

Honolulu, Hawaii

FEB 28 2013

RE: S.B. No. 97  
S.D. 1

Honorable Donna Mercado Kim  
President of the Senate  
Twenty-Seventh State Legislature  
Regular Session of 2013  
State of Hawaii

Madam:

Your Committee on Ways and Means, to which was referred S.B. No. 97 entitled:

"A BILL FOR AN ACT RELATING TO TAXATION,"

begs leave to report as follows:

The purpose and intent of this measure is to apply the conveyance tax to transfers of entity ownership when the transfer of entity ownership is essentially equivalent to the sale of an interest in real property.

Your Committee received testimony in support of this measure from Catholic Charities Hawaii; Hawaii Appleseed Center for Law and Economic Justice; the Trust for Public Land; The Nature Conservancy; and the Sierra Club, Hawaii Chapter.

Your Committee received testimony in opposition to this measure from the Chamber of Commerce of Hawaii; the Land Use Research Foundation of Hawaii; the Building Industry Association of Hawaii; and NAIOP Hawaii.

Your Committee received comments on this measure from the Department of Business, Economic Development, and Tourism; the Department of Taxation; the Tax Foundation of Hawaii; and Alexander & Baldwin, Inc.

Your Committee finds that the transfer of ownership of a business entity is comparable to the sale of an interest in real property held by the entity. However, under existing law, when an



interest in real property is conveyed via the transfer of a controlling interest in the business entity that owns the real property, the conveyance is not subject to the conveyance tax. Your Committee believes that all transfers of possession or use of real property should be subject to the same conveyance tax obligations.

Your Committee has amended this measure by:

- (1) Providing that the conveyance tax shall apply to the transfer of entity ownership as a result of a series of transfers or acquisitions that occur within any twenty-four-month period, rather than any twelve-month-period;
- (2) Deleting the provision that stated that the conveyance tax shall not apply to "[a]ny transfer or acquisition that consists of the change in identity or form of ownership of an entity where there is no change in the beneficial ownership, including transfers to an entity wholly owned, directly or indirectly, by the same common ownership as the transferor";
- (3) Clarifying the method of determining the value of the transfer of a controlling interest;
- (4) Deleting the requirement that the Director of Taxation adopt rules for determining the value of the realty being transferred as the result of the transfer of a controlling interest;
- (5) Changing the effective date to July 1, 2050, to facilitate further discussion on the measure; and
- (6) Making technical nonsubstantive amendments for the purposes of consistency, clarity, and style.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 97, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 97, S.D. 1, and be placed on the calendar for Third Reading.



Respectfully submitted on  
behalf of the members of the  
Committee on Ways and Means,

*David Y. Ige*

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DAVID Y. IGE, Chair



