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MARIA E. ZIELINSKI
DIRECTOR OF TAXATION

STATE OF HAWAII
DEPARTMENT OF TAXATION
P.O. BOX 259
HONOLULU, HAWAII 96809
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To: The Honorable Sylvia Luke, Chair
and Members of the House Committee on Finance

Date: Friday, February 27, 2015
Time: 1:30 P.M.
Place: Conference Room 308, State Capitol

From: Maria E. Zielinski, Director
Department of Taxation

Re: H.B. 345, H.D. 1, Relating to Taxation

The Department of Taxation (Department) appreciates the intent of H.B. 345, H.D. 1, and provides the following information and comments.

H.B. 345 makes significant changes to the conveyance tax. Particularly, this bill imposes a conveyance tax when there is a transfer of a controlling interest in an entity that has an interest in real property. This bill also taxes certain transactions, currently exempt from the conveyance tax, at the lowest rate. H.D. 1 has a defective effective date of July 1, 2050.

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 State's position.

The previous committee adopted some of the Department's suggested amendments to the previous version of this bill. The Department appreciates consideration of its suggested amendments and further suggests the following amendments.

First, the Department notes that this bill deletes language from section 247-2, Hawaii Revised Statutes (HRS), which sets forth what may constitute "consideration" under the law. The Department suggests including the deleted language from section 247-2, HRS, into the new definition of "consideration" so that the amendments will not be construed as a change in the State's position. Specifically, the Department suggests amending the definition of "consideration" in section 247-A of H.B. 345, H.D. 1 as follows:

"Consideration" means the price actually paid or required to be paid for the real property or interest therein, including:

(1) Any cash, promise, act, forbearance, property interest, value, gain, advantage, benefit, or profit;

(2) Payment for an option or contract to purchase real property, whether or not expressed in the deed and whether paid or required to be paid by money, property, or any other thing of value;

(3) Cancellation or discharge of an indebtedness or obligation; and

(4) The amount of any mortgage, purchase money mortgage, lien or other encumbrance, whether or not the underlying indebtedness is assumed or taken subject to the encumbrance;

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

Second, the Department notes that the proposed confidentiality requirements in section 247-D do not exist in the law today. Currently, much of the information on the Conveyance Tax Certificate is published by the respective counties. If the intent of this provision is to keep controlling interest transfers confidential, the Department suggests amending section 247-D to specify such. The Department also notes that in the tax context, the definition of "wilfully" is slightly different than the one used in other criminal contexts. Accordingly, the Department suggests that reference be made to section 231-40, HRS, which defines "wilfully" in the context of other laws in title 14, HRS. The Department proposes the following amendments to section 247-D(a):

§247-D Disclosure of certain certificates unlawful; penalty. (a) [A] For transfers of controlling interests as defined in section 247-B, a certificate of conveyance required to be filed under section 247-6, and the report of any investigation of the

DAVID Y. IGE
GOVERNOR OF HAWAII



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

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STATE PARKS

**Testimony of
CARTY S. CHANG
Interim Chairperson**

**Before the House Committee on
FINANCE**

**Friday, February 27, 2015
1:30 PM
State Capitol, Conference Room 308**

**In consideration of
HOUSE BILL 345, HOUSE DRAFT 1
RELATING TO TAXATION**

House Bill 345, House Draft 1 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 the intent of this bill to the extent that the bill would increase the amount of conveyance tax revenues deposited into the Department's Natural Area Reserve Fund and Land Conservation Fund.**

The Natural Area Reserve Fund supports the Natural Area Partnership and Forest Stewardship Programs, the Natural Area Reserves, the Watershed Partnership 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.



PROTECTING HAWAII'S OHANA, CHILDREN, UNDER SERVED, ELDERLY AND DISABLED

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TO: Representative Sylvia Luke, Chair
Representative Scott Y. Nishimoto, Vice Chair
Members, House Committee on Finance

FROM: Scott Morishige, MSW
Executive Director, PHOCUSED

HEARING: **Friday, February 27, 2015 at 1:30 p.m. in Conf. Rm. 308**

Testimony in Support of HB345 HD1, Relating to Taxation

Thank you for the opportunity to provide testimony in **support** of HB1354 HD1, which imposes a conveyance tax on the conveyance of a controlling interest of an entity with an interest in real property in the state. PHOCUSED is a nonprofit membership and advocacy organization that works together with community stakeholders to impact program and policy change for the most vulnerable in our community, such as the homeless.

Normally, when a house, business or other property is sold in Hawaii, a conveyance tax is paid on the sale. Revenue from the conveyance tax provides funding for a range of critical state needs, including affordable housing through the Rental Housing Trust Fund. However, when the island of Lanai was recently sold, Hawaii lost six million dollars in conveyance tax revenue due to a loophole in the current law. It is important to close this loophole in the law so that no future funds are similarly lost.

Since March 2014, PHOCUSED has surveyed 2,200+ homeless individuals and families across Oahu to assess their level of need and determine appropriate interventions. Based on our survey data, **over a quarter (26%, or 570 homeless households) indicate a need simply for affordable housing** – meaning that they do not require case management or intensive social services, but would be able to successfully transition to stable housing if affordable rental options were available.

Conveyance tax revenues are the only dedicated source of funding for the Rental Housing Trust Fund (RHTF), which is an effective tool to address Hawaii's affordable housing needs. Since its inception, the RHTF has resulted in 4,567 new affordable rental units for our community. However, current levels of funding for the RHTF are insufficient to meet demand and many projects are ready to be developed, but are waiting on funding in order to proceed. The conveyance tax revenues lost during Lanai's recent sale could have provided additional funds for the RHTF, as well as other critical needs.

Once again, PHOCUSED strongly urges your support of this bill. If you have any questions, please do not hesitate to contact PHOCUSED at 521-7462 or by e-mail at admin@phocused-hawaii.org.

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 304

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: CONVEYANCE, Transfer of a controlling interest

BILL NUMBER: HB 345, HD-1

INTRODUCED BY: House Committee on Housing

EXECUTIVE SUMMARY: This measure attempts to overhaul the conveyance tax by making it applicable to transfers of controlling interests in entities that own realty as well as conveyances of realty. This tax was never intended to be a major revenue source, but now is imposed at rates high enough to motivate taxpayers to plan around it, and this planning is now motivating lawmakers toward an equal and opposite reaction, namely this bill. At present, the infrastructure to capture necessary information and collect the tax, while adequate for a documentary transfer tax that it was, is not adequate to enforce the overhauled version in this bill.

BRIEF SUMMARY: Adds a new section to HRS chapter 247 to provide that the conveyance tax imposed by HRS section 247-1 shall apply to the following at the lowest rate regardless of the amount of consideration: (1) any document or instrument conveying real property, or any interest therein, from an entity that is a party to a merger or consolidation under HRS chapters 414, 414D, 415A, 421, 421C, 425, 425E, or 428 to the surviving or new entity; and (2) any document or instrument conveying real property, or any interest therein, from a dissolving limited partnership to its corporate general partner that owns, directly or indirectly, at least a ninety percent interest in the partnership, determined by applying section 318 (with respect to constructive ownership of stock) of the federal Internal Revenue Code of 1986, as amended, to the constructive ownership of interests in the partnership.

Amends HRS section 247-1 to provide that a conveyance tax shall be levied, collected, and paid on each conveyance of any interest in real property.

Amends HRS section 247-2 to provide that the conveyance tax shall be based on the consideration paid or to be paid on all conveyances of real property.

Amends HRS section 247-3 to replace the terms “document or instrument” with “conveyance” and provides that the following shall be exempt from the conveyance tax: (1) any conveyance 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 HRS sections 235-110.8 or 241-4.7 or section 42 of the Internal Revenue Code of 1986, as amended; and (2) any conveyance that consists solely of a transfer or acquisition of a controlling interest in an entity between persons who have each held an ownership interest in the entity for a minimum of three years immediately preceding the conveyance; provided that the entity holding the interest in real property has no more than ten persons with ownership interests immediately before transfer; and spouses shall be considered separate persons.

Amends HRS section 247-4 to provide that the conveyance tax shall be paid by the grantor, unless the grantor is the United States or any agency or instrumentality thereof, or the state or any agency, instrumentality, or governmental or political subdivision, then the tax shall be paid by the grantee. If a

grantor fails to pay the conveyance tax at the required time or if the grantor is exempt from paying the tax, the grantee shall pay the tax. In the case where the consideration includes property other than money, the consideration shall be presumed to be the fair market value of the real property. Stipulates that these presumptions shall prevail until the contrary is proven and the burden of proving the contrary shall be on the person liable for payment of the tax.

Amends HRS section 247-5 to provide that except for a conveyance where no instrument evidencing the conveyance is recorded or filed with the registrar of conveyances or the assistant registrar of the land court, the tax shall be evidenced as paid by the imprinting of a seal on the document or instrument, which shall indicate on its face the amount of the tax paid.

Amends HRS section 247-6 to replace the terms “any party” with “grantor and grantee,” “property transferred” with “conveyance,” “document or instrument” with “conveyance.” Delineates provisions for the filing of certificates for conveyances that are exempt.

Defines “controlling interest” as: (1) in the case of a corporation, either 50% or more of the total combined voting power of all classes of stock of the corporation, or 50% or more of the capital, profits, or beneficial interest in the voting stock of the corporation; and (2) in the case of a partnership, association, trust, or other entity, 50% or more of the capital, profits, or beneficial interest in the partnership, trust, or other entity. Provides that: (1) persons are acting in concert when they have a relationship such that one person influences or controls the actions of another; and (2) where the individuals or entities are not commonly controlled or owned, persons shall be treated as acting in concert when the unity with which the sellers or purchasers have negotiated and will consummate the transfer of ownership interests indicates they are acting as a single entity. If transfers or acquisitions are completely independent, with each grantor selling or grantee buying without regard to the identity of the other grantors or grantees, then the transfers or acquisitions shall be treated as separate transfers or acquisitions. Delineates factors that indicate whether persons are acting in concert.

Notwithstanding the definition of “controlling interest,” the conveyance tax shall apply to: (1) the original conveyance of shares of stock in a cooperative housing corporation as defined in HRS section 421I-1, or a limited-equity housing cooperative as defined in HRS section 421H-1, in connection with the grant or transfer of a right of occupancy by the cooperative housing corporation or limited-equity housing cooperative; and (2) the subsequent conveyance of the stock in a cooperative housing corporation or limited-equity housing cooperative in connection with the grant or transfer of a right of occupancy by the owner thereof.

Provides that the determination of whether or not a controlling interest is transferred or acquired, only transfers or acquisitions of interests occurring on or after July 1, 2015 shall be added together. A transfer or acquisition made on or after July 1, 2015, does not have to be included for purposes of determining whether or not a controlling interest is transferred or acquired; provided that the transfer or acquisition is made pursuant to a binding written contract that was entered into before July 1, 2015.

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

Testimony of The Nature Conservancy of Hawai'i
Supporting H.B. 345 HD1 Relating to Taxation
House Committee on Finance
Friday, February 27, 2015, 1:30PM, Room 308

For more than 35 years, The Nature Conservancy of Hawai'i has been working closely with government agencies, local businesses, private landowners, non-profit partners, and interested communities across the state to preserve the lands and waters upon which all life in these islands depends. The Conservancy is a private non-profit conservation organization that 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 Kaula'i, and support 19 coastal communities seeking to co-manage marine resources in partnership with the State of Hawai'i.

The Nature Conservancy supports H.B. 345 HD1. 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 great 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 have recently experienced prolonged 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 bill.

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The Nature Conservancy, Hawai'i Program

February 25, 2015

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PARTNERS IN CARE Oahu Continuum of Care

Partners in Care is a coalition of Oahu's homeless service providers, government representatives and community stakeholders working together in partnership to end homelessness.

TESTIMONY IN SUPPORT OF HB: 345 HD1: RELATING TO TAXATION

TO: Representative Sylvia Luke, Chair; Representative Scott Y. Nishimoto, Vice-Chair;
And Members, Committee on Finance

FROM: Betty Lou Larson, Advocacy Committee, Partners in Care

Hearing: Friday, February 27, 2015; 1:30 PM; Conference Room 308

Dear Chair Luke, Vice Chair Nishimoto, and Members, Committee on Finance:

Thank you for the opportunity to testify in **strong support** of HB 345 HD1, which imposes a conveyance tax on the conveyance of a controlling interest of an entity with an interest in real property in the state. I am Betty Lou Larson, with Partners in Care.

Partners in Care promotes the construction of affordable rental housing as a critical long term solution to homelessness. All in our community are impacted by homelessness and the severe lack of affordable housing. The current loophole in the conveyance tax should be remedied so all pay a fair share. This will directly lead to the production of more affordable rentals.

This loophole in the law came into prominent view, when the island of Lanai was sold, and no conveyance tax was paid. Now other large properties are being “sold” via transfers that do not incur a conveyance tax. Yet if a house or a business is sold “for cash”, the conveyance tax is paid. We feel that it is only fair that non-cash transfers of real estate should also 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.

The new 2014 Housing Study projects that 27,224 rental units need to be built by 2020 for households earning 80% of the Area Median Income (AMI) or less. *Out of Reach 2014*: reported that **Hawaii topped the list of most expensive states**. A full time worker would need to make \$31.54/hour to afford a two-bedroom unit at fair market rent. Yet the median wage of a renter in Hawaii is just \$13.86. 78 percent of extremely low income households are paying more than half of their income in rent, and almost half of all households do not live in affordable housing. The situation is desperate; we need to take action NOW to create affordable rentals. The Rental Housing Trust Fund, with proceeds from the conveyance tax, has a proven record of producing these affordable rentals. Any additional revenue resulting from this bill would help to reduce the shortfall in rental units across our state.

First and foremost, this bill is about fairness. We urge your support to apply the conveyance tax to transfers of a controlling interest of an entity with an interest in real property in Hawai‘i. Thank you for the opportunity to testify. Please contact me at (808) 373-0356, or bettylou.larson@catholiccharitieshawaii.org if you have any questions.

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



Maui Hotel & Lodging
ASSOCIATION

Testimony of
Lisa H. Paulson
Executive Director
Maui Hotel & Lodging Association
on
HB345 HD1
Relating to Taxation

COMMITTEE ON FINANCE
Friday, February 27, 2015, 1:30pm
Room 308

Dear Chair Luke, Vice Chair Nishimoto and Members of the Committee,

The Maui Hotel & Lodging Association (MHLA) is the legislative arm of the visitor industry. Our membership includes over 150 property and allied business members in Maui County – all of whom have an interest in the visitor industry. Collectively, MHLA’s membership employs over 20,000 local residents and represents over 19,000 rooms. The visitor industry is the economic driver for Maui County. We are the largest employer of residents on the Island - directly employing approximately 40% of all residents (indirectly, the percentage increases to 75%).

MHLA **opposes** HB345 HD1 which 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.

The conveyance tax was introduced in the 1966 legislature with its sole purpose to provide the department of taxation with additional data in determining the market value of properties being transferred, as well as covering the costs of collecting and assessing such data, it was never established to be a source of revenue. This measure attempts to make the conveyance tax into a revenue generating tax by imposing the conveyance tax rates on complex real estate transactions. Over the years the increase in conveyance tax rates, as high as \$1.25 per \$100 has been tapped by funds that don’t necessarily have a clear nexus between the tax imposed and the projects it is proposed to support.

At a time where Hawaii is attempting to encourage business expansion in, and attract business operations to Hawaii, HB345 HD1 actually creates a disincentive, and will have a substantial negative impact on persuading new and existing businesses to open or expand in Hawaii. This measure could have harmful impacts on every industry from agriculture, housing to tourism.

Thank you for the opportunity to testify.



LAND USE RESEARCH
FOUNDATION OF HAWAII

1100 Alakea Street, Suite 408
Honolulu, Hawaii 96813
(808) 521-4717
www.lurf.org

February 25, 2015

Representative Sylvia Luke, Chair
Representative Scott Y. Nishimoto, Vice Chair
House Committee on Finance

Comments and Concerns Regarding HB 345, HD1 Relating to Taxation; Conveyance Tax; Controlling Interest Transfer - Imposes a conveyance tax on the conveyance of a controlling interest of an entity that has an interest in real property in the State.

Friday, February 27, 2015, 1:30 p.m., in Conference Room 308

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 345, HD1. 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. In essence, the measure attempts to expand the application of the conveyance tax from conveyances of real estate, to conveyances of controlling interests in entities owning real estate. 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 345, HD1**, and must request that this bill **be held** in Committee.

Background. The bill does not include a purpose section; however, it is believed that the bill is intended to raise more revenue for the various programs funded by the conveyance tax.

LURF's position is that 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 impose conveyance taxes 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. The Hawaii Conveyance Tax was Never Intended to be, and should not Operate as a Revenue-Generating Tax.

- a. Certain revenues from the proposed imposition of the conveyance tax on transfers of controlling interests in entities are unnecessary and unwarranted and have been recommended for discontinuance by the State Auditor.**

Two years ago, 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.

- 1) Application of the Conveyance Tax revenue collected pursuant to this bill to increase the NARF and other similar funds which lack a clear nexus 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 that 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:

**HB 345 HD 1
RELATING TO TAXATION**

**PAUL T. OSHIRO
MANAGER – GOVERNMENT RELATIONS
ALEXANDER & BALDWIN, INC.**

FEBRUARY 27, 2015

Chair Luke and Members of the House Committee on Finance:

I am Paul Oshiro, testifying on behalf of Alexander & Baldwin, Inc. (A&B) on HB 345 HD1, “A BILL FOR AN ACT RELATING TO TAXATION.”

The purpose of this bill is to impose the conveyance tax on the conveyance of a controlling interest of an entity with an interest in real property in the State. We support the provision in Section 247-3(17) (page 21, lines 12 to 21) to exclude from the conveyance tax transfers of controlling interest between members of an existing, established entity.

Individual companies or parties often form new business entities to pool together their various interests, expertise and resources. For example, knowledge in the areas of financing, sales and marketing, planning, and branding are some of the skills that one party may bring to a business partnership, while another party may have expertise in operating the business assets. Through their jointly owned business entity, they are able to efficiently pool their knowledge, resources, and expertise to more effectively pursue a business plan.

We believe the amendment to exclude the imposition of the conveyance tax on internal transfers of controlling interests between members of an existing, established

entity, will support the continued use of these types of entities and collaborations as a means of bringing together the knowledge and expertise necessary to pursue new business opportunities in Hawaii.

Thank you for the opportunity to testify.



HAWAII LODGING & TOURISM
ASSOCIATION

Testimony of George Szigeti
President & CEO
HAWAII LODGING & TOURISM ASSOCIATION
House Committee on Finance
Hearing on February 27, 2015, 1:30 P.M.
HB345 H.D. 1 Relating to Taxation

Dear Chair Luke, Vice Chair Nishimoto, and Members of the Committee. My name is George Szigeti and I am the President and CEO of the Hawai'i Lodging & Tourism Association.

The Hawai'i Lodging & Tourism Association (HLTA) is a statewide association of hotels, condominiums, timeshare companies, management firms, suppliers, and other related firms that benefit from and strengthen Hawai'i's visitor industry. Our membership includes over 150 lodging properties, representing over 50,000 rooms, and over 400 other Allied members. The visitor industry was responsible for generating \$14.9 billion in visitor spending in 2014 and supported 170,000 jobs statewide – we represent one of Hawai'i's largest industries and a critical sector of the economy.

On behalf of HLTA, permit me to offer this testimony regarding House Bill 345 H.D. 1 relating to taxation, which imposes a conveyance tax on the conveyance of a controlling interest of an entity that has an interest in real property in the State, and applies to conveyances occurring after June 30, 2015.

The Hawai'i Lodging & Tourism Association **opposes** this measure. Initially when the conveyance tax was introduced in the 1966 legislature its sole purpose was to provide the department of taxation with additional data in determining the market value of properties being transferred, as well as covering the costs of collecting and assessing such data, it was never established to be a source of revenue. This measure attempts to make the conveyance tax into a revenue generating tax by imposing the conveyance tax rates on "complex transactions". A concern that has arisen over the years is the increase in conveyance tax rates; it is as high as \$1.25 per \$100 and has been tapped by funds that don't necessarily have a clear nexus to the tax.

Lastly, this measure creates a significant disincentive for business in Hawai'i, as it has the potential to negatively impact the persuasion of new and existing businesses to open, relocate or expand in Hawai'i, thus impacting industries across the board from agriculture to tourism.

For these reasons we oppose HB 345 H.D. 1

Thank you for this opportunity to testify.



CATHOLIC CHARITIES HAWAII

TESTIMONY IN SUPPORT OF HB 345 HD1: RELATING TO TAXATION

TO: Representative Sylvia Luke, Chair; Representative Scott Y. Nishimoto, Vice-Chair; and Members, Committee on Finance

FROM: Trisha Kajimura, Social Policy Director, Catholic Charities Hawai'i

Hearing: Friday, February 27, 2015; 1:30 PM; Conference Room 308

Dear Chair Luke, Vice Chair Nishimoto, and Members, Committee on Finance:

Thank you for the opportunity to testify in **support** of HB 345, which imposes a conveyance tax on the conveyance of a controlling interest of an entity with an interest in real property in the state.

Catholic Charities Hawai'i (CCH) is a tax exempt, non-profit agency that has been providing social services in Hawai'i for over 60 years. CCH has programs serving elders, children, developmentally disabled, homeless and immigrants. Our mission is to provide services and advocacy to the most vulnerable of the people in Hawai'i. Catholic Charities Hawai'i has a long history of working on housing issues and solutions to homelessness. We strive to help people live in dignified circumstances and reach their full potential.

When the island of Lanai was sold, no conveyance tax was paid. Yet if a house or a business is sold "for cash", the conveyance tax is paid. We feel that it is only fair that non-cash transfers of real estate should also 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 revenue from the conveyance tax proceeds.

The need for affordable housing is severe and all who buy/sell real estate, via any vehicle, should pay their fair share into the conveyance tax. 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%. The new 2014 Housing Study projects that 27,224 new rental units need to be built by 2020 for families at or below 80% AMI (Area Median income). The Rental Housing Trust Fund with proceeds from the conveyance tax has a proven record of producing affordable rentals. Additional resources are needed to build thousands of more rental units that developers otherwise will not build.

We urge you to address this as a fairness issue. Larger, more costly projects should not avoid a conveyance tax if they would have paid this tax if they sold the property for cash. We urge you apply the conveyance tax to the transfers of a controlling interest of an entity with an interest in real property in the state. Keep the playing field fair for all sides, big and small.

Thank you for the opportunity to testify. Please contact me at (808) 527-4810 or trisha.kajimura@catholiccharitieshawaii.org if you have any questions.



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TESTIMONY FOR HOUSE BILL 345, HOUSE DRAFT 1, RELATING TO TAXATION

**House Committee on Finance
Hon. Sylvia Luke Chair
Hon. Scott Y. Nishimoto, Vice Chair**

**Friday, February 27, 2015, 1:30 PM
State Capitol, Conference Room 308**

Honorable Chair Luke and committee members:

I am Kris Coffield, representing IMUAlliance, a nonpartisan political advocacy organization that currently boasts over 300 local members. On behalf of our members, we offer this testimony in support of House Bill 345, HD 1, relating to taxation.

It's the ultimate billionaire's tax loophole. Almost everyone who sells a home, condo, or other real estate in Hawai'i is subject to a conveyance tax based on the selling price. The tax rate is a sliding scale, going from one-tenth of 1 percent of the sales price for an owner-occupied home selling for under \$600,000 to 1.25 percent for some sales over \$10 million.

Yet, today, a working class homeowner in our state pays more tax on a condo sale than David Murdock and Larry Ellison paid to transfer ownership of 98 percent of Lana'i, a \$600 million deal organized as a sale of corporate stock in the Murdock-controlled entities that held title to the 88,000 acres. Why? Because the conveyance tax is not imposed on the transfer of ownership of a business entity that is equivalent to the sale of an interest in real property.

If the island had sold as a standard real estate transaction, the state's conveyance tax cut would have been \$6 million. Other transactions that have avoided the conveyance tax by putting the land into a corporation include the sale of Ala Moana Center, Victoria Ward Centers, and the Kahala Hotel. Conveyance taxes support critical state programs like the Legacy Land Conservation Fund, rental housing trust fund, and natural area reserve fund, with the balance disbursed to the general fund. We must ask what's more important, billionaire's fortunes or helping Hawai'i's poor and preserving our environment?

Economic equality must be one of our state's top priorities. We cannot let billionaire's tax boondoggles to undermine our commitment to fiscal fairness and financial justice. Mahalo for the opportunity to testify in support of this bill.

Sincerely,
Kris Coffield
Executive Director
IMUAlliance