

NEIL ABERCROMBIE
GOVERNOR

SHAN TSUTSUI
LT. GOVERNOR



STATE OF HAWAII
DEPARTMENT OF TAXATION
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FREDERICK D. PABLO
DIRECTOR OF TAXATION

JOSHUA WISCH
DEPUTY DIRECTOR

To: The Honorable Angus L.K. McKelvey, Chair,
and Members of the House Committee on Consumer Protection and Commerce

Date: Wednesday, January 22, 2014
Time: 2:00 P.M.
Place: Conference Room 325, State Capitol

From: Frederick D. Pablo, Director
Department of Taxation

Re: H.B. 1523, Relating to Taxation

The Department appreciates the intent of H.B. 1523, and provides the following information and comments for your consideration.

H.B. 1523 makes significant changes to the conveyance tax, particularly making transfers of controlling interest in entities holding title to real property in the State subject to the conveyance tax. The bill also taxes certain currently exempt transactions at the lowest rate and adds new transactions that are also taxed at the lowest rate.

In general, the Department has concerns that large-scale changes to the conveyance tax may have unintended consequences, particularly in the area of compliance, and that taxpayers may construe the changes to be a change in the Department's position.

The Department suggests the following amendments:

First, the Department notes that this bill deletes language from Section 247-2, Hawaii Revised Statutes (HRS), which set forth what might be considered "consideration" under the law. The Department suggests including the language from Section 247-2, HRS, into the new definition of "consideration" so that proposed amendments will not be construed as a change in the Department's position.

Second, the Department is not certain that the proposed confidentiality requirements are necessary as it does not exist in the law today. If the intent of this provision is to keep

controlling interest transfers confidential, the Department suggests that the confidentiality requirement be limited only to certain information on the Conveyance Tax Certificate, such as grantor and grantee identities, for controlling interest transfers. Since much of the information on the Conveyance Tax Certificate is published by the respective counties, the Department does not believe that all of the information on the certificate should be deemed confidential.

Third, the Department suggests a change to the exemption proposed in Section 247-3(17), HRS. If the intent of this provision is to provide an exemption for transfers of ownership of an entity between family members or small business owners, the Department suggests including additional requirements that must be satisfied before an exemption may be claimed. An example of an additional requirement that may be considered is number of persons with an ownership interest in the entity before and after the transfer.

Thank you for the opportunity to provide comments.

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

Testimony of
WILLIAM J. AILA, JR.
Chairperson

Before the House Committee on
CONSUMER PROTECTION AND COMMERCE

Wednesday, January 22, 2014
2:00 PM
State Capitol, Conference Room 325

In consideration of
HOUSE BILL 1523
RELATING TO TAXATION

House Bill 1523 proposes to impose a conveyance tax on the transfer or conveyance of a controlling interest of an entity with an interest in realty in the State. **The Department of Land and Natural Resources (Department) supports this bill.**

This bill benefits the recipients of the conveyance tax, including the Department's Natural Area Reserve Fund and Land Conservation Fund.

The Natural Area Reserve Fund supports the Natural Area Partnership Program, the Natural Area Reserves, the Watershed Partnerships Program, and the Youth Conservation Corps. These programs protect Hawaii's invaluable ecosystems and forested watersheds.

The Land Conservation Fund supports the Legacy Land Conservation Program (LLCP). The LLCP protects rare and unique cultural, natural, agricultural, and recreational resources from destruction by funding the acquisition of fee title or conservation easements by nonprofits, counties, and state agencies.

This bill also supports the Rental Housing Trust Fund and the General Fund which also receive a portion of conveyance tax revenues.

WILLIAM J. AILA, JR.
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

ESTHER KIA'AINA
FIRST DEPUTY

WILLIAM M. TAM
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
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CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

Testimony of The Nature Conservancy of Hawai'i
Supporting H.B. 1523 Relating to Taxation
House Committee on Consumer Protection and Commerce
Wednesday, January 22, 2014, 2:00PM, Room 325

The Nature Conservancy of Hawai'i is a private non-profit conservation organization dedicated to the preservation of the lands and waters upon which life in these islands depends. The Conservancy has helped to protect nearly 200,000 acres of natural lands in Hawai'i. Today, we actively manage more than 35,000 acres in 11 nature preserves on Maui, Hawai'i, Moloka'i, Lāna'i, and Kaua'i. We also work closely with government agencies, private parties and communities on cooperative land and marine management projects.

The Nature Conservancy supports H.B. 1523. We think it is reasonable that, like direct transfers of real estate via purchase and sale agreements, transfers of real estate via majority stock transfers should also be subject to the State's real estate conveyance tax.

Under HRS §247-7, a portion of conveyance tax revenue has been appropriately used for land preservation and forested watershed conservation via the Land Conservation Fund and the Natural Area Reserve Fund, respectively. The development and sale of real estate helps drive Hawaii's economy and is helping lift us out of the recent recession, but it also puts pressure on our natural resources like fresh water. Fresh water is clearly a limiting factor here in the middle of the Pacific. Several locations in the state are experiencing ongoing drought, water management areas being declared, climate change is likely to produce more severe storms but overall less rainfall, and the UH's 2011 Rainfall Atlas catalogues a century of declining rainfall that is worse in recent decades. Fresh water is not a limitless resource that can forever be tapped to support our developed real estate. It makes sense to spend a portion of conveyance tax revenue on protecting these natural resources.

The Legislature recognized this clear nexus in Act 156 (HB 1308 CD1, 2005), stating:

The legislature has also determined that there is a clear nexus between the source of the conveyance tax and providing funding for watershed protection and other natural resource preservation programs. The development, sale, and improvement of real estate in Hawaii adds additional pressure on natural areas, coastal access, agricultural production, and Hawaii's water resources and watershed recharge areas.

Thank you for this opportunity to offer our support for this measure.

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Testimony of Hawai'i Appleseed Center for Law and Economic Justice
Supporting HB 1523 Relating to Taxation
House Committee on Consumer Protection and Commerce
Scheduled for Hearing Wednesday, January 22, 2014 2:00 PM, Room 325

Hawai'i Appleseed Center for Law and Economic Justice is a nonprofit, 501(c)(3) law firm created to advocate on behalf of low income individuals and families in Hawai'i on civil legal issues of statewide importance. Our core mission is to help our clients gain access to the resources, services, and fair treatment that they need to realize their opportunities for self-achievement and economic security.

Thank you for the opportunity to testify **in support** of House Bill 1523. Ensuring that any transfers of controlling interests in commercial entities which involve real property are subject to the conveyance tax like any other sale of property is a matter of fairness. Our land is particularly precious in Hawai'i, and all transfers of real property should be recognized as such. We lost six million dollars in conveyance tax revenue when Lanai was sold because of what is essentially a loophole in the conveyance tax. In addition, it is possible that some transfers of real estate are structured as the transfer of commercial entities to avoid paying the conveyance tax.

The conveyance tax funds both affordable housing through the Rental Housing Trust Fund and important state environmental protection initiatives. Conveyance tax revenues are the only dedicated source of funding for the Rental Housing Trust Fund, a critical tool in the creation of affordable housing. In the next three years, Hawai'i will need 13,000 more units to meet the need for affordable rentals. As a result of this shortfall, families struggle to keep themselves housed, and may even find themselves homeless. The Rental Housing Trust Fund has helped to create over 4,250 units, significant progress in addressing our need for housing. Increasing conveyance tax revenues by taxing all real property transfers fairly will help increase the availability of funds to this program.

Subjecting realty included in transfers of controlling interests is a fair and equitable application of the conveyance tax that helps support critical affordable housing and environmental initiatives.

THE TRUST *for* PUBLIC LAND

CONSERVING LAND FOR PEOPLE

**THE TRUST FOR PUBLIC LAND'S TESTIMONY
IN SUPPORT OF HB 1523 RELATING TO TAXATION
House Committee on Consumer Protection and Commerce
Wednesday, January 22, 2013, 2:00 p.m., Room 325**

The Trust for Public Land supports HB 1523 relating to taxation. This bill attempts to close loopholes in our real estate conveyance tax such as real estate transferred via a majority stock transfer.

The real estate conveyance tax does not apply to the value of stock or the value of a business. The real estate conveyance tax applies only to value of the real estate being bought/sold. Only sophisticated and wealthy individuals can afford to take advantage of the current loophole by forming corporations or limited liability companies that “own” real estate, and then transferring the stock ownership of the company effectively transferring ownership of the real estate and avoiding payment of the real estate conveyance tax. For example, although hundreds of millions of dollars of real estate on Lana‘i was sold to billionaire Larry Ellison, no real estate conveyance taxes were collected because of this stock transfer loophole. In comparison, regular families buying or selling modest homes or condominiums must pay the real estate conveyance tax.

Under HRS §247-7, a portion of conveyance tax revenue has been appropriately used for land preservation and forest watershed conservation via the Land Conservation Fund and the Natural Area Reserve Fund (and the Affordable Housing Rental Trust Fund). Since the development and sale of real estate puts pressure on our natural resources like drinking water produced by native forests, it makes sense to spend a portion of conveyance tax revenue on protecting those natural resources.

Although the Trust for Public Land supports this bill, I will not be able to appear in person to testify due to a scheduling conflict.

Mahalo for this opportunity to testify -



Lea Hong
Hawaiian Islands State Director
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NEIL ABERCROMBIE
GOVERNOR



CRAIG K. HIRAI
EXECUTIVE DIRECTOR

STATE OF HAWAII

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT AND TOURISM
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IN REPLY REFER TO:

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LATE

Statement of
Craig K. Hirai
Hawaii Housing Finance and Development Corporation
Before the

HOUSE COMMITTEE ON CONSUMER PROTECTION AND COMMERCE

January 22, 2014 at 2:00 p.m.
State Capitol, Room 325

In consideration of
H.B. 1523
RELATING TO TAXATION.

The HHFDC **supports the intent** of H.B. 1523 to the extent that the bill would increase conveyance tax revenues to the Rental Housing Trust Fund. The sole dedicated source of funding for the Rental Housing Trust Fund is 30 percent of conveyance tax proceeds to address the need for affordable rental housing statewide.

HHFDC leverages the Rental Housing Trust Fund with other funding sources to finance the development of critically needed affordable rental housing through public-private partnerships. As of December 31, 2013, 4,567 affordable rental units have been produced or are in development in 58 projects statewide. In Fiscal Year 2013, the Rental Housing Trust Fund received \$16.4 million from its share of conveyance tax revenues.

Thank you for the opportunity to provide written comments on this bill.

LATE



January 20, 2014

Representative Angus L.K. McKelvey, Chair
Representative Derek S.K. Kawakami, Vice Chair
House Committee on Consumer Protection and Commerce

Comments and Concerns Regarding HB 1523, Relating to Conveyance Tax; Controlling Interest Transfer.

Wednesday, January 22, 2014, 2:00 p.m., in Conference Room 325

The Land Use Research Foundation of Hawaii (LURF) is a private, non-profit research and trade association whose members include major Hawaii landowners, developers and a utility company. LURF's mission is to advocate for reasonable, rational and equitable land use planning, legislation and regulations that encourage well-planned economic growth and development, while safeguarding Hawaii's significant natural and cultural resources, and public health and safety.

HB 1523. This bill proposes to impose a conveyance tax on the conveyance of a controlling interest of an entity with an interest in real property in the State. The proposed measure would apply to conveyances occurring after June 30, 2015.

LURF acknowledges the stated intent of this bill, which is to apply the conveyance tax to transfers of entity ownership when such transfer is essentially equivalent to the sale of an interest in real property. However, based on the following reasons and considerations, LURF opposes HB 1523, and must request that this bill be held in Committee.

Background.

The Hawaii Conveyance Tax was never intended as a revenue-generating tax. Hawaii Revised Statutes ("HRS"), Chapter 247 (Conveyance Tax), was purposefully enacted in 1966 to provide the State Department of Taxation ("DoTax") with informational data for the determination of market value of properties transferred, and to assist the DoTax in establishing real property assessed values. In short, the sole intent of the conveyance tax was originally to cover the administrative costs of collecting and assessing said informational data, which necessarily entails the recording of real estate transactions, as performed by the Bureau of Conveyances. As such, the conveyance tax should not be utilized as a vehicle to generate revenue, especially for non-conveyance tax-related funds and programs.

Since the enactment of HRS Chapter 247, however, the State Legislature has proposed, and has successfully implemented changes to the law 1) to allow application of conveyance tax revenue to a number of non-conveyance type uses (land conservation fund; rental housing trust fund; and natural area reserve fund [“NARF”]) to the point where there is no longer any clear nexus between the benefits sought by the original Act and the charges now proposed to be levied upon property-holding entities transferring ownership; and 2) also to increase the tax rates to the point where said revenues now appear to far exceed the initially stated purpose of, or need identified in the Act.

LURF’s Position.

1. Revenues from the proposed imposition of the conveyance tax on transfers of controlling interests in entities are unnecessary and unwarranted.

Last year, during the 2013 Regular Session, sufficient general funding for the NARF was successfully earmarked by this Legislature. Standing Committee Report No. 928 dated March 11, 2013, and relating to HB 200, HD1 (the State Budget for FY2014-2015), confirms that the Committee on Finance, recognizing the importance of projects that preserve the State’s natural resources, appropriated \$8.5 million to the NARF, making any supplemental funding through the Conveyance Tax revenue collected pursuant to this proposed bill unnecessary, as well as unwarranted.

a. Application of the Conveyance Tax revenue collected pursuant to this bill to increase the NARF and other similar funds is arguably illegal and in violation of HRS Sections 37-52.3 and 37-52.4.

Criteria for the establishment and continuance of special and revolving funds including the NARF, was enacted by the 2002 Legislature through Act 178, SLH 2002; HRS Sections 37-52.3 and 37-52.4. According to the law, in order to be approved for continuance, a special fund must:

- serve the purpose for which it was originally established;
- reflect a clear nexus between the benefits sought and charges made upon the users or beneficiaries of the program (as opposed to serving primarily as a means to provide the program or users with an automatic means of support that is removed from the normal budget and appropriation process);
- provide an appropriate means of financing for the program or activity; and
- demonstrate the capacity to be financially self-sustaining.

The first and second criteria are nearly identical to those in Act 240, SLH 1990, codified in Section 23-11, HRS, which requires the State Auditor to review, each session, all legislative bills which propose to establish new special or revolving funds.

The 2012 Auditor's Report was issued in July, 2012, and applied the criteria in HRS Sections 37-52.3 and 37-52.4 to forty-seven (47) funds and accounts that were the subject of general fund transfer authorizations during FY2009, FY2010, and FY2011, including the NARF. The Report includes an analysis of the NARF, and states:

“...the Natural Area Reserve Fund has minimal linkage between the benefits and the fund revenue, which comes from conveyance taxes paid on real estate transactions. The fund supports programs such as the Natural Area Partnership and Forest Stewardship programs, projects undertaken in accordance with watershed management plans, and the Youth Conservation Corps. Individuals that pay this tax may benefit from the Natural Area Reserves program, but so do other Hawai'i residents and visitors to the state.” (2012 Auditor's Report, p. 30)

The 2012 Auditor's Report further concluded that the NARF **did not meet the criteria for continuance, because there was no clear link between the benefits sought and user or beneficiary charges**. The Auditor further concluded that the NARF fund earmarked by the Legislature should be repealed and that the unencumbered balance should lapse to the General Fund.

In letters dated June 18, 2012 and June 22, 2012 commenting on the draft 2012 Auditor's Report, the State Director of Finance and the State Attorney General, respectively, stated that in general, they agreed with the Auditor's recommendations, and did not dispute or object to the Auditor's conclusion that the NARF did not meet the criteria for continuance as a special fund, and that the NARF should be repealed.

Despite the State Auditor's findings, Conveyance Tax revenue collected pursuant to this bill are nevertheless being proposed for use to increase the NARF and other similar funds which have been determined **not** to have a clear nexus between the benefits sought and charges made upon the users or beneficiaries of the program, thereby subjecting this measure to legal challenge, and the State to a possible class-action lawsuit by all parties who paid Conveyance Taxes to finance such fund.

Programs such as the NARF deserve funding through broad taxes on the public and the State General Fund, rather than through the Conveyance Tax which targets few, is unreliable, and fluctuates with the housing market.

In its 2012 Report, the State Auditor also found that the beneficiaries of such special funds and conservation/ preservation programs are state residents as a whole, and such programs are so important that they should be supported by funding from a **broader tax on all state residents**, because of the broad state benefit.

As explained in the 2012 Auditor's Report:

“Designating revenue for specific purposes flows from the “benefit theory” of public finance, which postulates that those who benefit from a program should pay for it. Revenue earmarking is more defensible when there is a clear benefit-user charge as opposed to when there is no such linkage and earmarking is used solely as a political shield to protect a program by providing it with an automatic means of support.” (2012 Auditor's Report, p. 28)

The Report also found that the NARF fell into the category of a “revenue earmark” with “no clear benefit-user charge” and that the NARF “is used solely as a political shield to protect a program by providing it with an automatic means of support.” (See 2012 Auditor's Report, p. 28)

Moreover, because the Conveyance Tax is dependent on activity in the real estate market, it is considered an undependable source and should not be relied upon to fund important programs.

b. Supporting Legislation.

During the 2013 legislative session, HB 504 (now Act 130 (SLH 2013)) also directly addressed the issue relating to use of special funds and reinforced the requirement that special and revolving funds must reflect a clear link between the program funded and the source of revenue. The principles underlying Act 130 are clear, and the measure settles without question, the fact that special, revolving, and trust funds must, amongst other things:

1. **serve a need** as demonstrated by the purpose of the program to be supported by the fund; the scope of the program; and an **explanation of why the program cannot be implemented successfully under the general fund appropriation process**; and
2. **reflect a clear nexus** between the benefits sought and charges made upon the program users or beneficiaries; or a clear link between the program and the sources of revenue, **as opposed to serving primarily as a means to provide the program or users with an automatic means of support that is removed from the normal budget and appropriation process.**

As applied to this case, Act 130 thus makes it unequivocally clear that it is improper to channel conveyance tax revenue obtained through assessments targeted solely at landowning entities to special, revolving, or trust funds/programs with no nexus or clear link to the sources of revenue.

Moreover, emphasis is put on the requirement that special funds be supported when and if at all possible, through the general fund appropriation

process rather than through a means removed from the normal budget and appropriation process. As stated above, \$8.5 million was already appropriated for NARF during the 2013 legislative session through HB 200, HD1 (the State Budget for FY2014-2015).

c. If required, alternative, more appropriate methods exist to secure revenues for special, revolving, and trust funds.

In lieu of improperly imposing the conveyance tax to transfers of entity ownership involving the sale of an interest in land, proponents of this bill seeking to increase revenue for certain special funds or programs should look to other possible legitimate means to do so, including the following:

1. Current and proposed funding support through county board of water supply charges;
2. Funding through voluntary donations by rental car lessors or hotel room guests (e.g., HB 760, HD1, SD1, carried over from the 2013 Regular Session and which proposes to require lessors of rental motor vehicles to include an option to the lessee in the motor vehicle agreement to contribute a sum to the Department of Land and Natural Resources for the preservation of the environment);and
3. Voluntary contribution programs such as an income tax refund check-off box (which was proposed in 2013 by HB 571 and carried over to the 2014 Regular Session, to permit all Hawaii taxpayers to voluntarily designate a specified amount of the taxpayer's income tax refund to be deposited into the State's Early Learning Trust Fund).

Given the "clear nexus" and "clear link" requirements for special and revolving funds, and also given that sufficient general funding and alternative methods to secure revenues for these funds exist, expansions and deviations of HRS Chapter 247 which go beyond the scope of the original intent of the conveyance tax law are concerning since this proposed bill, particularly if unlawfully targeting recent transactions involving the sale of interests in private entities which own real property in the State, could be characterized as imposing an improper penalty, hidden tax, or surcharge, which may be subject to legal challenge.

2. **Transfers of stock are not "conveyances" of real property, and rightfully should not be made subject to the conveyance tax law.** HB 1523 would inappropriately subject sales of controlling interests in an entity to the conveyance tax regardless of whether real estate may be the primary or largest asset owned by the entity. Given that transfers of stock are not conveyances of real property, and given the clear intent underlying HRS Chapter 247, the methods sought to be used to impose a tax on transfers of stock (i.e., amendment or expansion of the existing conveyance tax law) is improper.

3. **Landowners that build affordable housing and that otherwise provide substantial support for the programs which benefit from conveyance tax revenues should be exempted from this bill.** It is ironic and unfair that the entities which will be hardest hit by this bill are Hawaii's large landowners that build affordable housing, are stewards of the land, and are the leading partners in, and contributors to the purposes funded by conveyance tax revenues. At the very least, those landowners that build affordable housing or that support and participate in conservation and watershed programs should be exempted from this bill.
4. **The proposed bill may have unintended negative consequences** for many of Hawaii's large *kama'aina* landowners. The proposed tax will also cause hardships for local landowners who may be transferring large properties for agricultural farms, housing developments, environmental programs, or other developments which would serve the community and create needed employment.
5. **The proposed measure creates a significant disincentive for business in Hawaii.** At a time where Hawaii is attempting to encourage business expansion in, and attract business operations to Hawaii, HB 1523 actually create a disincentive, and will have a substantial negative impact on persuading new and existing businesses to open or expand in Hawaii, or to relocate their operations to this State. The proposed additional cost of doing business in Hawaii as a result of these bills would certainly appear to negatively outweigh any positive revenue impact resulting from the imposition of conveyance taxes pursuant to the measures.
6. **The imposition of conveyance tax as proposed by this bill will drive up the cost of lands for agricultural production, affordable and market homes, and commercial development.**
 - The proposed imposition of the conveyance tax on transfers which affect **agricultural lands** will be passed on to farmers and other agricultural operators, making it even harder for agriculture to survive in Hawaii.
 - The proposed imposition of the conveyance tax on transfers which affect **land intended for housing developments** will be passed on to home buyers, will increase the price of homes, and will exacerbate the affordable housing problem in Hawaii.
 - The proposed imposition of the conveyance tax onto transfers which affect **commercial properties** will also be passed on to small businesses, creating yet another substantial financial burden on them.
7. **Proper and effective implementation of the proposed bill would involve complex, time-consuming, and subjective determinations.** Despite the inclusion of detailed definitions of terms to be construed in HRS Chapter 247, as a practical matter, in order that the proposed measure be properly and effectively administered and enforced, determinations as identified in the bill must still be made pursuant to rules adopted by the director. These determinations necessarily include "whether or not a controlling interest is transferred or acquired," and

“whether or not persons are acting in concert for the purpose of effectuating the transfer...,” which may involve assessments of subjective issues which entail significant time and expense.

For the reasons stated above, LURF respectfully recommends that **HB 1523 be held in this Committee.**

Thank you for the opportunity to provide comments regarding this proposed measure.

LATE



PARTNERS IN CARE Oahu's Coalition of Homeless Providers

Partners in Care is a coalition of Oahu's homeless service providers, government representatives and community stakeholders working together to end homelessness. We believe that partnerships and collaboration are essential.

TESTIMONY IN SUPPORT OF HB 1523: RELATING TO TAXATION

TO: Representative Angus L. K. McKelvey, Chair, Representative Derek K. Kawakami, Vice Chair, and Members, Committee on Consumer Protection and Commerce

FROM: Peter K. Mattoon, Partners In Care Advocacy Committee Co-Chair

Hearing: Wednesday, January 22, 2014; 2:00 PM; CR 325

Chair McKelvey, Vice Chair Kawakami, and Members, Committee on Consumer Protection and Commerce:

Thank you for the opportunity for Partners in Care to testify **in strong support of** HB 1523, which applies the conveyance tax to the conveyance of a controlling interest of an entity with an interest in real property. I am Peter K. Mattoon, Partners In Care Advocacy Committee Co-Chair.

When the island of Lana'i was sold, no conveyance tax was paid; however, if a house or a business is sold, the conveyance tax must be paid. We feel that it is fair that transfers of real estate via majority stock transfers, like direct transfers of real estate via purchase and sale agreements, should be subject to the conveyance tax. This bill would close a loophole in the conveyance tax law, and provide additional needed funds for critical state needs, such as affordable housing, land preservation and watershed protection which receive appropriations from the conveyance tax proceeds.

Social service agencies in Hawai'i are inundated with requests from families who need affordable housing. Rents in Hawaii have increased by more than 45% since 2005. Hawaii rents exceed the national median by over 70%. Hawaii has the highest rate of homelessness in the US, with almost 14,000 individuals receiving services for homelessness in FY 2013. The Hawaii Housing Planning Study of 2011 found that an estimated 13,000 rental units need to be built by 2016.

To build these 13,000 affordable units, additional resources are required for the Rental Housing Trust Fund, which receives conveyance tax proceeds. The Trust Fund has created **4,567 affordable rental units since inception**. In FY 12, it received \$37 million in project requests, yet was only able to commit funds to 4 out of the 9 project applications. The other five projects (317 possible units) were left on the drawing board due to limited resources. **In 2013, the Trust Fund received \$70.4 million in requests**. Many projects are ready to be developed and are only waiting for funding.

We urge your support to close this tax loophole and tax the value of the real estate. Thank you for considering HB 1523 and its impact on housing and land protection.

Contact PIC Advocacy Co-Chairs: Jenny Lee, jenny@hiappleseed.org, 587-7605; Peter Mattoon, peter.mattoon@catholiccharitieshawaii, 527-4745; or Betty Lou Larson, bettylou.larson@catholiccharitieshawaii; 585-6983/ 373-0356.

PARTNERS IN CARE c/o Aloha United Way
200 North Vineyard • Suite 700 • Honolulu, Hawaii 96817

LATE



CATHOLIC CHARITIES HAWAII

TESTIMONY IN SUPPORT OF HB 1523: RELATING TO TAXATION

TO: Representative Angus L. K. McKelvey, Chair, Representative Derek K. Kawakami, Vice Chair, and Members, Committee on Consumer Protection and Commerce

FROM: Betty Lou Larson, Legislative Liaison, Catholic Charities Hawaii

Hearing: Wednesday, January 22, 2014; 2:00 PM; CR 325

Chair McKelvey, Vice Chair Kawakami, and Members, Committee on Consumer Protection and Commerce:

Thank you for the opportunity to testify in **support** of HB 1523, which applies the conveyance tax to the conveyance of a controlling interest of an entity with an interest in real property. I am Betty Lou Larson, Legislative Liaison for Catholic Charities Hawaii. Catholic Charities Hawaii supports this bill.

When the island of Lanai was sold, no conveyance tax was paid. Yet if a house or a business is sold, the conveyance tax is paid. We feel that it is fair that transfers of real estate via majority stock transfers, like direct transfers of real estate via purchase and sale agreements, should be subject to the conveyance tax. This bill would close a loophole in the conveyance tax law, and provide additional needed funds for critical state needs, such as affordable housing, land preservation and watershed protection which receive appropriations from the conveyance tax proceeds.

Catholic Charities Hawaii receives hundreds of calls each month from families that need affordable housing. Rents in Hawaii have increased by more than 45% since 2005. Hawaii rents exceed the national median by over 70%. Hawaii has the highest rate of homelessness in the US, with almost 14,000 individuals receiving services for homelessness in FY 2013. The Hawaii Housing Planning Study of 2011 found that an estimated 13,000 rental units need to be built by 2016.

To build these 13,000 affordable units, additional resources are required for the Rental Housing Trust Fund, which receives conveyance tax proceeds. The Trust Fund has created **4,567 affordable rental units since inception**. In FY 12, it received \$37 million in project requests, yet was only able to commit funds to 4 out of the 9 project applications. The other five projects (317 possible units) were left on the drawing board due to limited resources. **In 2013, the Trust Fund received \$70.4 million in requests**. Many projects are ready to be developed and are only waiting for funding.

We urge your support to close this tax loophole and tax the value of the real estate. Thank you for considering HB 1523 and its impact on housing and land protection.



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