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SUBJECT: GENERAL EXCISE, Exempt affordable housing and community health care facility

BILL NUMBER: SB 3165, SD-2

INTRODUCED BY: Senate Committee on Ways and Means

BRIEF SUMMARY: Amends HRS section 201H-36 to allow the Hawaii housing finance and development corporation to approve and certify a general excise tax exemption for: (1) a project developed by a qualified person or firm to provide affordable rental housing units within a mixed-use transit-oriented joint development project; or (2) a project developed by a qualified person or firm to provide a community health care facility within a mixed-use transit-oriented joint development project. Defines “community health care facility” and “mixed-use transit-oriented joint development project” for purposes of the measure.

Amends HRS section 237-29 to exempt from the general excise tax, the gross income received for the planning, design, financing, construction, sale, or lease of a community health care facility project certified or approved under HRS section 201H-36.

Amends HRS section 237-8.6(d) to provide that the county surcharge on state tax shall be imposed on transactions, amounts, persons, gross income, or gross proceeds on an affordable rental housing project or community health care facility project exempted under HRS section 201H-36.

Provides that it is the intent of the legislature that in adopting rules pursuant to HRS section 237-29(c), the director of taxation and the Hawaii housing finance and development corporation shall consult with the director of health and representatives of any interested county in an effort to streamline the approval process for mixed-use transit-oriented joint development projects and maximize the coordination among federal, state, and county governments.

EFFECTIVE DATE: Tax years beginning after December 31, 2007

STAFF COMMENTS: This measure proposes a general excise tax exemption for projects developed within a mixed-use transit-oriented development project that provides: (1) affordable rental housing units; or (2) a community health care facility.

While the proposed measure would authorize the Hawaii housing finance and development corporation to certify whether a community health care facility project shall be eligible for the general excise tax exemption, it is questionable whether the corporation has the expertise to determine such eligibility since the corporation is responsible for housing issues of the state.

Further, while the affordable housing project and the community health care facility project must be developed within a mixed-use transit-oriented development project, it appears to be premature to adopt a general excise tax exemption until further details of the transit route and system have been finalized.

Given that affordable rental housing projects certified under HRS 201G-116 are already exempt from the general excise tax under HRS 237-29 as long as it is certified, one has to ponder why this particular exemption is being proposed. If the affordable rental housing meets the criteria of HRS 201G-116, then this exemption would be redundant. On the other hand, is this proposal attempting to exempt housing developments that may not meet the criteria of section 116 but because it is located in a transit district could escape the general excise tax without meeting the standards set by section 116?

In both cases, it should be noted that if this proposed exemption tracks the application of HRS 237-29 for affordable rental housing certified by HHFDC, not only the income of the health care facility and the affordable housing project would be exempt from the general excise tax, but the sale, lease, planning and design of such facilities would be exempt from the tax. Thus, some for profit businesses would enjoy the exemption as well.

Digested 3/18/08