 (Similar)

**INTRODUCED BY:** SB 2979 by Hanabusa by request; HB 3057 by Say by request; SB 2225 by Chun Oakland, Gabbard, Espero and Sakamoto; HB 2050 by Mizuno, Awana, Marumoto, Meyer, Thielen, Ward, and 3 Democrats; SB 3174 by Chun Oakland, Baker, English, Espero, Fukunaga, Gabbard, Hanabusa, Hooser, Ige, Ihara, Inouye, Kim, Kokubun, Menor, Nishihara, Sakamoto, Taniguchi, Tokuda, Tsutsui and 2 Democrats; HB 2468 by Shimabukuro; HB 2514 by Shimabukuro, Belatti, Bertram, Caldwell, Chang, Chong, Evans, Green, Har, Herkes, Karamatsu, Lee, Luke, Magaoay, Manahan, Mizuno, Morita, Nishimoto, B. Oshiro, M. Oshiro, Rhoads, Saiki, Say, Sonson, Takai, Tsuji, Wakai, Waters, Yamane, Yamashita and 7 Democrats; HB 2668 by Say

**BRIEF SUMMARY:** SB 2979/HB 3057 and HB 2668 amend Act 100, SLH 2006, as amended by Act 222, SLH 2007, to repeal the June 30, 2008 sunset provision to make the increase in the earmarking of the conveyance tax revenues to the rental housing trust fund permanent.

SB 2225/HB 2050 and SB 3174/HB 2468 and HB 2514 amend Act 100, SLH 2006, as amended by Act 222, SLH 2007, to extend the sunset date of the increase in the earmarking of the conveyance tax revenues to the rental housing trust fund from June 30, 2008 to June 30, 2013. Makes various appropriations with unspecified amounts for various homeless and housing programs and projects in the state.

**EFFECTIVE DATE:** SB 2979/HB 3057 - Upon approval; SB 2225/HB 2050; SB 3174/HB 2468; HB 2514 - June 29, 2008; HB 2668 - July 1, 2008

**STAFF COMMENTS:** SB 2979/HB 3057 are administration measures submitted by the department of business, economic development and tourism BED-01(08). The legislature by Act 195, SLH 1993, earmarked 25% of the conveyance tax revenues to the rental housing trust fund and another 25% to the natural area reserve fund. In 2005, the legislature by Act 156, SLH 2005, increased this earmarking to 30%. The legislature by Act 100, SLH 2006, again increased the earmarking to 50% until June 30, 2007 and provided that the earmarked amount was to revert back to 30% on June 30, 2007. Last year the legislature by Act 222, SLH 2007, extended the sunset date to June 30, 2008. The proposed measures continue the increased earmarking of conveyance tax revenues to the rental housing trust fund by either repealing or extending the sunset date of the increased earmarking.

The conveyance tax was enacted by the 1966 legislature after the repeal of the federal law requiring stamps for transfers of real property. It was enacted for the sole purpose of providing the department of taxation with additional data for the determination of market value of properties transferred. This

SB 2979/HB 3057; SB 2225/HB 2050; SB 3174/HB 2468; HB 2514; HB 2668 - Continued

information was also to assist the department in establishing real property assessed values and at that time the department stated that the conveyance tax was not intended to be a revenue raising device. The conveyance tax is imposed each time property changes title or ownership.

It should be remembered that the conveyance tax is one of the least dependable sources upon which to rely for funding with collections rising and falling with the fortunes of the real estate market. Any amount collected under this tax will depend on activity in the real estate market. If the housing market slows down, revenues may not be sufficient to meet the expectations of the fund. If the additional revenues are not sufficient or another "important" program needs funding, will the conveyance tax be increased to generate even more revenue?

If the legislature deems affordable housing to be such a high priority, then it should maintain the accountability for these funds by appropriating the funds as it does with other programs. Earmarking revenues merely absolves elected officials from setting priorities. When the legislature dipped into housing special funds to maintain funding for programs like education and social services, that was poor tax policy. This proposal represents the obverse, lawmakers are stealing from the general fund all in the name of affordable housing. When general fund revenues wane, will elected officials once more dip into special funds or repeal this earmarking or in the alternative raise taxes? Earmarking revenues restricts the flexibility in utilizing these revenues. The question that lawmakers must ask themselves is whether or not all of the currently earmarked funds are being used wisely and accomplishing the intended goals. With earmarked funds that can only be used for a designated purpose, lawmakers tend to overlook how those earmarked funds are being used.

Before earmarking any more funds for affordable rental housing, lawmakers should assess the success of the affordable rental housing program. Further, they should take into consideration the fact that during the past decade the homes revolving fund was raided to shore up general fund expenditures and that if the concern is affordable housing in Hawaii, then the homes revolving fund should be made whole again with an appropriation of general funds.

While the fortunes of the rental housing fund, natural area reserves program, and the legacy lands program have been greatly enhanced because of the recent boom in the real estate market, the ebullience of the collections of this tax have also been bolstered by the fact that lawmakers enacted a schedule of rates that basically punishes larger transactions be they residential or nonresidential and if residential, higher rates if the residence is not to be owner-occupied. This strategy of trying to punish larger transactions and transactions of residential property that will not be owner-occupied is childish and reflects the ignorance of lawmakers about the reality of the real estate market. First, not all transactions of \$1 million or more involved residential property. As a result the higher rates on transactions of \$1 million or more penalizes the transfer of commercial, industrial, and agricultural property - all types of nonresidential property - most of which are of values greater than \$1 million. Thus, lawmakers have added yet another nail in the coffin for businesses in Hawaii. Second, just because residential property that is sold is not to be owner-occupied does not infer that something bad is taking place. Do lawmakers realize where rental housing comes from - it does not just drop out of the sky. With policies like this there is no wonder that there is such a scarcity of rental housing in Hawaii. Further, the highest conveyance tax rate is imposed on residential real property that will not be owner-occupied where the transaction value is more than \$1 million. A recent transaction of dilapidated rental housing which the purchaser proposes to redevelop into affordable rentals was subject to this highest rates. Thus, all the punitive conveyance tax will do is make this affordable housing development less affordable. So as long

SB 2979/HB 3057; SB 2225/HB 2050; SB 3174/HB 2468, HB 2514; HB 2668 - Continued

as the rental housing trust fund is dependent on this earmarking, there is no likelihood that the conveyance tax will ever be looked upon as anything but a cash cow ripe for even more tax increases.

What is so characteristic of the legislature is reflected in the conflicting and contradictory policies embodied in the conveyance tax law. On one hand, lawmakers seem to make a "commitment" to affordable rental housing by earmarking the receipts of the tax for the trust fund while at the same time punishing those purchasers of residential property that will not be owner-occupied with higher confiscatory rates. This type of thinking is an indication of the lack of understanding of where the state's rental inventory originates. As long as this thought pattern continues, taxpayers can rest assured that the legislature will never truly address the problem, let alone come up with rational solutions.

Digested 1/31/08