

STAND. COM. REP. NO.

164

Honolulu, Hawaii

FEB 11 2013

RE: S.B. No. 22
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 Commerce and Consumer Protection, to which was referred S.B. No. 22 entitled:

"A BILL FOR AN ACT RELATING TO TAXATION,"

begs leave to report as follows:

The purpose and intent of this measure is to clarify that the sale, transfer, or exchange of stock in an entity whose assets include real property located in Hawaii is a conveyance of realty subject to the conveyance tax when the sale, transfer, or exchange of stock is executed with an unrelated entity or individual.

Your Committee received testimony in support of this measure from the Nature Conservancy of Hawai'i, Catholic Charities Hawai'i, Housing Hawaii, The Trust for Public Land, and Hawai'i Appleseed Center for Law and Economic Justice. Your Committee received testimony in opposition to this measure from Hawaiian Electric Industries, Inc.; The Chamber of Commerce of Hawaii; Land Use Research Foundation of Hawaii; NAIOP Hawaii; and Building Industry Association of Hawaii. Your Committee received comments on this measure from the Department of Taxation; Alexander and Baldwin, Inc.; and Tax Foundation of Hawaii.

Your Committee finds that it is reasonable for transfers of realty via the sale, transfer, or exchange of stock to be subject to the State's conveyance tax, just as direct transfers of real estate via purchase and sale agreements are subject to the conveyance tax. The amendments proposed by this measure would close a loophole in the conveyance tax law and provide additional



funds for critical areas that receive appropriations from conveyance tax proceeds, including affordable housing development, land preservation, and watershed conservation.

Your Committee has heard the concerns about this measure related to its potential effects on affordable housing development and its retroactive applicability and concludes that amendments are necessary.

Accordingly, your Committee has amended this measure by:

- (1) Clarifying that it is the value of the realty that is transferred in a sale, transfer, or exchange of stock that will be assessed a conveyance tax;
- (2) Specifying that the conveyance tax shall be based upon the lesser of the most recent county real property tax assessed value of the realty or, if available, a current qualified appraisal by a licensed real estate appraiser in the State;
- (3) Providing for exceptions for sales or transfers between subsidiaries of the same parent entity and between partners engaged in qualified affordable rental housing development;
- (4) Requiring a certificate of conveyance to be filed for stock transfers that affect realty;
- (5) Removing the retroactive provision in the effective date and inserting an effective date of July 1, 2013;
- (6) Amending the purpose section for clarity; and
- (7) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Commerce and Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 22, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 22, S.D. 1, and be referred to the Committee on Ways and Means.



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Respectfully submitted on
behalf of the members of the
Committee on Commerce and
Consumer Protection,



ROSALYN H. BAKER, Chair



