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# A BILL FOR AN ACT

RELATING TO TAXATION.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

- 1           SECTION 1. Chapter 247, Hawaii Revised Statutes, is  
2 amended by adding five new sections to be appropriately  
3 designated and to read as follows:
- 4           "§247-A Definitions. For the purposes of this chapter,  
5 unless otherwise expressly stated:
- 6           "Consideration" means the price actually paid or required  
7 to be paid for real property or an interest therein, including:
- 8           (1) Payment for an option or contract to purchase real  
9           property, whether or not expressed in the deed and  
10           whether paid or required to be paid by money,  
11           property, or any other thing of value;
- 12           (2) Cancellation or discharge of an indebtedness or  
13           obligation; and
- 14           (3) The amount of any mortgage, purchase money mortgage,  
15           lien or other encumbrance, whether or not the  
16           underlying indebtedness is assumed or taken subject to  
17           the encumbrance;



1 provided that, in the case of a controlling interest in any  
2 entity that owns real property, consideration shall mean the  
3 fair market value of the real property or interest therein,  
4 apportioned based upon the percentage of the ownership interest  
5 in the entity transferred or acquired.

6 "Conveyance" means the transfer or transfers of any  
7 interest in real property by any method, including but not  
8 limited to sale, exchange, assignment, surrender, mortgage  
9 foreclosure, transfer in lieu of foreclosure, option, trust  
10 indenture, taking by eminent domain, conveyance upon liquidation  
11 or by a receiver, or transfer or acquisition of a controlling  
12 interest in an entity with an interest in real property.  
13 Conveyance of an interest in real property shall include the  
14 creation of a leasehold or sublease.

15 "Grantee" means the person who obtains real property or  
16 interest therein as the result of a conveyance.

17 "Grantor" means the person making the conveyance of real  
18 property or interest therein. Where the conveyance consists of  
19 a transfer or an acquisition of a controlling interest in an  
20 entity that has an interest in real property, "grantor" means  
21 the entity that has an interest in real property or a



1 shareholder or partner transferring stock or partnership  
2 interest, respectively.

3 "Interest in real property" includes title in fee, a  
4 leasehold interest, a beneficial interest, an encumbrance,  
5 development rights, space rights, air rights, or any other  
6 interest with the right to the use or occupancy of real property  
7 or the right to receive rents, profits, or other income derived  
8 from real property.

9 "Real property" means every estate or right, legal or  
10 equitable, present or future, vested or contingent, in lands,  
11 tenements, or hereditaments, including buildings, structures,  
12 and other improvements thereon, that are located in whole or in  
13 part within the State.

14 §247-B Controlling interest; defined; application. (a)  
15 For the purposes of this chapter, "controlling interest" means:

16 (1) In the case of a corporation:

17 (A) Fifty per cent or more of the total combined  
18 voting power of all classes of stock of the  
19 corporation; or



1           (B) Fifty per cent or more of the capital, profits,  
2           or beneficial interest in the voting stock of the  
3           corporation; and

4           (2) In the case of a partnership, association, trust, or  
5           other entity, fifty per cent or more of the capital,  
6           profits, or beneficial interest in the partnership,  
7           association, trust, or other entity.

8           (b) In the case of a corporation that has an interest in  
9           real property, a transfer or acquisition of a controlling  
10          interest in the corporation occurs when a person, or group of  
11          persons acting in concert, transfers or acquires a total of  
12          fifty per cent or more of the voting stock in the corporation.

13          In the case of a partnership, association, trust, or other  
14          entity having an interest in real property, a transfer or  
15          acquisition occurs when a person, or group of persons acting in  
16          concert, transfers or acquires a total of fifty per cent or more  
17          of the capital, profits, or beneficial interest in the entity.

18          For the purposes of this subsection:

19          (1) Persons are acting in concert when they have a  
20          relationship such that one person influences or  
21          controls the actions of another. For example, if a



1           parent corporation and a wholly-owned subsidiary  
2           corporation each sell or purchase a twenty-five per  
3           cent interest in an entity, the two corporations shall  
4           be considered to have acted in concert to transfer or  
5           acquire a controlling interest in the entity; and  
6           (2) Individuals or entities not commonly controlled or  
7           owned shall be treated as acting in concert when the  
8           unity with which the sellers or purchasers have  
9           negotiated and will consummate the transfer of  
10           ownership interests indicates they are acting as a  
11           single entity. If the transfers or acquisitions are  
12           completely independent, with each grantor selling or  
13           grantee buying without regard to the identity of the  
14           other grantors or grantees, then the transfers or  
15           acquisitions shall be treated as separate transfers or  
16           acquisitions. The grantors or grantees may be  
17           required to provide a sworn statement that their  
18           transfers or acquisitions are independent of each  
19           other. Factors that indicate whether persons are  
20           acting in concert shall include the following:



1           (A) The transfers or acquisitions are closely related  
2           in time;

3           (B) There are few grantors or grantees;

4           (C) The contracts of sale contain mutual terms; and

5           (D) The grantors or grantees have entered into an  
6           agreement, in addition to the sales contract,  
7           binding themselves to a course of action with  
8           respect to the transfer or acquisition.

9           (c) Notwithstanding the definition of "controlling  
10          interest" and the exercise thereof in subsections (a) and (b),  
11          the tax imposed by this chapter shall apply to:

12           (1) The original conveyance of shares of stock in a  
13           cooperative housing corporation as defined in section  
14           421I-1, or limited-equity housing cooperative as  
15           defined in section 421H-1, in connection with the  
16           grant or transfer of a right of occupancy by the  
17           cooperative housing corporation or limited-equity  
18           housing cooperative; and

19           (2) The subsequent conveyance of the stock in a  
20           cooperative housing corporation or limited-equity



1           housing cooperative in connection with the grant or  
2           transfer of a right of occupancy by the owner thereof.

3           (d) For purposes of determining whether or not a  
4           controlling interest is transferred or acquired, only transfers  
5           or acquisitions of interests occurring on or after July 1, 2015,  
6           shall be added together.

7           A transfer or acquisition made on or after July 1, 2015,  
8           does not have to be included, for purposes of determining  
9           whether or not a controlling interest is transferred or  
10           acquired; provided that the transfer or acquisition is made  
11           pursuant to a binding written contract that was entered into  
12           before July 1, 2015.

13           (e) In the case of a transfer or acquisition of an  
14           interest in an entity that has an interest in real property, on  
15           or after July 1, 2015, that is followed by a subsequent transfer  
16           or acquisition of an additional interest or interests in the  
17           same entity, the transfers or acquisitions shall be added  
18           together to determine if a transfer or acquisition of a  
19           controlling interest has occurred.

20           (f) In the case of a transfer or acquisition of a  
21           controlling interest in an entity, on or after July 1, 2015,



1 where the conveyance tax is paid on that transfer or acquisition  
2 and there is a subsequent transfer or acquisition of an  
3 additional interest in the same entity, it shall be considered  
4 that a second transfer or acquisition of a controlling interest  
5 has occurred, which shall be subject to the conveyance tax.

6 (g) No transfer or acquisition of an interest in an entity  
7 that has an interest in real property shall be added to another  
8 transfer or acquisition of an interest in the same entity if the  
9 transfers or acquisitions occur more than three years apart,  
10 unless the transfers or acquisitions were so timed as part of a  
11 plan to avoid the conveyance tax.

12 (h) For the purposes of applying the tax imposed under  
13 this chapter to the transfer or acquisition of a controlling  
14 interest in an entity, the tax shall be imposed when there is a  
15 transfer or an acquisition of a controlling interest in the same  
16 conveyance.

17 §247-C Taxation at the lowest rate. Notwithstanding any  
18 exemption under section 247-3, the tax imposed by section 247-1  
19 shall apply to the following conveyances at the lowest rate  
20 provided in section 247-2(1), regardless of the amount of  
21 consideration:





1       (1) Any document or instrument conveying real property, or  
2       any interest therein, from an entity that is a party  
3       to a merger or consolidation under chapter 414, 414D,  
4       415A, 421, 421C, 425, 425E, or 428 to the surviving or  
5       new entity;

6       (2) Any document or instrument conveying real property, or  
7       any interest therein, from a dissolving limited  
8       partnership to its corporate general partner that  
9       owns, directly or indirectly, at least a ninety per  
10       cent interest in the limited partnership, as  
11       determined by applying section 318 (with respect to  
12       constructive ownership of stock) of the Internal  
13       Revenue Code of 1986, as amended, to the constructive  
14       ownership of interests in the partnership; and

15       (3) Any document or instrument conveying real property, or  
16       any interest therein, to or from a wholly owned  
17       corporation or limited liability company.

18       §247-D Disclosure of certificates unlawful; penalty. (a)  
19       A certificate of conveyance required to be filed under section  
20       247-6, and the report of any investigation of the certificate or  
21       of the subject matter of the certificate, shall be confidential.



1       It shall be unlawful for any person or any officer or  
2 employee of the State to:

3       (1) Intentionally make known any certificate or  
4 certificate information filed pursuant to this  
5 chapter, or any report of any investigation of the  
6 certificate or of the subject matter of the  
7 certificate; or

8       (2) Wilfully permit any certificate, certificate  
9 information, or report so made, or any copy thereof,  
10 to be seen or examined by any person;

11 provided that, for tax purposes, the grantor or grantee, their  
12 authorized agent, or persons with a material interest in the  
13 certificate, certificate information, or report may examine the  
14 certificate, certificate information, or report.

15       (b) For the purposes of this section, unless otherwise  
16 provided by law, persons with a material interest in a  
17 certificate, certificate information, or report shall include:

18       (1) Trustees;

19       (2) Partners;

20       (3) In the case of a corporate certificate, persons named  
21 in a board resolution or a one per cent shareholder;



- 1        (4) The person authorized to act for a corporation in  
2        dissolution;
- 3        (5) The shareholder of an S corporation;
- 4        (6) In case of an estate's or decedent's certificate, the  
5        personal representative, trustee, heir, or beneficiary  
6        of the estate or trust;
- 7        (7) The committee, trustee, or guardian of any person  
8        specified in paragraphs (1) to (6) who is incompetent;
- 9        (8) The trustee in bankruptcy or receiver and the  
10       attorney-in-fact of any person specified in paragraphs  
11       (1) to (7);
- 12       (9) Persons duly authorized by the State in connection  
13       with their official duties;
- 14       (10) Any officer or employee of any county in the State for  
15       official county business purposes, including real  
16       property tax assessment;
- 17       (11) Any duly accredited tax official of the United States  
18       or of any state or territory;
- 19       (12) The Multistate Tax Commission or its authorized  
20       representative;
- 21       (13) Members of a limited liability company; and



1        (14) A person contractually obligated to pay the taxes  
2                    assessed against another when the latter person is  
3                    under audit by the department of taxation.

4 Any violation of this subsection shall be a misdemeanor.

5        (c) Nothing in this section shall prohibit the registrar  
6 of conveyances or the assistant registrar of the land court from  
7 imprinting a seal, under section 247-5, indicating the amount of  
8 tax paid.

9        (d) No recorded instrument effecting a conveyance shall be  
10 considered a certificate for the purposes of this section.

11        §247-E Conformity to Constitution, etc. In computing the  
12 amounts of any tax imposed under this chapter, there shall be  
13 excepted or deducted from the amounts of consideration so much  
14 thereof as, under the Constitution and laws of the United  
15 States, the State is prohibited from taxing, but only so long as  
16 and only to the extent that the State is so prohibited."

17        SECTION 2. Section 247-1, Hawaii Revised Statutes, is  
18 amended to read as follows:

19        "§247-1 Imposition of tax. There is hereby imposed and  
20 shall be levied, collected, and paid, a tax [as hereinafter  
21 provided, on all transfers or conveyances of realty or any



1 ~~interest therein, by way of deeds, leases, subleases,~~  
2 ~~assignments of lease, agreements of sale, assignments of~~  
3 ~~agreement of sale, instruments, writings, and any other~~  
4 ~~document, whereby any lands, interests in land, tenements, or~~  
5 ~~other realty sold shall be granted, assigned, transferred, or~~  
6 ~~otherwise conveyed to, or vested in, the purchaser or~~  
7 ~~purchasers, lessee or lessees, sublessee or sublessees, assignee~~  
8 ~~or assignees, or any other person or persons, by the person's or~~  
9 ~~their direction.] on each conveyance of any interest in real~~  
10 property."

11 SECTION 3. Section 247-2, Hawaii Revised Statutes, is  
12 amended to read as follows:

13 "§247-2 Basis and rate of tax. The tax imposed by section  
14 247-1 shall be based [~~on~~] upon the [~~actual and full~~]  
15 consideration [~~(whether cash or otherwise, including any~~  
16 ~~promise, act, forbearance, property interest, value, gain,~~  
17 ~~advantage, benefit, or profit)~~], paid or to be paid for all  
18 [~~transfers or conveyance~~] conveyances of [~~realty~~] real property,  
19 or any interest therein, that shall include any liens or  
20 encumbrances thereon at the time of sale, lease, sublease,



1 assignment, transfer, or conveyance [7] and shall be at the  
2 following rates:

3 (1) Except as provided in paragraph (2):

4 (A) Ten cents per \$100 for [~~properties with a value~~  
5 ~~of~~] conveyances where the consideration is less  
6 than \$600,000;

7 (B) Twenty cents per \$100 for [~~properties with a~~  
8 ~~value of~~] conveyances where the consideration is  
9 at least \$600,000, but less than \$1,000,000;

10 (C) Thirty cents per \$100 for [~~properties with a~~  
11 ~~value of~~] conveyances where the consideration is  
12 at least \$1,000,000, but less than \$2,000,000;

13 (D) Fifty cents per \$100 for [~~properties with a value~~  
14 ~~of~~] conveyances where the consideration is at  
15 least \$2,000,000, but less than \$4,000,000;

16 (E) Seventy cents per \$100 for [~~properties with a~~  
17 ~~value of~~] conveyances where the consideration is  
18 at least \$4,000,000, but less than \$6,000,000;

19 (F) Ninety cents per \$100 for [~~properties with a~~  
20 ~~value of~~] conveyances where the consideration is



- 1 at least \$6,000,000, but less than \$10,000,000;
- 2 and
- 3 (G) One dollar per \$100 for [~~properties with a value~~  
4 ~~of~~] conveyances where the consideration is  
5 \$10,000,000 or greater; and
- 6 (2) For the [~~sale~~] conveyance of a condominium or single  
7 family residence for which the purchaser is ineligible  
8 for a county homeowner's exemption on property tax:
- 9 (A) Fifteen cents per \$100 for [~~properties with a~~  
10 ~~value of~~] conveyances where the consideration is  
11 less than \$600,000;
- 12 (B) Twenty-five cents per \$100 for [~~properties with a~~  
13 ~~value of~~] conveyances where the consideration is  
14 at least \$600,000, but less than \$1,000,000;
- 15 (C) Forty cents per \$100 for [~~properties with a value~~  
16 ~~of~~] conveyances where the consideration is at  
17 least \$1,000,000, but less than \$2,000,000;
- 18 (D) Sixty cents per \$100 for [~~properties with a value~~  
19 ~~of~~] conveyances where the consideration is at  
20 least \$2,000,000, but less than \$4,000,000;



1           (E) Eighty-five cents per \$100 for [~~properties with a~~  
2           value of] conveyances where the consideration is  
3           at least \$4,000,000, but less than \$6,000,000;

4           (F) One dollar and ten cents per \$100 for [~~properties~~  
5           with a value of] conveyances where the  
6           consideration is at least \$6,000,000, but less  
7           than \$10,000,000; and

8           (G) One dollar and twenty-five cents per \$100 for  
9           [~~properties with a value of~~] conveyances where  
10           the consideration is \$10,000,000 or greater,  
11 of [~~such actual and full~~] the consideration; provided that in  
12 the case of a lease or sublease, this chapter shall apply only  
13 to a lease or sublease whose full unexpired term is for a period  
14 of five years or more, and in those cases, including (where  
15 appropriate) those cases where the lease has been extended or  
16 amended, the tax in this chapter shall be based on the cash  
17 value of the lease rentals discounted to present day value and  
18 capitalized at the rate of six per cent, plus the actual and  
19 full consideration paid or to be paid for any and all  
20 improvements, if any, that shall include on-site as well as off-  
21 site improvements, applicable to the leased premises; and





1 provided further that the tax imposed for each transaction shall  
2 be not less than \$1."

3 SECTION 4. Section 247-3, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 "§247-3 Exemptions. The tax imposed by section 247-1  
6 shall not apply to[+] the following conveyances:

- 7 (1) Any [~~document or instrument~~] conveyance that is  
8 executed prior to January 1, 1967;
- 9 (2) Any [~~document or instrument~~] conveyance that is given  
10 to secure a debt or obligation;
- 11 (3) Any [~~document or instrument~~] conveyance that only  
12 confirms or corrects a deed, lease, sublease,  
13 assignment, transfer, or conveyance previously  
14 recorded or filed;
- 15 (4) Any [~~document or instrument~~] conveyance between  
16 husband and wife, reciprocal beneficiaries, or parent  
17 and child, in which only a nominal consideration is  
18 paid;
- 19 (5) Any [~~document or instrument~~] conveyance in which there  
20 is a consideration of \$100 or less paid or to be paid;



- 1           (6) Any [~~document or instrument conveying real property~~  
2           ~~that is]~~ conveyance executed pursuant to an agreement  
3           of sale, and where applicable, any assignment of the  
4           agreement of sale, or assignments thereof; provided  
5           that the taxes under this chapter have been fully paid  
6           upon the agreement of sale, and where applicable, upon  
7           such assignment or assignments of agreements of sale;
- 8           (7) Any [~~deed, lease, sublease, assignment of lease,~~  
9           ~~agreement of sale, assignment of agreement of sale,~~  
10          ~~instrument or writing]~~ conveyance in which the United  
11          States or any agency or instrumentality thereof or the  
12          State or any agency, instrumentality, or governmental  
13          or political subdivision thereof are the only parties  
14          thereto;
- 15          (8) Any [~~document or instrument]~~ conveyance executed  
16          pursuant to a tax sale conducted by the United States  
17          or any agency or instrumentality thereof or the State  
18          or any agency, instrumentality, or governmental or  
19          political subdivision thereof for delinquent taxes or  
20          assessments;



- 1           (9) Any [~~document or instrument conveying real property~~]  
2           conveyance to the United States or any agency or  
3           instrumentality thereof or the State or any agency,  
4           instrumentality, or governmental or political  
5           subdivision thereof pursuant to the threat of the  
6           exercise or the exercise of the power of eminent  
7           domain;
- 8           (10) Any [~~document or instrument~~] conveyance that solely  
9           conveys or grants an easement or easements;
- 10          (11) Any [~~document or instrument~~] conveyance whereby owners  
11          partition their real property, whether by mutual  
12          agreement or judicial action; provided that the value  
13          of each owner's interest in the real property after  
14          partition is equal in value to that owner's interest  
15          before partition;
- 16          (12) Any [~~document or instrument~~] conveyance between  
17          marital partners or reciprocal beneficiaries who are  
18          parties to a divorce action or termination of  
19          reciprocal beneficiary relationship that is executed  
20          pursuant to an order of the court in the divorce



1 action or termination of reciprocal beneficiary  
2 relationship;

3 (13) Any [~~document or instrument conveying real property~~]  
4 conveyance from a testamentary trust to a beneficiary  
5 under the trust;

6 (14) Any [~~document or instrument conveying real property~~]  
7 conveyance from a grantor to the grantor's revocable  
8 living trust, or from a grantor's revocable living  
9 trust to the grantor as beneficiary of the trust;

10 [~~(15) Any document or instrument conveying real property, or~~  
11 ~~any interest therein, from an entity that is a party~~  
12 ~~to a merger or consolidation under chapter 414, 414D,~~  
13 ~~415A, 421, 421C, 425, 425E, or 428 to the surviving or~~  
14 ~~new entity;~~

15 ~~(16) Any document or instrument conveying real property, or~~  
16 ~~any interest therein, from a dissolving limited~~  
17 ~~partnership to its corporate general partner that~~  
18 ~~owns, directly or indirectly, at least a ninety per~~  
19 ~~cent interest in the partnership, determined by~~  
20 ~~applying section 318 (with respect to constructive~~  
21 ~~ownership of stock) of the federal Internal Revenue~~



1 ~~Code of 1986, as amended, to the constructive~~  
2 ~~ownership of interests in the partnership; and~~

3 ~~[(17)]~~ (15) ~~Any [document or instrument]~~ conveyance that  
4 conforms to the transfer on death deed as authorized  
5 under chapter 527[-];

6 (16) Any conveyance from a limited partner to a general  
7 partner of a limited partnership that owns an  
8 affordable rental housing project for which low-income  
9 housing tax credits have been issued under section  
10 235-110.8 or 241-4.7 or section 42 of the Internal  
11 Revenue Code of 1986, as amended; and

12 (17) Any conveyance that consists solely of a change in  
13 controlling interest in an entity holding an interest  
14 in real property between persons with ownership  
15 interests in such entity for a minimum of three years  
16 immediately preceding the transfer; provided that the  
17 entity holding the interest in real property has no  
18 more than ten persons with ownership interests  
19 immediately before transfer; provided further that for  
20 the purpose of this paragraph spouses shall be  
21 considered separate persons."



1 SECTION 5. Section 247-4, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "§247-4 Payment and liability of the tax. (a) The tax  
4 imposed by this chapter shall be paid by the grantor [~~, lesser,~~  
5 ~~sublessor, assignor, transferor, seller, conveyer, or any other~~  
6 ~~person conveying realty, or any interest therein, by a document~~  
7 ~~or instrument subject to section 247-1, except, however,];~~  
8 provided that in the case where the United States or any agency  
9 or instrumentality thereof or the State or any agency,  
10 instrumentality, or governmental or political subdivision  
11 thereof is the grantor [~~, lesser, sublessor, assignor,~~  
12 ~~transferor, seller, or conveyer], the tax shall be paid by the~~  
13 grantee [~~, lessee, sublessee, assignee, transferee, purchaser, or~~  
14 ~~conveyee, as the case may be].~~

15 (b) The tax imposed by this chapter shall be paid at  
16 [~~such~~] a place or places as the director of taxation may direct  
17 and shall be due and payable no later than ninety days after the  
18 taxable [~~transaction,~~] conveyance and in any event prior to the  
19 imprinting of the seal or seals as provided by section 247-5.  
20 Penalties and interest shall be added to and become a part of  
21 the tax, when and as provided by section 231-39.



1        (c) If the grantor has failed to pay the tax imposed by  
2 this chapter at the time required by subsection (b) or if the  
3 grantor is exempt from the tax, the grantee shall pay the tax.  
4 If the grantee is required to pay the tax because the grantor  
5 has failed to pay, the grantor and the grantee shall be jointly  
6 and severally liable for the tax.

7        (d) For the purposes of this chapter, all conveyances  
8 shall be presumed taxable. Where the consideration includes  
9 property other than money, the consideration shall be presumed  
10 to be the fair market value of the real property or interest  
11 therein. These presumptions shall prevail until disproven, and  
12 the burden of disproving the presumptions shall be on the person  
13 liable for payment of the tax."

14        SECTION 6. Section 247-5, Hawaii Revised Statutes, is  
15 amended to read as follows:

16        "§247-5 Imprinting of seal[~~—The~~]; evidence of payment.

17 (a) Except for a conveyance where no instrument evidencing the  
18 conveyance is recorded or filed with the registrar of  
19 conveyances or the assistant registrar of the land court, the  
20 tax shall be evidenced as paid by the imprinting of an  
21 appropriate seal or seals on the document or instrument, which



1 imprinting or seal itself shall indicate on its face the amount  
2 of the tax paid. The seal or seals shall be so imprinted upon  
3 the payment of the tax, together with the appropriate penalty  
4 and interest where applicable, and, in any event, prior to the  
5 recordation or filing of the document or instrument with the  
6 registrar of conveyances or the assistant registrar of the land  
7 court.

8       **(b)** For the purposes of this chapter, the director may  
9 require that the documents or instruments be brought to any of  
10 the various offices of the department of taxation for an  
11 examination of the instrument or document, or for the purpose of  
12 having the seal imprinted on the document or instrument."

13       SECTION 7. Section 247-6, Hawaii Revised Statutes, is  
14 amended to read as follows:

15       "**§247-6 Certificate of conveyance required.** (a) [~~Any~~  
16 ~~party,~~] The grantor and the grantee, with the exception of  
17 governmental bodies, agencies, or officers, [~~to a document or~~  
18 ~~instrument subject to this chapter,~~] or the [~~party's~~] grantor's  
19 or grantee's authorized representative[~~]~~] shall file, in the  
20 manner and place [~~which~~] that the director of taxation shall  
21 prescribe, a certificate of conveyance setting forth the [~~actual~~





1 ~~and full~~] consideration of the [~~property transferred,~~  
2 conveyance, including any lien or encumbrance on the real  
3 property[-7] or interest therein, and any other facts as the  
4 director may by rules prescribe. The certificate of conveyance  
5 shall be verified by a written declaration thereon that the  
6 statements made therein are subject to the penalties in section  
7 231-36. The certificate shall be appended to [~~the~~] any document  
8 or instrument made subject to this chapter and shall be filed  
9 with the director simultaneously with the aforementioned  
10 document or instrument for the imprinting of the required seal  
11 or seals.

12 (b) No certificate of conveyance is required to be filed  
13 for any document or instrument made exempt by section 247-3,  
14 except that in the following situations, [a] an exemption  
15 certificate shall be filed in the manner and place that the  
16 director shall prescribe, within ninety days after the  
17 [~~transaetien~~] conveyance or prior to the recordation or filing  
18 of the document or instrument with the registrar of conveyances  
19 or the assistant registrar of the land court or after the  
20 ninety-day period, recordation, or filing as the director shall  
21 prescribe:



- 1           (1) For any [~~document or instrument described~~] conveyance  
2           exempted under section 247-3(3), [~~any party to the~~  
3           ~~document or instrument~~] the grantor and the grantee  
4           shall file a certificate declaring that the [~~document~~  
5           ~~or instrument~~] conveyance merely confirms or corrects  
6           a deed, lease, sublease, assignment, transfer, or  
7           conveyance previously recorded or filed.
- 8           (2) For any [~~document or instrument described~~] conveyance  
9           exempted under section 247-3(4), [~~any party to the~~  
10          ~~document or instrument~~] the grantor and the grantee  
11          shall file a certificate declaring the amount of the  
12          nominal consideration paid and marital or parental  
13          relationship of the [~~parties.~~] grantor and the  
14          grantee.
- 15          (3) For any [~~document or instrument described~~] conveyance  
16          exempted under section 247-3(5), [~~any party to the~~  
17          ~~document or instrument~~] the grantor and the grantee  
18          shall file a certificate declaring the reasons why the  
19          consideration is \$100 or less.
- 20          (4) For any [~~document or instrument described in~~]  
21          conveyance exempted under section 247-3(6), [~~any party~~



1 ~~to the document or instrument]~~ the grantor and the  
2 grantee shall file a certificate declaring that the  
3 ~~[document or instrument]~~ conveyance is made pursuant  
4 to an agreement of sale, and where applicable, an  
5 assignment or assignments of agreements of sale.

6 (5) For any ~~[document or instrument described]~~ conveyance  
7 exempted under section 247-3(8), ~~[any person made a~~  
8 ~~party to the document or instrument as]~~ the grantee ~~[~~  
9 ~~assignee, or transferee]~~ shall file a certificate  
10 declaring the full and actual consideration of the  
11 property transferred.

12 (6) For any ~~[document or instrument described]~~ conveyance  
13 exempted under section 247-3(11), ~~[any party to the~~  
14 ~~document or instrument]~~ the grantor and the grantee  
15 shall file a certificate declaring each owner's:

16 (A) Undivided interest in the real property and the  
17 value of that interest before partition; and

18 (B) Proportionate interest and the value of that  
19 interest after partition.

20 (7) For any ~~[document or instrument described]~~ conveyance  
21 exempted under section 247-3(12), ~~[any party to the~~



1 ~~document or instrument]~~ the grantor and the grantee  
2 shall file a certificate declaring that the [~~document~~  
3 ~~or instrument]~~ conveyance is made pursuant to an order  
4 of the court and containing the court case number.

5 (8) For any [~~document or instrument described]~~ conveyance  
6 exempted under section 247-3(13), [~~any party to the~~  
7 ~~document or instrument]~~ the grantor and the grantee  
8 shall file a certificate declaring that the document  
9 or instrument conveys real property from a  
10 testamentary trust to a trust beneficiary.

11 (9) For any [~~document or instrument described]~~ conveyance  
12 exempted under section 247-3(14), [~~any party to the~~  
13 ~~document or instrument]~~ the grantor and the grantee  
14 shall file a certificate declaring that the document  
15 or instrument conveys real property from the grantor  
16 to a grantor's revocable living trust or from a  
17 grantor's revocable living trust to the grantor.

18 (10) For any conveyance exempted under section 247-3(15),  
19 the grantor and the grantee shall file a certificate  
20 declaring that the conveyance conforms to the transfer  
21 on death deed, as authorized under chapter 527.



- 1        (11) For any conveyance exempted under section 247-3(16),  
2        the grantor and the grantee shall file a certificate  
3        declaring that the conveyance is from a limited  
4        partner to a general partner of a limited partnership  
5        that owns an affordable rental housing project for  
6        which low-income housing tax credits have been issued  
7        under section 235-110.8 or 241-4.7 or section 42 of  
8        the Internal Revenue Code of 1986, as amended.
- 9        (12) For any conveyance exempted under section 247-3(17),  
10       the grantor and the grantee shall file a certificate  
11       declaring that the conveyance consists solely of a  
12       change in controlling interest in an entity holding an  
13       interest in real property between persons with  
14       ownership interests in the entity for a minimum of  
15       three years immediately preceding the transfer and  
16       that the entity holding the interest in real property  
17       had no more than ten persons with ownership interests  
18       immediately before the transfer.
- 19       (c) The form of the certificate and the procedure to be  
20 followed for the submission of the [~~certificate~~] certificates  
21 shall be prescribed by the director.



1 (d) Notwithstanding the foregoing, where the director  
2 deems it impracticable to require the filing of a certificate or  
3 certificates or to obtain the signatures of any or all [~~parties~~]  
4 grantors or grantees to a certificate or certificates required  
5 under this section, the director [~~may~~], in the director's  
6 discretion, may waive the requirement of filing the certificate  
7 or certificates or of securing the signature of any or all  
8 [~~parties to the certificate or certificates.~~] grantors or  
9 grantees.

10 (e) No document or instrument, on account of which a  
11 certificate is required to be filed with the office of the  
12 director under this section, shall be accepted for recordation  
13 or filing with the registrar of conveyances or the assistant  
14 registrar of the land court, unless the certificate has been  
15 duly filed.

16 (f) If any or all of the grantors or any or all of the  
17 grantees, or their authorized representatives, have failed to  
18 sign a certificate under this section, the certificate shall be  
19 accepted if it is signed by any one of the grantors or by any  
20 one of the grantees; provided that the grantors and grantees not  
21 signing the certificate, personally or through their authorized



1 representative, shall not be relieved of any liability for the  
2 tax imposed by this chapter, and the period of limitations for  
3 assessment of tax or of additional tax shall not apply to such  
4 grantor or grantee.

5 [~~f~~] (g) Within twenty-one business days after the end of  
6 each week, or as soon thereafter as possible, the director of  
7 taxation shall provide to the administrator of each county's  
8 real property assessment division, without charge, an image of  
9 all certificates of conveyance that were filed. For each  
10 certificate of conveyance, the image shall include the  
11 following:

- 12 (1) Document number;
- 13 (2) Date of the filing;
- 14 (3) Name of grantor and grantee;
- 15 (4) Tax map key number;
- 16 (5) Location of the real property by island; and
- 17 (6) Address for real property assessment notice and tax  
18 bill."

19 SECTION 8. Section 247-6.5, Hawaii Revised Statutes, is  
20 amended to read as follows:



1           "§247-6.5 Limitation period for assessment, levy,  
2 collection, or credit. The amount of conveyance taxes imposed  
3 by this chapter shall be assessed or levied, and the  
4 overpayment, if any, shall be credited within three years after  
5 filing of the [~~certificate~~] certificates prescribed by section  
6 247-6. No proceeding in court without assessment for the  
7 collection of the taxes shall be begun after the expiration of  
8 the three-year period. Where the assessment of the tax imposed  
9 by this chapter has been made within the period of limitation  
10 applicable thereto, the tax may be collected by levy or by a  
11 proceeding in court under chapter 231; provided that the levy is  
12 made or the proceeding was begun within fifteen years after the  
13 assessment of the tax. For any tax that has been assessed prior  
14 to July 1, 2009, the levy or proceeding shall be barred after  
15 June 30, 2024.

16           Notwithstanding any other provision to the contrary in this  
17 section, the limitation on collection after assessment in this  
18 section shall be suspended for the period:

- 19           (1) The taxpayer agrees to suspend the period;  
20           (2) The assets of the taxpayer are in control or custody  
21           of a court in any proceeding before any court of the





1 United States or any state, and for six months  
2 thereafter;

3 (3) An offer in compromise under section 231-3(10) is  
4 pending; and

5 (4) During which the taxpayer is outside the State if the  
6 period of absence is for a continuous period of at  
7 least six months; provided that if at the time of the  
8 taxpayer's return to the State the period of  
9 limitations on collection after assessment would  
10 expire before the expiration of six months from the  
11 date of the taxpayer's return, the period shall not  
12 expire before the expiration of the six months.

13 In the case of a false or fraudulent certificate filed with  
14 the intent to evade tax, or of a failure to file a certificate,  
15 the tax may be assessed or levied at any time."

16 SECTION 9. Section 247-9, Hawaii Revised Statutes, is  
17 amended to read as follows:

18 "§247-9 Enforcement and administration. The director of  
19 taxation shall administer and enforce the taxes imposed by this  
20 chapter. The director may prescribe rules and regulations not  
21 inconsistent with the provisions herein for their detailed and



1 efficient administration. At any time after the making of a  
2 conveyance [~~or transfer~~] subject to the tax imposed by this  
3 chapter, the director may investigate and ascertain whether the  
4 tax, in the proper amount, was paid. For this purpose, the  
5 director may invoke all statutory powers vested in the director,  
6 including but not limited to section 231-7."

7 SECTION 10. In codifying the new sections added by section  
8 1 of this Act, the revisor of statutes shall substitute  
9 appropriate section numbers for the letters used in designating  
10 the new sections in this Act.

11 SECTION 11. This Act shall apply to conveyances of  
12 interests in real property occurring after June 30, 2015.

13 SECTION 12. Statutory material to be repealed is bracketed  
14 and stricken. New statutory material is underscored.

15 SECTION 13. This Act shall take effect on July 1, 2050.



**Report Title:**

Conveyance Tax; Controlling Interest Transfer

**Description:**

Imposes a conveyance tax on the conveyance of a controlling interest of an entity that has an interest in real property in the State. Applies to conveyances occurring after June 30, 2015. (HB345 HD1)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

