

To: The members of the State of Hawai'i House of Representatives

Re: House Bill HB1117

Aloha

My name is Katherine Kogl, and I am a single, white, adult female resident of Hawai'i.

Tomorrow will be my last night at the women's shelter provided by the Institute for Human Services.

I have been living in Hawai'i since September 11, 2011, when I began what was presented to me as a long-term work trade on a farm that turned out to last only 2 months. I stayed with family friends (whom I had met just weeks prior to moving to Kaua'i) for a few weeks before I moved into a Hostel in Kapa'a, Kaua'i, and got a job at McDonald's. I began work trading at the Hostel on January 1, 2012, which lasted until April of 2012, at which time I was released from my work trade, but given the opportunity to stay at the Hostel for \$700 per month. I believe that the reason for my release was the perception by the owner that I could "afford" to be a paying resident, because I was the only one work trading that was employed. I refused to pay the exorbitant amount that he was asking for to live in that environment: the Hostel is almost completely open-air, infested with termites, and the roof is missing in several places; all-in-all, living there was "glorified camping" at best. Additionally, I did not even make \$700 per month at McDonald's. I bought a tent, and camping permits, and decided to become "homeless". I quit my job at McDonald's to pursue a better job on the north shore, and soon began working at the Westin in Princeville as a room attendant for a measly \$10 per hour (roughly 67% of the Hawai'i state average for such a position, which is \$14.87 per hour, plus "tips", which are a housekeepers fantasy, not a reality). This was better than the minimum wage that I had been making at McDonald's, despite my extensive experience with the company, including almost 2 years as an assistant store manager. I lived outside for a little over 4 months, but had stayed at the homeless shelter on Kaua'i called "Kaua'i Economic Opportunity" (KEO) for a couple of weeks in August while I was recuperating from surgery to repair my broken right fibula.

I began renting a room in a private home on September 6, 2012. I left this rental on December 21, 2012, on the grounds of constructive eviction, and wrongful removal, after my landlord/roommate attempted to unilaterally terminate my lease early in retaliation for requesting the remedies that led to my claim of constructive eviction. I sued her in small claims court, but dismissed the charges after mitigation as I was leaving for O'ahu, and did not wish to pursue the matter further, because though I would have won it would have been a much harder battle to actually get paid. I stayed at KEO, from December 21, 2012, until January 18, 2013, when I flew to O'ahu, arriving at midnight on January 19, 2013. I have been staying at IHS since I arrived here.

On the morning of January 31, 2013, I found a copy of this bill in the women's bathroom at Aala Park. I will spare the details of my experiences as a homeless person in this response, as they are irrelevant to my issues with this bill. Additionally, some of my issues are not with the bill per se, but with the statute as it stands.

Initially, there is a problem in Section 1.4 line 3. The phrase "available units" provides a loophole that would allow a rental property to never actually rent a unit at an affordable rate. The problem creates a *reductio ad absurdum*, as evidenced in the following example:

There is an apartment building with 100 total units, of which all are available for rent. While awaiting income verification (as well as any other potential verification measures in order to qualify for affordable housing) from homeless family applicants, the property rents 50 of these units at regular market price. Now, there are only 50 "available units", of which only 25 need be rented at the affordable rate. Again, the 25 market-priced units are leased, leaving only 12 units for the homeless families awaiting approval of their applications. So on this continues, until there is only one "available unit", which will most likely NOT be rented to a homeless family; at any rate, the property need only claim that there is some issue that prevents the final unit from being available, such as habitability and/or maintenance issues.

Second, the standards set as "affordable" are completely unrealistic. Most of these homeless families (and individuals, as in my case) are not employed in a capacity that makes this affordable at all. Many of these people have not even completed high school or a GED; they are confined to minimum

wage jobs. The Hawai'i state median household income (US Census Bureau, 2007-2011) is \$67,116 per year. This is equivalent to \$5593 per month. At minimum wage, 2 people (a couple with children, making them a "family") will need to work a total of 108 hours, or 54 hours per week each, to GROSS this amount. In order to meet the minimum requirement, the couple would need to work at least 40 hours per week at a pay rate of at least \$10.49 per hour. These jobs are few, and far between, incredibly difficult to find available, and even if one does, there will certainly be someone more qualified for the position. At the very least, a provision needs to be made that requires the construction of these housing developments to be in areas in which these people would ever even be able to afford them!

Third, there do not appear to be standards as to what a "unit" entails; will the homeless families be paying these affordable rates for only a one-bedroom apartment? A two bedroom? A corner of someone's basement? Take the Aiea House as an example, where one may rent a room for \$400 per month, plus an additional \$25 per child up to three children, at which time the family must rent the entire room for \$700. A single person may be sharing a room with a family of three, for a total income of \$800 for Aiea House, and what is surely uncomfortable living for the single person.

Finally, I find this bill disgustingly discriminatory. The following are my personal opinions on the matter, but they are highly relevant nevertheless. As I have shown, it will be nearly impossible for any homeless family to meet the eligibility requirements for such "affordable housing", but it IS impossible for a single person to do it: A single person would need to be working 40 hours per week at a rate of \$21 per hour. Anyone making this much money will no longer need "affordable housing", as there are plenty of housing options available at market price that are "affordable" at this point. I also do not take to the idea of spending tax money that I have paid in order to provide housing for people that should not be having more children, but most likely will once they are in an environment where they are able to have sex. I feel as though I am being discriminated against for being responsible enough to not bring a child into my financial situation.

I implore the state to re-think the appropriation of these funds, using them instead to assist the affordable housing options that already exist for EVERYONE who is homeless. Shelters like IHS provide necessary life skills training for those who need it, including mandatory parenting classes, and the HELE2Work program, which has helped several people find excellent jobs. Additionally, these facilities are struggling to provide the basic necessities of life for its guests, such as a safe environment, nutritious meals, and a secure place to sleep.

People cannot just disappear. Using the problem of homelessness as an excuse to provide tax dollars to corporations and individuals that will ultimately be using the money to build an apartment complex or condominium for regular market customers is not only ridiculous, but appalling, especially with respect to the children that do not need any more siblings, and the single, working homeless people that would be paying for it in more ways than one. I escaped Kaua'i in order to pursue a caregiving opportunity on O'ahu, and it has worked out for me. I am no longer homeless, at least, and will find a paying job soon. Hopefully, it will be at the rate of \$21 per hour. Yeah, right.

Best,

Katherine C. Kogl

Testimony to the House Committee on Housing

Monday, February 4, 2013

8:45 AM

Conference Room 329

RE: HOUSE BILL NO. 1117, RELATING TO THE GENERAL EXCISE TAX

Chair Cabanilla, Vice Chair Morikawa, and members of the committee:

My name is Charles Ota and I am the Vice President for Military Affairs at The Chamber of Commerce of Hawaii (The Chamber). I am here to state The Chamber's **opposition to House Bill No. 1117**, relating to The General Excise Tax.

The measure proposes to repeal the general excise tax exemption for housing projects built on federal lands. It provides that tax revenues gained from repealing this exemption shall be deposited into the rental housing trust fund for the purpose of building affordable rental housing for homeless families with children.

In accordance with HRS 201H-36, GET exemptions are currently authorized for any qualified person or firm involved with a newly constructed or moderately or substantially rehabilitated project developed under a government assistance program approved by the corporation. There appears to be no basis for the repeal as there is no reference to government assistance programs on federal lands.

To the extent that HB 1117 proposes to repeal the GET exemption for approved government assisted housing projects built on federal lands but not those built on state and county lands, we believe that HB 1117 constitutes a prima facie violation of the United States Constitution under Supreme Court cases such as Phillips Chemical Company v. Dumas Independent School District, 361 U.S. 376 (1960), Moses Lake Homes v. Grant County, 365 U.S. 744 (1961), and Davis v. Michigan Department of Treasury, 489 U.S. 803 (1989), because HB 1117 clearly discriminates against the United States and its lessees by only excluding federal

lessees from a state tax exemption which remains available to state and county lessees with approved government assisted housing projects.

We would like to add that the US Congress approved a highly successful public-private venture (PPV), commonly referred to as the Military Housing Privatization Initiative (MHPI), to replace and renovate thousands of badly deteriorated military family housing throughout the United States. This government assisted housing program was developed on federal lands and resulted in expediting urgently needed improvements in housing for military families.

In Hawaii, the MHPI program is nearing the completion of its initial phases to replace and renovate more than 16,000 military housing units. This venture has enabled the award of subcontracts to a myriad of local small businesses and is buttressed by a public labor agreement that requires the employment of skilled workers trained by our local unions. The GET exemption was a central part in enabling MHPI to succeed in Hawaii and will continue to provide business opportunities for small businesses and jobs for our workforce over the next 40 years or so.

In light of the above, we recommend the measure be held.

Thank you for the opportunity to testify.

TAXBILLSERVICE

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SUBJECT: GENERAL EXCISE, Repeal exemption, disposition of revenue

BILL NUMBER: HB 1117

INTRODUCED BY: Cabanilla

BRIEF SUMMARY: Amends HRS section 201H-36 to provide that housing projects built on federal lands shall not be eligible for the general excise tax exemption.

Amends HRS section 237-31 to provide that all general excise tax revenues realized as a result of the termination of the general excise tax exemption for such housing projects shall be deposited into the rental housing trust fund.

Makes a conforming amendment to HRS section 201H-202.

EFFECTIVE DATE: July 1, 2013

STAFF COMMENTS: Currently, housing projects developed on federal lands are exempt from general excise taxation. This measure proposes to eliminate the exemption and deposit the revenues from the general excise tax that would then be realized into the housing trust fund. While it appears that the intent of the measure is to generate additional revenue for the housing trust fund, it is curious that lawmakers believe that affordable housing on federal properties is any different from affordable housing, built under HRS chapter 201H, built on non-federal property. Affordable housing is affordable housing.

To the degree that there is a lack of affordable housing for the military and other federal dependents merely shifts that demand to the private market, driving the cost of rents higher as federal personnel end up competing with civilians for that affordable housing. If the general excise tax exemption increases the supply of affordable housing overall, then the benefit accrues to the entire community.

On the other hand, the earmarking of revenues such as the conveyance tax for the rental housing trust fund has merely excused the legislature from dealing head on with the dilemma of the lack of affordable housing in Hawaii. The result is a proposal like this, a continued “mining” of sources who can’t vote, represents an abdication by lawmakers of truly dealing with the affordable housing dilemma in Hawaii. Obviously affordable housing is not of a critical priority for lawmakers that it is deserving of an appropriation from the general fund. It is an indication that lawmakers see state government as being all things to all people, refusing to set priorities for those tax resources already available.

Digested 2/1/13

TESTIMONY BY KALBERT K. YOUNG
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE HOUSE COMMITTEE ON HOUSING
ON
HOUSE BILL NO. 1117

February 4, 2013

RELATING TO THE GENERAL EXCISE TAX

House Bill No. 1117 repeals the General Excise Tax (GET) exemption for housing projects built on federal lands and provides that tax revenues gained from repealing this exemption shall be deposited into the Rental Housing Trust Fund for the purpose of building affordable rental housing for homeless families with children.

The Department of Budget and Finance (B&F) is strongly opposed to this bill because the direct set aside of GET revenues to the credit of the Rental Housing Trust Fund would not go through the appropriation process.

The appropriation process is important as it provides Executive and Legislative oversight and control of State funds. Through the appropriation process, the Legislature has direct control over the use of State funds, and the Executive, by releasing funds through the allotment process, also provides a level of oversight.

However, under House Bill No. 1117, the GET exemption for housing projects developed on federal lands by the Hawaii Housing Finance and Development Corporation would be repealed. The resulting GET revenues gained by repealing this exemption would be directly deposited to the credit of the Rental Housing Trust Fund without going through the appropriation process.

For this reason, B&F strongly opposes this bill.



STATE OF HAWAII

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IN REPLY REFER TO:

Statement of
Karen Seddon
Hawaii Housing Finance and Development Corporation
Before the

HOUSE COMMITTEE ON HOUSING

February 4, 2013 at 8:45 a.m.
State Capitol, Room 329

In consideration of
H.B. 1117
RELATING TO THE GENERAL EXCISE TAX.

The HHFDC ***offers the following comments*** on H.B. 1117. HHFDC defers to the Department of Taxation on the overall merits of this bill.

This bill would remove eligibility for projects developed on federal lands from the General Excise Tax exemption for certified or approved housing projects under Section 201H-36(a)(2), HRS.

HHFDC is the certifying agency for this particular General Excise Tax exemption program. Based on experience, it appears that this amendment will primarily affect Military Housing Privatization Initiative (MHPI) housing projects.

H.B. 1117 then dedicates any General Excise Tax revenues realized from this amendment to the Rental Housing Trust Fund, earmarked for the development of affordable rental housing for homeless families. HHFDC appreciates the intent of providing additional resources for affordable housing development and to address the specific needs of homeless families with children.

Thank you for the opportunity to testify.