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HOUSE COMMITTEE ON ECONOMIC DEVELOPMENT & BUSINESS CONCERNS

TESTIMONY REGARDING HB 3333 RELATING TO KAKAAKO

TESTIFIER: KURT KAWAFUCHI, DIRECTOR OF TAXATION (OR DESIGNEE)

DATE: FEBRUARY 12, 2008

TIME: 9:00AM

ROOM: 325

This bill provides a refundable income tax credit for an unspecified amount of real property tax assessed by the City & County of Honolulu for certain industrial property located in Kakaako.

The Department of Taxation (Department) opposes this tax policy.

I. THE DEPARTMENT OPPOSES THIS REAL PROPERTY TAX CREDIT.

Without commenting on the propriety or merits of the intent and purpose of this legislation, the Department opposes the real property income tax credit for the following reasons:

THE REAL PROPERTY TAX CREDIT, IN EFFECT, MERELY SUPPORTS THE COUNTIES—The Department believes that a real property tax credit in any amount is ultimately a subsidy to the City & County of Honolulu. There are several unintended consequences from this legislation. First, the county would be in a position to consider increasing the tax on industrial land because the State would be paying for the tax, regardless of the rate or amount. Second, no taxpayer would be interested in challenging any assessments because ultimately the State will pay the bill. The Department believes that this tax credit is poor tax policy because the county enjoys the ultimate subsidy.

If the intent of this legislation is to provide relief for the real property taxes on industrial land, the Department suggests appropriating a set amount of revenue to the county and requiring the counties to adopt a direct real property tax credit.

RECAPTURE—This legislation does not include language regarding the redesignation of land. Nor does it include specific recapture provisions. The bill suggests that in order to qualify the real property must be properly designated as industrial and must be used for industrial or commercial

L E G I S L A T I V E

116-117

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SUBJECT: INCOME, Kakaako development industrial use tax credit

BILL NUMBER: SB 3167, HB 3333 (Identical)

2/7 EOT 2/12 EOB

INTRODUCED BY: SB by Fukunaga, Chun Oakland and Slom; HB by Brower, Awana, Green, Lee, Luke, Magaoay, Mizuno, Saiki, Tsuji and 7 Democrats

BRIEF SUMMARY: Adds a new section to HRS chapter 235 to allow taxpayers to claim an income tax credit of ____% of any industrial real property tax assessment imposed by the city and county of Honolulu on any real property with a total area of less than ____ square feet located in the Kakaako community development district designated as I-1 or I-2 for the year the tax credit is claimed and the year following the year the credit is claimed.

Tax credits that exceed a taxpayer's income tax liability shall be refunded to the taxpayer provide such amounts are over \$1. Requires all claims, including any amended claims, to be filed on or before the end of the twelfth month following the close of the tax year. Directs the director of taxation to prepare the necessary forms to claim the credit, validate a claim and adopt rules pursuant to HRS chapter 91. In the case of a partnership, S-corporation, estate, trust, or developer of a commercial building, the tax credit allowable is for a percentage of the industrial real property tax imposed by the city and county of Honolulu for the tax year with the cost on which the credit is computed to be determined at the entity level.

The credit shall be available for tax years beginning after December 31, ____ and shall not be available for tax years beginning after December 31, ____.

Makes conforming amendments to HRS chapter 206E.

EFFECTIVE DATE: Tax years beginning after December 31, 2007

STAFF COMMENTS: This measure proposes to encourage small business and light industrial development in the Kakaako community development district by establishing an income tax credit to offset a portion of the property tax assessments imposed by the city and county of Honolulu. If the proposed measure is enacted, it would merely grant preferential tax treatment to a select group of taxpayers and do so without regard to the taxpayer's need for tax relief. What it does open is the ability for the county to raise real property tax rates on such light industrial properties and thus create a back door grant-in-aid program for the city & county from the state.

Although the measure attempts to use tax credits to encourage the retention of light industrial property use in the Kakaako district, it fails to recognize that if there is a higher and better use of the property, the landowner will probably develop the property to that use in order to maximize the return on the investment in the property. As such, this measure is a day late and a dollar short as it also fails to recognize the poor business climate that will ultimately run many small light industrial businesses out of business.

SB 3167, HB 3333 - Continued

with the crush of development in this district.

Instead of tax credits for a handful of businesses that happen to be located in this particular district, lawmakers need to improve the overall business climate beginning with a reduction of the tax burden on all businesses, an improvement in heavy handed labor regulations, and the draconian maze of permitting compliances within both the state and county government. Because the county has elected to shift much of the tax burden of the city & county of Honolulu to nonresidential property, it has become increasingly difficult for businesses to remain profitable while remaining competitive. This is evidenced in the restaurant business where the competition is stiff and the profit margin almost negligible. The higher real property tax burden is showing up in the price of consumer goods thus affecting families across the state. Without some kind of tax relief, surviving in Hawaii will get all that more difficult.

It should be remembered that tax credits generally are designed to alleviate an undue burden on those who are unable to carry that burden, largely the poor and low income. This measure would merely result in a partial subsidy by the state of the taxpayer's real property tax while the exempted revenues will add to the tax burden of other taxpayers who are not eligible for the proposed tax credit.

Digested 2/06/08

Sharon Sagayadoro

From: Dexter Okada [dexter.okada@uokada.com]
Sent: Monday, February 11, 2008 1:12 PM
To: EDBtestimony
Subject: Testimony

COMMITTEE ON ECONOMIC
DEVELOPMENT & Business Concerns
Rep. Kyle T. Yamashita, Chair
Rep. Glenn Wakai, Vice Chair

**February 12, 2008, Committee Hearing
Conference Room 325
9:00AM**

**House Bill 3333
Relating to Kaka'ako.**

Chair Yamashita and Committee Members:

I support the passage of House Bill 3333.

I am Dexter Okada. I am the president of U. Okada & Co., Ltd., a third generation small family business that has been located on Queen Street in Kaka'ako for over fifty years. I also represent the Kaka'ako Business and Landowners Association, a group of small businesses and small landowners.

As stated in Part I Section 1 of this bill, §206E-31 has tasked Hawaii Community Development Authority (HCDA) with developing a mixed-use district in which industrial, commercial, residential, and public use could coexist. HCDA's focus has been on residential and commercial which is easily recognizable by just looking at the Kaka'ako skyline. With the high-density developments come higher property taxes. Our property taxes have risen 84% over the past three years. Small industrial businesses in Kaka'ako will not be able to survive these increases in property taxes caused by HCDA encouraged high-density developments.

Just about everyone of our expenses is controllable to an extent except property tax. So until HCDA is able to figure out how to fit industrial use into mixed-use, this bill will provide some needed property tax relief.

In Part II Section 4 of this bill, changing of the wording from "shall" to "may" will give HCDA's Revised Mauka Area Plan flexibility. In 2006, one of the issues with HCDA's Improvement District 11 (ID-11) was the assessment. For the property owners in the affected area, the costs would have far exceeded the benefits from ID-11. ID-11's benefits were for the general public. But since the wording was "shall", HCDA assessed the property owners in the affected area. The revised plan proposes that improvement districts be initiated by petition of a majority of the property owners of the affected area. Some improvement districts will "specially benefit" the general public and not the property owners of the affected area. The difference between "may" and "shall" assess may be the difference whether community consensus is achieved.

2/11/2008