
A BILL FOR AN ACT

RELATING TO TAXATION.

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

1 SECTION 1. Chapter 247, Hawaii Revised Statutes, is
2 amended by adding five new sections to be appropriately
3 designated and to read as follows:

4 "§247-A Definitions. For the purposes of this chapter,
5 unless otherwise expressly stated:

6 "Consideration" means the price actually paid or required
7 to be paid for the real property or interest therein, including:

8 (1) Payment for an option or contract to purchase real
9 property, whether or not expressed in the deed and
10 whether paid or required to be paid by money,
11 property, or any other thing of value;

12 (2) Cancellation or discharge of an indebtedness or
13 obligation; or

14 (3) The amount of any mortgage, purchase money mortgage,
15 lien or other encumbrance, whether or not the
16 underlying indebtedness is assumed or taken subject
17 to;



1 provided that, in the case of a controlling interest in any
2 entity that owns real property, consideration shall mean the
3 fair market value of the real property or interest therein,
4 apportioned based upon the percentage of the ownership interest
5 transferred or acquired in the entity; provided further that, in
6 the case of a lease or sublease, this chapter shall apply only
7 to a lease or sublease whose full unexpired term is for a period
8 of five years or more, and in those cases, including (where
9 appropriate) those cases where the lease has been extended or
10 amended, the tax in this chapter shall be based upon the cash
11 value of the lease rentals discounted to present day value and
12 capitalized at the rate of six per cent, plus the actual and
13 full consideration paid or to be paid for any and all
14 improvements, if any, that shall include on-site as well as off-
15 site improvements, applicable to the leased premises; and
16 provided further that the tax imposed for each transaction shall
17 be not less than \$1.

18 "Conveyance" means the transfer or transfers of any
19 interest in real property by any method, including but not
20 limited to sale, exchange, assignment, surrender, mortgage
21 foreclosure, transfer in lieu of foreclosure, option, trust
22 indenture, taking by eminent domain, conveyance upon liquidation



1 or by a receiver, or transfer or acquisition of a controlling
2 interest in any entity with an interest in real property.
3 Conveyance of an interest in real property shall include the
4 creation of a leasehold or sublease.

5 "Grantee" means the person who obtains real property or
6 interest therein as the result of a conveyance.

7 "Grantor" means the person making the conveyance of real
8 property or interest therein. Where the conveyance consists of
9 a transfer or an acquisition of a controlling interest in an
10 entity with an interest in real property, "grantor" means the
11 entity with an interest in real property or a shareholder or
12 partner transferring stock or partnership interest,
13 respectively.

14 "Interest in the real property" includes title in fee, a
15 leasehold interest, a beneficial interest, an encumbrance,
16 development rights, air space and air rights, or any other
17 interest with the right to the use or occupancy of real property
18 or the right to receive rents, profits, or other income derived
19 from real property.

20 "Real property" means every estate or right, legal or
21 equitable, present or future, vested or contingent, in lands,
22 tenements, or hereditaments, including buildings, structures,



1 and other improvements thereon, that are located in whole or in
2 part within the State.

3 §247-B "Controlling interest", defined, application. (a)

4 For the purposes of this chapter, "controlling interest" means:

5 (1) In the case of a corporation,

6 (A) Fifty per cent or more of the total combined
7 voting power of all classes of stock of the
8 corporation; or

9 (B) Fifty per cent or more of the capital, profits,
10 or beneficial interest in the voting stock of the
11 corporation; and

12 (2) In the case of a partnership, association, trust, or
13 other entity, fifty per cent or more of the capital,
14 profits, or beneficial interest in the partnership,
15 association, trust, or other entity.

16 (b) In the case of a corporation that has an interest in
17 real property, the transfer or acquisition of a controlling
18 interest in the corporation occurs when a person, or group of
19 persons acting in concert, transfers or acquires a total of
20 fifty per cent or more of the voting stock in the corporation.

21 In the case of a partnership, association, trust, or other
22 entity having an interest in real property, the transfer or



1 acquisition occurs when a person, or group of persons acting in
2 concert, transfers or acquires a total of fifty per cent or more
3 of the capital, profits, or beneficial interest in the entity.

4 For the purposes of this subsection:

5 (1) Persons are acting in concert when they have a
6 relationship such that one person influences or
7 controls the actions of another. For example, if a
8 parent corporation and a wholly-owned subsidiary
9 corporation each sell or purchase a twenty-five per
10 cent interest in an entity, the two corporations shall
11 be considered to have acted in concert to transfer or
12 acquire a controlling interest in the entity; and

13 (2) Where the individuals or entities are not commonly
14 controlled or owned, persons shall be treated as
15 acting in concert when the unity with which the
16 sellers or purchasers have negotiated and will
17 consummate the transfer of ownership interests
18 indicates they are acting as a single entity. If the
19 transfers or acquisitions are completely independent,
20 with each grantor selling or grantee buying without
21 regard to the identity of the other grantors or
22 grantees, then the transfers or acquisitions shall be



1 treated as separate transfers or acquisitions. The
2 grantors or grantees may be required to provide a
3 sworn statement that their transfers or acquisitions
4 are independent of each other. Factors that indicate
5 whether persons are acting in concert shall include
6 the following:

7 (A) The transfers or acquisitions are closely related
8 in time;

9 (B) There are few grantors or grantees;

10 (C) The contracts of sale contain mutual terms; and

11 (D) The grantors or grantees have entered into an
12 agreement, in addition to the sales contract,
13 binding themselves to a course of action with
14 respect to the transfer or acquisition.

15 (c) Notwithstanding the definition of "controlling
16 interest" and the exercise thereof in subsections (a) and (b),
17 the tax imposed by this chapter shall apply to:

18 (1) The original conveyance of shares of stock in a
19 cooperative housing corporation as defined in section
20 421I-1, or limited-equity housing cooperative as
21 defined in section 421H-1, in connection with the
22 grant or transfer of a right of occupancy by the



1 cooperative housing corporation or limited-equity
2 housing cooperative; and

3 (2) The subsequent conveyance of the stock in a
4 cooperative housing corporation or limited-equity
5 housing cooperative in connection with the grant or
6 transfer of a right of occupancy by the owner thereof.

7 (d) For purposes of determining whether or not a
8 controlling interest is transferred or acquired, only transfers
9 or acquisitions of interests occurring on or after July 1, 2014,
10 shall be added together.

11 A transfer or acquisition made on or after July 1, 2014,
12 does not have to be included, for purposes of determining
13 whether or not a controlling interest is transferred or
14 acquired; provided that the transfer or acquisition is made
15 pursuant to a binding written contract that was entered into on
16 or before July 1, 2014.

17 (e) In the case of a transfer or acquisition of an
18 interest in an entity that has an interest in real property, on
19 or after July 1, 2014, that is followed by a subsequent transfer
20 or acquisition of an additional interest or interests in the
21 same entity, the transfers or acquisitions shall be added



1 together to determine if a transfer or acquisition of a
2 controlling interest has occurred.

3 (f) In the case of a transfer or acquisition of a
4 controlling interest in an entity, on or after July 1, 2014,
5 where the real estate transfer tax is paid on that transfer or
6 acquisition and there is a subsequent transfer or acquisition of
7 an additional interest in the same entity, it shall be
8 considered that a second transfer or acquisition of a
9 controlling interest has occurred, which shall be subject to the
10 conveyance tax.

11 (g) No transfer or acquisition of an interest in an entity
12 that has an interest in real property shall be added to another
13 transfer or acquisition of an interest in the same entity if the
14 transfers or acquisitions occur more than three years apart,
15 unless the transfers or acquisitions were so timed as part of a
16 plan to avoid the real estate transfer tax.

17 (h) For the purposes of applying the tax imposed under
18 this chapter to the transfer or acquisition of a controlling
19 interest in an entity, the tax shall be imposed only when there
20 is a transfer and an acquisition of a controlling interest in
21 the same conveyance.



1 §247-C Taxation at the lowest rate. Notwithstanding any
2 exemption under section 247-3, the tax imposed by section 247-1
3 shall apply to the following conveyances at the lowest rate
4 provided in section 247-2(1), regardless of the value of the
5 real property:

6 (1) Any document or instrument conveying real property, or
7 any interest therein, from an entity that is a party
8 to a merger or consolidation under chapter 414, 414D,
9 415A, 421, 421C, 425, 425E, or 428 to the surviving or
10 new entity; and

11 (2) Any document or instrument conveying real property, or
12 any interest therein, from a dissolving limited
13 partnership to its corporate general partner that
14 owns, directly or indirectly, at least a ninety per
15 cent interest in the limited partnership, as
16 determined by applying section 318 (with respect to
17 constructive ownership of stock) of the Internal
18 Revenue Code of 1986, as amended, to the constructive
19 ownership of interests in the partnership.

20 §247-D Disclosure of certificates unlawful; penalty. (a)

21 A certificate of conveyance required to be filed under section



1 247-6, and the report of any investigation of the certificate or
2 of the subject matter of the certificate, shall be confidential.

3 It shall be unlawful for any person or any officer or
4 employee of the State to:

5 (1) Intentionally make known information imparted by any
6 certificate or certificate information filed pursuant
7 to this chapter, or any report of any investigation of
8 the certificate or of the subject matter of the
9 certificate; or

10 (2) Wilfully permit any certificate, certificate
11 information, or report so made, or any copy thereof,
12 to be seen or examined by any person;

13 provided that, for tax purposes, the grantor or grantee, their
14 authorized agent, or persons with a material interest in the
15 certificate, certificate information, or report may examine the
16 certificate, certificate information, or report.

17 (b) For the purposes of this section, unless otherwise
18 provided by law, persons with a material interest in a
19 certificate, certificate information, or report shall include:

20 (1) Trustees;

21 (2) Partners;



- 1 (3) In the case of a corporate certificate, persons named
- 2 in a board resolution or a one per cent shareholder;
- 3 (4) The person authorized to act for a corporation in
- 4 dissolution;
- 5 (5) The shareholder of an S corporation;
- 6 (6) In case of an estate's or decedent's certificate, the
- 7 personal representative, trustee, heir, or beneficiary
- 8 of the estate or trust;
- 9 (7) The committee, trustee, or guardian of any person in
- 10 paragraphs (1) to (6) who is incompetent;
- 11 (8) The trustee in bankruptcy or receiver and the
- 12 attorney-in-fact of any person specified in paragraphs
- 13 (1) to (7);
- 14 (9) Persons duly authorized by the State in connection
- 15 with their official duties;
- 16 (10) Any duly accredited tax official of the United States
- 17 or of any state or territory;
- 18 (11) The Multistate Tax Commission or its authorized
- 19 representative;
- 20 (12) Members of a limited liability company; and



1 (13) A person contractually obligated to pay the taxes
2 assessed against another when the latter person is
3 under audit by the department of taxation.

4 Any violation of this subsection shall be a misdemeanor.

5 (c) Nothing in this section shall prohibit the registrar
6 of conveyances or the assistant registrar of the land court from
7 imprinting a seal, under section 247-5, indicating the amount of
8 tax paid.

9 (d) No recorded instrument effecting a conveyance shall be
10 considered a certificate for the purposes of this section.

11 **§247-E Conformity to Constitution, etc.** In computing the
12 amounts of any tax imposed under this chapter, there shall be
13 excepted or deducted from the amounts of consideration so much
14 thereof as, under the Constitution and laws of the United
15 States, the State is prohibited from taxing, but only so long as
16 and only to the extent that the State is so prohibited."

17 SECTION 2. Section 247-1, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "**§247-1 Imposition of tax.** There is hereby imposed and
20 shall be levied, collected, and paid, a tax [~~as hereinafter~~
21 ~~provided, on all transfers or conveyances of realty or any~~
22 ~~interest therein, by way of deeds, leases, subleases,~~



1 ~~assignments of lease, agreements of sale, assignments of~~
2 ~~agreement of sale, instruments, writings, and any other~~
3 ~~document, whereby any lands, interests in land, tenements, or~~
4 ~~other realty sold shall be granted, assigned, transferred, or~~
5 ~~otherwise conveyed to, or vested in, the purchaser or~~
6 ~~purchasers, lessee or lessees, sublessee or sublessees, assignee~~
7 ~~or assignees, or any other person or persons, by the person's or~~
8 ~~their direction.] on each conveyance of any interest in real~~
9 ~~property."~~

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

12 "**§247-2 Basis and rate of tax.** The tax imposed by section
13 247-1 shall be based [~~on~~] upon the [~~actual and full~~]
14 consideration [~~(whether cash or otherwise, including any~~
15 ~~promise, act, forbearance, property interest, value, gain,~~
16 ~~advantage, benefit, or profit)],~~ paid or to be paid for all
17 [~~transfers or conveyance~~] conveyances of [~~realty~~] real property,
18 or any interest therein, that shall include any liens or
19 encumbrances thereon at the time of sale, lease, sublease,
20 assignment, transfer, or conveyance[~~7~~] and shall be at the
21 following rates:

22 (1) Except as provided in paragraph (2):



- 1 (A) Ten cents per \$100 for properties with a [~~value~~]
2 consideration of less than \$600,000;
- 3 (B) Twenty cents per \$100 for properties with a
4 [~~value~~] consideration of at least \$600,000, but
5 less than \$1,000,000;
- 6 (C) Thirty cents per \$100 for properties with a
7 [~~value~~] consideration of at least \$1,000,000, but
8 less than \$2,000,000;
- 9 (D) Fifty cents per \$100 for properties with a
10 [~~value~~] consideration of at least \$2,000,000, but
11 less than \$4,000,000;
- 12 (E) Seventy cents per \$100 for properties with a
13 [~~value~~] consideration of at least \$4,000,000, but
14 less than \$6,000,000;
- 15 (F) Ninety cents per \$100 for properties with a
16 [~~value~~] consideration of at least \$6,000,000, but
17 less than \$10,000,000; and
- 18 (G) One dollar per \$100 for properties with a [~~value~~]
19 consideration of \$10,000,000 or greater; and
- 20 (2) For the [~~sale~~] conveyance of a condominium or single
21 family residence for which the purchaser is ineligible
22 for a county homeowner's exemption on property tax:



- 1 (A) Fifteen cents per \$100 for properties with a
2 [value] consideration of less than \$600,000;
- 3 (B) Twenty-five cents per \$100 for properties with a
4 [value] consideration of at least \$600,000, but
5 less than \$1,000,000;
- 6 (C) Forty cents per \$100 for properties with a
7 [value] consideration of at least \$1,000,000, but
8 less than \$2,000,000;
- 9 (D) Sixty cents per \$100 for properties with a
10 [value] consideration of at least \$2,000,000, but
11 less than \$4,000,000;
- 12 (E) Eighty-five cents per \$100 for properties with a
13 [value] consideration of at least \$4,000,000, but
14 less than \$6,000,000;
- 15 (F) One dollar and ten cents per \$100 for properties
16 with a [value] consideration of at least
17 \$6,000,000, but less than \$10,000,000; and
- 18 (G) One dollar and twenty-five cents per \$100 for
19 properties with a [value] consideration of
20 \$10,000,000 or greater,

21 of [~~such actual and full~~] the consideration[; ~~provided that in~~
22 ~~the case of a lease or sublease, this chapter shall apply only~~



1 ~~to a lease or sublease whose full unexpired term is for a period~~
2 ~~of five years or more, and in those cases, including (where~~
3 ~~appropriate) those cases where the lease has been extended or~~
4 ~~amended, the tax in this chapter shall be based on the cash~~
5 ~~value of the lease rentals discounted to present-day value and~~
6 ~~capitalized at the rate of six per cent, plus the actual and~~
7 ~~full consideration paid or to be paid for any and all~~
8 ~~improvements, if any, that shall include on-site as well as off-~~
9 ~~site improvements, applicable to the leased premises; and~~
10 ~~provided further that the tax imposed for each transaction shall~~
11 ~~be not less than \$1]."~~

12 SECTION 4. Section 247-3, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "**§247-3 Exemptions.** The tax imposed by section 247-1
15 shall not apply to[+] the following conveyances:

- 16 (1) Any [~~document or instrument~~] conveyance that is
17 executed prior to January 1, 1967;
- 18 (2) Any [~~document or instrument~~] conveyance that is given
19 to secure a debt or obligation;
- 20 (3) Any [~~document or instrument~~] conveyance that only
21 confirms or corrects a deed, lease, sublease,



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



1 (8) Any [~~document or instrument~~] conveyance executed
2 pursuant to a tax sale conducted by the United States
3 or any agency or instrumentality thereof or the State
4 or any agency, instrumentality, or governmental or
5 political subdivision thereof for delinquent taxes or
6 assessments;

7 (9) Any [~~document or instrument conveying real property~~]
8 conveyance to the United States or any agency or
9 instrumentality thereof or the State or any agency,
10 instrumentality, or governmental or political
11 subdivision thereof pursuant to the threat of the
12 exercise or the exercise of the power of eminent
13 domain;

14 (10) Any [~~document or instrument~~] conveyance that solely
15 conveys or grants an easement or easements;

16 (11) Any [~~document or instrument~~] conveyance whereby owners
17 partition their real property, whether by mutual
18 agreement or judicial action; provided that the value
19 of each owner's interest in the real property after
20 partition is equal in value to that owner's interest
21 before partition;



1 (12) Any [~~document or instrument~~] conveyance between
2 marital partners or reciprocal beneficiaries who are
3 parties to a divorce action or termination of
4 reciprocal beneficiary relationship that is executed
5 pursuant to an order of the court in the divorce
6 action or termination of reciprocal beneficiary
7 relationship;

8 (13) Any [~~document or instrument conveying real property~~]
9 conveyance from a testamentary trust to a beneficiary
10 under the trust;

11 (14) Any [~~document or instrument conveying real property~~]
12 conveyance from a grantor to the grantor's revocable
13 living trust, or from a grantor's revocable living
14 trust to the grantor as beneficiary of the trust;

15 [~~(15) Any document or instrument conveying real property, or~~
16 ~~any interest therein, from an entity that is a party~~
17 ~~to a merger or consolidation under chapter 414, 414D,~~
18 ~~415A, 421, 421C, 425, 425E, or 428 to the surviving or~~
19 ~~new entity;~~

20 ~~(16) Any document or instrument conveying real property, or~~
21 ~~any interest therein, from a dissolving limited~~
22 ~~partnership to its corporate general partner that~~



1 ~~owns, directly or indirectly, at least a ninety per~~
2 ~~cent interest in the partnership, determined by~~
3 ~~applying section 318 (with respect to constructive~~
4 ~~ownership of stock) of the federal Internal Revenue~~
5 ~~Code of 1986, as amended, to the constructive~~
6 ~~ownership of interests in the partnership; and~~

7 ~~[(17)]~~ (15) Any ~~[document or instrument]~~ conveyance that
8 conforms to the transfer on death deed as authorized
9 under chapter 527[-]; and

10 (16) Any conveyance to effectuate a mere change of identity
11 or form of ownership or organization where there is no
12 change in beneficial ownership, other than a
13 conveyance to a cooperative housing corporation, as
14 defined in section 421I-1, or limited-equity housing
15 cooperative, as defined in section 421H-1, of the real
16 property comprising the cooperative dwelling or
17 dwellings."

18 SECTION 5. Section 247-4, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "**§247-4 Payment and liability of the tax.** (a) The tax
21 imposed by this chapter shall be paid by the grantor~~[-, lessor,~~
22 ~~sublessor, assignor, transferor, seller, conveyor, or any other~~



1 ~~person conveying realty, or any interest therein, by a document~~
2 ~~or instrument subject to section 247-1; except, however,];~~
3 provided that in the case where the United States or any agency
4 or instrumentality thereof or the State or any agency,
5 instrumentality, or governmental or political subdivision
6 thereof is the grantor[, ~~lesser, sublesser, assignor,~~
7 ~~transferor, seller, or conveyer~~], the tax shall be paid by the
8 grantee[, ~~lessee, sublessee, assignee, transferee, purchaser, or~~
9 ~~conveyee, as the case may be~~].

10 (b) The tax imposed by this chapter shall be paid at
11 [~~such~~] a place or places as the director of taxation may direct
12 and shall be due and payable no later than ninety days after the
13 taxable [~~transaction,~~] conveyance and in any event prior to the
14 imprinting of the seal or seals as provided by section 247-5.
15 Penalties and interest shall be added to and become a part of
16 the tax, when and as provided by section 231-39.

17 (c) If the grantor has failed to pay the tax imposed by
18 this chapter at the time required by subsection (b) or if the
19 grantor is exempt from the tax, the grantee shall pay the tax.
20 If the grantee has the duty to pay the tax because the grantor
21 has failed to pay, the grantor and the grantee shall be jointly
22 and severally liable for the tax.



1 (d) For the purposes of this chapter, all conveyances
2 shall be presumed taxable. Where the consideration includes
3 property other than money, the consideration shall be presumed
4 to be the fair market value of the real property or interest
5 therein. These presumptions shall prevail until the contrary is
6 proven, and the burden of proving the contrary shall be on the
7 person liable for payment of the tax."

8 SECTION 6. Section 247-5, Hawaii Revised Statutes, is
9 amended to read as follows:

10 **"§247-5 Imprinting of seal[-]; evidence of payment. (a)**
11 **[The] Except for a conveyance where no instrument evidencing the**
12 **conveyance is recorded or filed with the registrar of**
13 **conveyances or the assistant registrar of the land court, the**
14 **tax shall be evidenced as paid by the imprinting of an**
15 **appropriate seal or seals on the document or instrument, which**
16 **imprinting or seal itself shall indicate on its face the amount**
17 **of the tax paid. The seal or seals shall be so imprinted upon**
18 **the payment of the tax, together with the appropriate penalty**
19 **and interest where applicable, and, in any event, prior to the**
20 **recordation or filing of the document or instrument with the**
21 **registrar of conveyances or the assistant registrar of the land**
22 **court.**



1 (b) For the purposes of this chapter, the director may
2 require that the documents or instruments be brought to any of
3 the various offices of the department of taxation for an
4 examination of the instrument or document, or for the purpose of
5 having the seal imprinted on the document or instrument."

6 SECTION 7. Section 247-6, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "**§247-6 Certificate of conveyance required.** (a) [~~Any~~
9 ~~party,~~] The grantor and the grantee, with the exception of
10 governmental bodies, agencies, or officers, [~~to a document or~~
11 ~~instrument subject to this chapter,~~] or the [~~party's~~] grantor's
12 or grantee's authorized representative[~~]~~] shall file, in the
13 manner and place [~~which~~] that the director of taxation shall
14 prescribe, a certificate of conveyance setting forth the [~~actual~~
15 ~~and full~~] consideration of the [~~property transferred,~~]
16 conveyance, including any lien or encumbrance on the real
17 property[~~]~~ or interest therein, and any other facts as the
18 director may by rules prescribe. The certificate of conveyance
19 shall be verified by a written declaration thereon that the
20 statements made therein are subject to the penalties in section
21 231-36. The certificate shall be appended to [~~the~~] any document
22 or instrument made subject to this chapter and shall be filed



1 with the director simultaneously with the aforementioned
2 document or instrument for the imprinting of the required seal
3 or seals.

4 (b) No certificate of conveyance is required to be filed
5 for any document or instrument made exempt by section 247-3,
6 except that in the following situations, [a] an exemption
7 certificate shall be filed in the manner and place that the
8 director shall prescribe, within ninety days after the
9 [~~transaction~~] conveyance or prior to the recordation or filing
10 of the document or instrument with the registrar of conveyances
11 or the assistant registrar of the land court or after the
12 ninety-day period, recordation, or filing as the director shall
13 prescribe:

14 (1) For any [~~document or instrument described~~] conveyance
15 exempted under section 247-3(3), [~~any party to the~~
16 ~~document or instrument~~] the grantor and the grantee
17 shall file a certificate declaring that the [~~document~~
18 ~~or instrument~~] conveyance merely confirms or corrects
19 a deed, lease, sublease, assignment, transfer, or
20 conveyance previously recorded or filed.

21 (2) For any [~~document or instrument described~~] conveyance
22 exempted under section 247-3(4), [~~any party to the~~



1 ~~document or instrument]~~ the grantor and the grantee
2 shall file a certificate declaring the amount of the
3 nominal consideration paid and marital or parental
4 relationship of the [~~parties.~~] grantor and the
5 grantee.

6 (3) For any [~~document or instrument described]~~ conveyance
7 exempted under section 247-3(5), [~~any party to the~~
8 ~~document or instrument]~~ the grantor and the grantee
9 shall file a certificate declaring the reasons why the
10 consideration is \$100 or less.

11 (4) For any [~~document or instrument described in]~~
12 conveyance exempted under section 247-3(6), [~~any party~~
13 ~~to the document or instrument]~~ the grantor and the
14 grantee shall file a certificate declaring that the
15 [~~document or instrument]~~ conveyance is made pursuant
16 to an agreement of sale, and where applicable, an
17 assignment or assignments of agreements of sale.

18 (5) For any [~~document or instrument described]~~ conveyance
19 exempted under section 247-3(8), [~~any person made a~~
20 ~~party to the document or instrument as]~~ the grantee [~~,~~
21 ~~assignee, or transferee]~~ shall file a certificate



1 declaring the full and actual consideration of the
2 property transferred.

3 (6) For any [~~document or instrument described~~] conveyance
4 exempted under section 247-3(11), [~~any party to the~~
5 ~~document or instrument~~] the grantor and the grantee
6 shall file a certificate declaring each owner's:

- 7 (A) Undivided interest in the real property and the
8 value of that interest before partition; and
9 (B) Proportionate interest and the value of that
10 interest after partition.

11 (7) For any [~~document or instrument described~~] conveyance
12 exempted under section 247-3(12), [~~any party to the~~
13 ~~document or instrument~~] the grantor and the grantee
14 shall file a certificate declaring that the [~~document~~
15 ~~or instrument~~] conveyance is made pursuant to an order
16 of the court and containing the court case number.

17 (8) For any [~~document or instrument described~~] conveyance
18 exempted under section 247-3(13), [~~any party to the~~
19 ~~document or instrument~~] the grantor and the grantee
20 shall file a certificate declaring that the document
21 or instrument conveys real property from a
22 testamentary trust to a trust beneficiary.



1 (9) For any [~~document or instrument described~~] conveyance
2 exempted under section 247-3(14), [~~any party to the~~
3 ~~document or instrument~~] the grantor and the grantee
4 shall file a certificate declaring that the document
5 or instrument conveys real property from the grantor
6 to a grantor's revocable living trust or from a
7 grantor's revocable living trust to the grantor.

8 (10) For any conveyance exempted under section 247-3(15),
9 the grantor and the grantee shall file a certificate
10 declaring that the conveyance conforms to the transfer
11 on death deed, as authorized under chapter 527.

12 (11) For any conveyance exempted under section 247-3(16),
13 the grantor and the grantee shall file a certificate
14 declaring that the conveyance effectuates a mere
15 change of identity or form of ownership or
16 organization where there is no change in beneficial
17 ownership.

18 (c) The form of the certificate and the procedure to be
19 followed for the submission of the [~~certificate~~] certificates
20 shall be prescribed by the director.

21 (d) Notwithstanding the foregoing, where the director
22 deems it impracticable to require the filing of a certificate or



1 certificates or to obtain the signatures of any or all [~~parties~~]
2 grantors or grantees to a certificate or certificates required
3 under this section, the director [~~may~~], in the director's
4 discretion, may waive the requirement of filing the certificate
5 or certificates or of securing the signature of any or all
6 [~~parties to the certificate or certificates.~~] grantors or
7 grantees.

8 (e) No document or instrument, on account of which a
9 certificate is required to be filed with the office of the
10 director under this section, shall be accepted for recordation
11 or filing with the registrar of conveyances or the assistant
12 registrar of the land court, unless the certificate has been
13 duly filed.

14 (f) If any or all of the grantors or any or all of the
15 grantees, or their authorized representatives, have failed to
16 sign a certificate under this section, the certificate shall be
17 accepted if it is signed by any one of the grantors or by any
18 one of the grantees; provided that the grantors and grantees not
19 signing the certificate, personally or through their authorized
20 representative, shall not be relieved of any liability for the
21 tax imposed by this chapter, and the period of limitations for



1 assessment of tax or of additional tax shall not apply to such
2 grantor or grantee.

3 [~~f~~] (g) Within twenty-one business days after the end of
4 each week, or as soon thereafter as possible, the director of
5 taxation shall provide to the administrator of each county's
6 real property assessment division, without charge, an image of
7 all certificates of conveyance that were filed. For each
8 certificate of conveyance, the image shall include the
9 following:

- 10 (1) Document number;
11 (2) Date of the filing;
12 (3) Name of grantor and grantee;
13 (4) Tax map key number;
14 (5) Location of the real property by island; and
15 (6) Address for real property assessment notice and tax
16 bill."

17 SECTION 8. Section 247-6.5, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "**§247-6.5 Limitation period for assessment, levy,**
20 **collection, or credit.** The amount of conveyance taxes imposed
21 by this chapter shall be assessed or levied, and the
22 overpayment, if any, shall be credited within three years after



1 filing of the [~~certificate~~] certificates prescribed by section
2 247-6. No proceeding in court without assessment for the
3 collection of the taxes shall be begun after the expiration of
4 the three-year period. Where the assessment of the tax imposed
5 by this chapter has been made within the period of limitation
6 applicable thereto, the tax may be collected by levy or by a
7 proceeding in court under chapter 231; provided that the levy is
8 made or the proceeding was begun within fifteen years after the
9 assessment of the tax. For any tax that has been assessed prior
10 to July 1, 2009, the levy or proceeding shall be barred after
11 June 30, 2024.

12 Notwithstanding any other provision to the contrary in this
13 section, the limitation on collection after assessment in this
14 section shall be suspended for the period:

- 15 (1) The taxpayer agrees to suspend the period;
- 16 (2) The assets of the taxpayer are in control or custody
17 of a court in any proceeding before any court of the
18 United States or any state, and for six months
19 thereafter;
- 20 (3) An offer in compromise under section 231-3(10) is
21 pending; and



1 (4) During which the taxpayer is outside the State if the
2 period of absence is for a continuous period of at
3 least six months; provided that if at the time of the
4 taxpayer's [~~return~~] certificate to the State the
5 period of limitations on collection after assessment
6 would expire before the expiration of six months from
7 the date of the taxpayer's [~~return,~~] certificate, the
8 period shall not expire before the expiration of the
9 six months.

10 In the case of a false or fraudulent certificate filed with
11 the intent to evade tax, or of a failure to file a certificate,
12 the tax may be assessed or levied at any time."

13 SECTION 9. Section 247-9, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "**§247-9 Enforcement and administration.** The director of
16 taxation shall administer and enforce the taxes imposed by this
17 chapter. The director may prescribe rules and regulations not
18 inconsistent with the provisions herein for their detailed and
19 efficient administration. At any time after the making of a
20 conveyance [~~or transfer~~] subject to the tax imposed by this
21 chapter, the director may investigate and ascertain whether the
22 tax, in the proper amount, was paid. For this purpose, the



1 director may invoke all statutory powers vested in the director,
2 including but not limited to section 231-7."

3 SECTION 10. In codifying the new sections added by section
4 1 of this Act, the revisor of statutes shall substitute
5 appropriate section numbers for the letters used in designating
6 the new sections in this Act.

7 SECTION 11. This Act shall apply to conveyances of
8 interests in real property occurring after June 30, 2014.

9 SECTION 12. Statutory material to be repealed is bracketed
10 and stricken. New statutory material is underscored.

11 SECTION 13. This Act shall take effect upon its approval.



Report Title:

Conveyance Tax; Controlling Interest Transfer

Description:

Imposes a conveyance tax on the conveyance of a controlling interest of an entity with an interest in real property in the State. Applies to conveyances occurring after 6/30/14.
(Proposed SD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

