

**SB 680
RELATING TO TAXATION**

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JANUARY 30, 2013

Chair McKelvey and Members of the House Committee on Consumer Protection & Commerce:

I am Paul Oshiro, testifying on behalf of Alexander & Baldwin, Inc. (A&B) on HB 680, “A BILL FOR AN ACT RELATING TO TAXATION.”

The purpose of this bill 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.

We understand that as presently drafted, this new application of the conveyance tax may be imposed on a transfer of controlling interest within an existing entity, which includes transfers from one member of an entity to another member of that same entity. New business entities are often established to merge various interests and types of expertise to synergize efforts to successfully implement a business endeavor. Business knowledge and expertise in the areas of financing, sales and marketing, planning, and entity branding are some of the facets that may be brought together through a business partnership in such an entity. Through these entities, partners will be able to efficiently pool their knowledge, resources, and expertise to effectively implement the entity’s business plan.

Should the conveyance tax be applied to internal transfers of interest within entities that hold an interest in Hawaii real estate, we believe that it may have a negative impact on the future use of these types of entities as a means of bringing together the knowledge and expertise necessary to pursue new business opportunities in Hawaii. Potential business partners may be discouraged from becoming members in such entities, as they will need to carefully assess the potential impact of this new tax on their own business plans, goals, and investment objectives. This new application of the conveyance tax may also have a negative impact on attracting outside investments and businesses to the State of Hawaii.

We respectfully request your consideration to incorporate amendments into this bill to exclude from its applicability the transfer of controlling interest between members of an existing entity. We have attached the following amended language for your consideration:

"§247-A Transfer of a controlling interest; applicability. (a) Notwithstanding any provision to the contrary, the tax imposed by section 247-1 shall apply to the transfer or conveyance of an interest in realty located in the State as a result of the transfer or acquisition, or a series of transfers or acquisitions, including those combined with otherwise exempt transfers, by any person or entity, acting alone or in concert, within any twelve-month period, that result in the transfer of a controlling interest in an entity with an interest in realty located in the State for valuable consideration which results in the transfer of control or ownership of the realty located in the State; provided that **[this section] the tax imposed by section 247-1** shall not apply to:

- (1) Any 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; ~~or~~

(2) Any transfer from a limited partner to a general partner of a limited partnership that owns an affordable rental housing project for which low-income housing tax credits have been issued under section 235-110.8 or 241-4.7 or section 42 of the Internal Revenue Code of 1986, as amended; or

(3) Any transfer that consists solely of a change in controlling interest in an entity holding an interest in realty between persons with ownership interests in such entity for a minimum of three years immediately preceding the transfer.

Thank you for the opportunity to testify.