

STATE OF HAWAII

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT AND TOURISM
HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION
677 QUEEN STREET, SUITE 300
Honolulu, Hawaii 96813
FAX: (808) 587-0600

IN REPLY REFER TO:

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

HOUSE COMMITTEE ON HOUSING

February 8, 2018 at 9:30 a.m.
State Capitol, Room 423

In consideration of
H.B. 1786
RELATING TO THE CONVEYANCE TAX.

HHFDC opposes H.B. 1786. The proposed additional conveyance tax rate for condominiums or single-family residences valued at more than \$2,000,000 is excessive and would increase the overall cost of housing.

For example, the existing conveyance tax for the sale of a residence valued at \$2,000,000, for which a purchaser is ineligible for a homeowner's exemption, is \$12,000 (60 cents per \$100). The proposed additional county conveyance tax would be \$20,000 (\$1.00 per \$100), for a total tax of \$32,000.

H.B. 1786 authorizes a county to use the revenues generated by the additional conveyance tax to "increase the affordable housing supply" and lists ways in which funds may be generally spent (i.e., purchase existing housing units; plan, design and construct housing; provide loans or grants to nonprofits; and invest in infrastructure). Should this bill pass, we believe more clarity is needed with respect to the housing priorities, permitted uses, income groups to be served, and other measurable outcomes such as that authorized in sections 201H-202 to 204, HRS, for the Rental Housing Revolving Fund.

Thank you for the opportunity to testify.



STATE OF HAWAII
DEPARTMENT OF TAXATION
830 PUNCHBOWL STREET, ROOM 221
HONOLULU, HAWAII 96813
<http://tax.hawaii.gov/>
Phone: (808) 587-1540 / Fax: (808) 587-1560
Email: Tax.Directors.Office@hawaii.gov

To: The Honorable Tom Brower
and Members of the House Committee on Housing

Date: Thursday, February 8, 2018
Time: 9:30 A.M.
Place: Conference Room 423, State Capitol

From: Linda Chu Takayama, Director
Department of Taxation

Re: H.B. 1786, Relating to Conveyance Tax

The Department of Taxation (Department) offers the following comments on H.B. 1786 for the Committee's consideration.

Section 1 of H.B. 1786 imposes an additional 1% conveyance tax on condominiums and single family residences with a value of more than \$2,000,000. The additional rate is effective upon approval and is repealed on June 30, 2023. The resulting effective tax rates for condominiums and single family residences for which the purchaser is eligible for a county homeowner's exemption are as follows:

Value of Property	Proposed Rate	Current Rate
\$2,000,000 less than \$4,000,000	\$1.50 per \$100	\$.50 per \$100
\$4,000,000 less than \$6,000,000	\$1.70 per \$100	\$.70 per \$100
\$6,000,000 less than \$10,000,000	\$1.90 per \$100	\$.90 per \$100
\$10,000,000 or greater	\$2.00 per \$100	\$1.00 per \$100

The resulting effective tax rates for condominiums and single family residences for which the purchaser is ineligible for a county homeowner's exemption are as follows:

Value of Property	Proposed Rate	Current Rate
\$2,000,000 less than \$4,000,000	\$1.60 per \$100	\$.60 per \$100
\$4,000,000 less than \$6,000,000	\$1.85 per \$100	\$.85 per \$100
\$6,000,000 less than \$10,000,000	\$2.10 per \$100	\$1.10 per \$100
\$10,000,000 or greater	\$2.25 per \$100	\$1.25 per \$100

Section 2 of this bill allocates 100% of the revenue from the additional tax rate to the revolving affordable housing fund of the county where the property is located. Additionally, the

bill limits the use of the revenue to specific uses related to purchase, planning, design, and construction of housing; making grants or loans to nonprofits such as community land trusts; and investment in public infrastructure.

The Department is able to administer the changes proposed by this bill, but requests the effective date of the tax rate changes made by Section 1 of the bill be changed to January 1, 2019 to allow the Department time to update the relevant forms and instructions. The Department also suggests that the date the measure is repealed be changed to December 31 of the desired year. This will simplify changes to the conveyance tax forms as the forms are typically reviewed and updated on a calendar year basis.

Thank you for the opportunity to provide comments.

COUNTY COUNCIL

Mel Rapozo, Chair
Ross Kagawa, Vice Chair
Arthur Brun
Mason K. Chock
Arryl Kaneshiro
Derek S.K. Kawakami
JoAnn A. Yukimura



OFFICE OF THE COUNTY CLERK

Jade K. Fountain-Tanigawa, County Clerk
Scott K. Sato, Deputy County Clerk

Telephone: (808) 241-4188
Facsimile: (808) 241-6349
E-mail: cokcouncil@kauai.gov

Council Services Division
4396 Rice Street, Suite 209
Lihu'e, Kaua'i, Hawai'i 96766

February 6, 2018

TESTIMONY OF DEREK S.K. KAWAKAMI
COUNCILMEMBER, KAUAI COUNTY COUNCIL
ON
HB 1786, RELATING TO CONVEYANCE TAX
House Committee on Housing
Thursday, February 8, 2018
9:30 a.m.
Conference Room 423

Dear Chair Brower and Members of the Committee:

Thank you for this opportunity to provide testimony in strong support of HB 1786, Relating to Conveyance Tax. My testimony is submitted as Vice President of the Hawai'i State Association of Counties, and in my individual capacity as a member of the Kaua'i County Council and Chair of the Council's Economic Development & Intergovernmental Relations Committee.

HB 1786, Relating to Conveyance Tax, is included in the 2018 Hawai'i State Association of Counties Legislative Package. This measure increases the conveyance tax on the sale of condominiums and single-family residences with a value of \$2,000,000 or greater. The additional revenue shall only be used for the purpose of increasing the supply of affordable housing, which is a growing statewide concern. The revenues accrued in each county shall be allocated to the County's affordable housing fund for this purpose.

For the reasons stated above, I urge the House Committee on Housing to support this measure. Should you have any questions, please feel free to contact me or Council Services Staff at (808) 241-4188.

Sincerely,

DEREK S.K. KAWAKAMI
Councilmember, Kaua'i County Council

AMK:lc

Hawai'i State Association of Counties (HSAC)

Counties of Kaua'i, Maui, Hawai'i and City & County of Honolulu

74-5014 Aie Keshokalele Highway, Bldg A, Kailua-Kona, HI 96740



February 6, 2018

TESTIMONY OF DRU KANUHA
HSAC PRESIDENT
ON HB 1786, RELATING TO CONVEYANCE TAX
Committee on Housing
Thursday, February 8, 2018
9:30 a.m.
Conference Room 423

Aloha Chair Brower and Members of the Committee:

I thank you for the opportunity to testify on behalf of the Hawai'i State Association of Counties in **support** of House Bill 1786, relating to conveyance tax which is included in the 2018 HSAC Legislative Package.

The purpose of this measure increases the conveyance tax on the sale of condominiums and single-family residences with a value of \$2,000,000 or greater and allocates the revenue to a county's affordable housing fund.

Monies generated from a conveyance tax will assist counties with needed funding to address affordable housing issues that we all face. This measure would allow each county to uniquely address affordable housing challenges at a greater level with the additional revenue from residential sales transactions over \$2 million.

HSAC supports this measure for the reasons stated above and we urge the Committee on Housing to support this measure as well. Should you have any questions, please feel free to contact me at (808) 323-4267.

Mahalo for your consideration.



DRU KANUHA
HSAC PRESIDENT

Council Chair
Mike White

Vice-Chair
Robert Carroll

Presiding Officer Pro Tempore
Stacy Crivello


Councilmembers
Alika Atay
Elle Cochran
Don S. Guzman
Riki Hokama
Kelly T. King
Yuki Lei K. Sugimura



COUNTY COUNCIL
COUNTY OF MAUI
200 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793
www.MauiCounty.us

February 7, 2018

TO: Honorable Tom Brower, Chair
House Committee on Housing

FROM: Stacy Crivello, Secretary 
Hawaii State Association of Counties

SUBJECT: **HEARING OF FEBRUARY 8, 2018; TESTIMONY IN SUPPORT OF HB 1786, RELATING TO CONVEYANCE TAX**

Thank you for the opportunity to testify in **support** of this important measure. The purpose of this measure is to increase the conveyance tax on the sale of condominiums and single-family residences with a value of \$2 million or greater and allocate the revenue to the respective county's affordable housing fund.

This measure is included in the Hawaii State Association of Counties' ("HSAC") Legislative Package; therefore, I offer this testimony as HSAC's Secretary.

I am aware that the President of HSAC has submitted testimony, on behalf of HSAC, in support of this measure. As Secretary, I concur with the testimony submitted by the President, and urge you to **support** this measure.

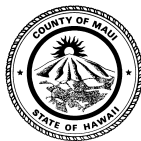
ocs:proj:legis:18legis:18testimony:hb1786_paf18-044_jgk

Council Chair
Mike White

Vice-Chair
Robert Carroll

Presiding Officer Pro Tempore
Stacy Crivello

Councilmembers
Alika Atay
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February 7, 2018

TO: The Honorable Tom Brower, Chair
House Committee on Housing

FROM: Mike White
Council Chair

A handwritten signature in black ink, appearing to be "Mike White", is written over the printed name and title.

SUBJECT: **HEARING OF FEBRUARY 8, 2018; TESTIMONY IN SUPPORT OF HB 1786, RELATING TO CONVEYANCE TAX**

Thank you for the opportunity to testify in support of this important measure. The purpose of this bill is to increase the conveyance tax on the sale of condominiums and single-family residences with a value of \$2 million or greater and allocate the revenue to the respective county's affordable housing fund

This measure is included in the Hawaii State Association of Counties' Legislative Package. Therefore, I offer this testimony on behalf of the Maui County Council.

I **support** this measure for the following reasons:

1. In each of the four counties, creating additional affordable housing units is a top priority. Demand is far outpacing supply and creative solutions and resources are needed for each county to uniquely address the dire shortage of housing.
2. Placing a conveyance tax on properties over \$2 million in value is a new way to generate additional revenue. Since the value is relatively high compared to average home prices, the transactions are not likely to adversely impact owners or working families.
3. Without a drastic change in the way affordable housing is supported, the ongoing housing supply crises will not be resolved. This proposal adds another tool to supplement the counties current efforts and will help to purchase existing housing units and other interests in real property; allow for the planning, design, or construction of housing units; allow for grants or loans to nonprofit organizations, including community land trusts; and allow for investment in public infrastructure.

For the foregoing reasons, I strongly **support** this measure.

Council Chair
Mike White

Vice-Chair
Robert Carroll

Presiding Officer Pro Tempore
Stacy Crivello

Councilmembers
Alika Atay
Elle Cochran
Don S. Guzman
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LATE

February 7, 2018

TO: The Honorable Tom Brower , Chair
House Committee on Housing

FROM: Robert Carroll
Councilmember, East Maui

A handwritten signature in cursive script that reads "Robert Carroll".

DATE: February 7, 2018

SUBJECT: **HEARING OF FEBRUARY 8, 2018; TESTIMONY IN SUPPORT OF HB 1786, RELATING TO CONVEYANCE TAX**

Thank you for the opportunity to testify in support of this important measure. The purpose of this bill is to increase the conveyance tax on the sale of condominiums and single-family residences with a value of \$2 million or greater and allocate the revenue to the respective county's affordable housing fund.

In each of the four counties, we are in dire need of affordable housing units, this bill will place a conveyance tax on properties over \$2 million in value. Since the value is relatively high compared to average home prices, the transactions are not likely to adversely impact home owners or working families. This proposal creates another initiative to supplement the counties current efforts in providing homes for our island's families.

I support HB 1786 for the reasons cited in the above mentioned testimony as well testimony submitted by the Maui County Council Chair, and urge you to approve this measure.

February 8, 2018

The Honorable Tom Brower, Chair

House Committee on Housing
State Capitol, Room 423
Honolulu, Hawaii 96813

RE: H.B. 1786, Relating to Conveyance Tax

HEARING: Thursday, February 8, 2018, at 9:30 a.m.

Aloha Chair Brower, Vice Chair Nakamura and Members of the Committee,

I am Ken Hiraki, Director of Government Affairs, here to testify on behalf of the Hawai'i Association of REALTORS® (“HAR”), the voice of real estate in Hawai'i, and its almost 9,500 members. HAR **strongly opposes** House Bill 1786, which increases the conveyance tax on the sale of condominiums and single-family residences with a value of \$2,000,000 or greater. Allocates the revenue to a county's affordable housing fund.

In 2005, the Conveyance Tax was increased on a tiered scale on 1) the sale of realty for all transfers or conveyance of realty or any interest (i.e. commercial, timeshare, agricultural, industrial, etc. and condominium or single-family residences for which the purchaser is eligible for a county homeowner's exemption); and 2) the sale of a condominium or single-family residence for which the purchaser is ineligible for a county homeowner's exemption.

In 2009, the Legislature once again increased the Conveyance Tax on 1) the sale of realty from 30 cents per \$100 (.30%) for properties over \$1,000,000 to a maximum of \$1.00 (1%) per \$100 for properties over \$10,000,000 -- an increase of over 333%, and 2) the sale of a property ineligible for a county homeowner exemption from 30 cents per \$100 to \$1.25 per \$100 (1.25%) -- an increase of over 416.66%.

This measure proposes to increase the Conveyance Tax by one dollar per \$100 for properties over \$2 million. The rates would be as follows:

Property Value:	Current Rate:	Proposed Rate:	Rate Increase:	In Dollars (rounded):
\$2 mil - \$3.99 mil	50 cents per \$100	\$1.50 per \$100	200%	\$60,000 (\$3.99 mil property)
\$4 mil - \$5.99 mil	70 cents per \$100	\$1.70 per \$100	142.85%	\$102,000 (\$5.99 mil property)
\$6 mil - \$9.99 mil	90 cents per \$100	\$1.90 per \$100	111.11%	\$190,000 (\$9.99 mil property)
\$10 mil +	\$1.00 per \$100	\$2.00 per \$100	100%	\$200,000 (\$10 mil property)

For the sale of a condo or single-family residence for which the purchaser is ineligible for a county homeowner's exemption, the conveyance tax is increased at the following rates:

Property Value:	Current Rate:	Proposed Rate:	Rate Increase:	In Dollars (rounded):
\$2 mil - \$3.99 mil	60 cents per \$100	\$1.60 per \$100	166.66%	\$64,000 (\$3.99 mil property)
\$4 mil - \$5.99 mil	85 cents per \$100	\$1.85 per \$100	117.64%	\$111,000 (\$5.99 mil property)
\$6 mil - \$9.99 mil	\$1.10 per \$100	\$2.10 per \$100	90.91%	\$210,000 (\$9.99 mil property)
\$10 mil +	\$1.25 per \$100	\$2.25 per \$100	80%	\$225,000 (\$10 mil property)

The Conveyance Tax applies to the conveyance of multi-family rentals, land for residential subdivisions, mixed-income and multi-use properties, commercial properties, resort properties, and agricultural lands, as well as condominium and single-family homes. It also applies when one conveys property between family members. It also applies whether or not a property is sold at a gain or a loss

The tax applies to the entire purchase price, and does not take into account the amount of indebtedness that may be on the property being sold, or whether the seller may be selling at less than what the seller originally acquired the property for. Thus, in certain circumstances the seller may not have the cash to be able to pay the Conveyance Tax, or the amount of tax may be so high relative to the net proceeds that the seller is receiving as to become confiscatory.

Furthermore, the problem linking special funding to the Conveyance tax is that when the real estate market is down, there are not enough funds to pay for the programs and special funds it covers. Then, the Conveyance Tax would need to be increased to cover the program. However, when the market is up, there are excess funds over and above the program's needs. This becomes a cyclical issue, and unreliable in forecasting these program's needs.

While HAR supports efforts to address our affordable housing challenges, we oppose increasing the Conveyance Tax and utilizing it to earmark monies to a special fund to do so.

Mahalo for the opportunity to testify on this measure.



February 6, 2018

Representative Tom Brower, Chair
Representative Nadine K. Nakamura, Vice Chair
House Committee on Housing

Comments, Concerns and Opposition to HB 1786, Relating to the Conveyance Tax (Increases the conveyance tax on the sale of condominiums and single-family residences with a value of \$2,000,000 or greater; allocates the revenue to a county's affordable housing fund.)

Thursday, February 8, 2018, 9:30 a.m., in Conference Room 423

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. One of LURF's missions 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.

LURF appreciates the opportunity to provide **comments, concerns and opposition** to this bill.

HB 1786. While this measure does not contain a purpose clause, it is presumed that it is intended as a method to generate revenue for the identified fund specifically proposed to be subsidized by the conveyance tax, which in this case, is each county's affordable housing fund. To do so, this bill proposes to establish an additional conveyance tax rate for the sale of condominiums and single-family residences with a value of \$2,000,000 or greater.

LURF's Position. The proposed establishment of an additional conveyance tax rate for the sale of certain condominiums or single-family residences is inappropriate, improper, and illegal, given the following:

1. 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.

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) 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 the Act.

These expansions and deviations which go beyond the scope of the original intent of the conveyance tax law are concerning since the proposed bills, particularly if unlawfully targeting certain types of transactions, could be characterized as imposing an improper penalty, hidden tax, or surcharge, which may be subject to legal challenge.

2. **HB 1786, appears to be illegal and in violation of Sections 37-52.3 and 37-52.4, Hawaii Revised Statutes (“HRS”), because it attempts to use the Conveyance Tax to subsidize special funds which a) do not have a clear nexus between the benefits sought and charges made upon the users or beneficiaries of the program; and b) were not established by the Legislature through criteria contained in the HRS.**

Special funds are subject to Sections 37-52.3 and 37-52.4 HRS. Criteria for the establishment and continuance of special and revolving funds was enacted by the 2002 Legislature through Act 178, SLH 2002, Sections 37-52.3 and 37-52.4, HRS. To be approved for continuance, a special fund must:

- a. serve the purpose for which it was originally established;
- b. 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;
- c. provide an appropriate means of financing for the program or activity; and
- d. 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, requiring the Auditor to review all legislative bills in each session to establish new special or revolving funds. It appears that the intent of HB 1786 is to find an additional source of funding for affordable housing by increasing conveyance tax revenues for the transfer of “luxury” properties. However, that State Auditor has in the past concluded that such an arrangement where there is no *clear link* with the funding source (individuals and companies involved in specific types of real estate transactions) should be repealed.

Moreover, in the present case, HB 1786 proposes to require that revenue from the additional tax rate be allocated to the **affordable housing fund in each county in which said revenue was collected**. LURF believes that such county special funds which have not been properly established pursuant to the criteria for State special funds as set forth in HRS Sections 37-52.3 and 37-52.4 (and are therefore not subject to

examination and audit by the State Auditor), **do not even qualify for consideration as repositories for conveyance tax revenues in the first place.**

3. Other legal and voluntary alternatives may be available to increase funding or incentivize support for affordable housing.

In lieu of improperly imposing increases of conveyance taxes to increase revenue for certain unrelated special funds with no clear link to the conveyance tax purposes or beneficiaries, proponents of those special funds or programs are urged to look to other possible legitimate means to do so, including funding support through other “related” or “linked” state and county charges, fees or taxes.

Given the “*clear nexus*” requirement for special and revolving funds, and also given that 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 it unlawfully targets transactions involving the sale of interests by a particular group of individuals or 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.

Understanding the importance of the conveyance tax issues raised by HB 1786, **LURF respectfully requests that this bill be deferred, or held by this Committee** to allow stakeholders, including, but not limited to government agencies, the public, private landowners, legal experts and other interested parties to work together to come to a consensus regarding the bill’s purpose, as well as alternatives to funding affordable housing through the general fund and perhaps other broad-based supplemental funding by Hawaii’s taxpayers and visitors.

Thank you for the opportunity to provide comments and concerns relating to this proposed measure.



February 7, 2018

Hawaii State House of Representatives
Committee on Housing
Rep. Tom Brower, Chair
Rep. Nadine K. Nakamura, Vice Chair
State Capitol
415 South Beretania Street
Honolulu, Hawaii 96813

Hearing: February 8, 2018
Time: 9:30AM, Room: 423
Subject: HB 1786 Relating to the Conveyance Tax

COMMENTS

Chair Brower, Vice Chair Nakamura and members of the Committee on Housing:

Based on our review, HB 1786 appears to be an exact duplicate of HB 1683 for which EAH Housing has submitted comments. We expressed our concern with providing the revenue from the proposed new conveyance tax rate to the counties rather than to the Rental Housing Revolving Fund managed by the Hawaii Housing Finance and Development Corporation.

Sincerely,

Kevin R. Carney, (PB), NAHP-E, RB-16444
Vice President, Hawaii
EAH Housing, RB-16985



LATE

February 7, 2018

To: House Committee on Housing
Date: Hearing February 8, 2018 at 9:30 A.M.
Subj: HB1786, Relating to the Conveyance Tax

Testimony in Support

Chair, Brower, Vice Chair, Nakamura and members of the Committee on Housing. I am here today to provide testimony in support of HB1786 which pertains to the Conveyance Tax.

HB1786 would increase the rate of the conveyance tax for properties with a value of \$2,000,000 or greater and would allocate those revenues to a county's affordable housing fund.

This measure if passed would provide additional funds that would be used to develop both affordable rental housing, home ownership housing.

We would point out to the committee that the great majority of the bills introduced this session refer to increasing our affordable rental housing stock, which we strongly support. However, we also strongly believe that we need to increase our affordable ownership housing stock. ***Increasing rentals while not providing home ownership opportunities for our lower income middle class families will further attenuate the schism between the "haves and have not". This in turn will accelerate the exodus of our younger families who cannot afford to live here anymore.***

Mahalo, for the opportunity to testify here today.

George Massengale
Chair, Advocacy Committee

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 304

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: CONVEYANCE, Hike Rates and Allocate to County Affordable Housing Fund

BILL NUMBER: HB 1786; SB 2169 (Identical)

INTRODUCED BY: HB by SAIKI by request; SB by KOUCHI by request

EXECUTIVE SUMMARY: Hikes tax rates. Requires that the revenue collected in each county from the additional conveyance tax rate be allocated to the respective county's affordable housing fund. Sunsets 6/30/2023.

SYNOPSIS: Amends section 247-2, HRS, to add a surcharge of \$1.00 per \$100 of actual and full consideration for condominiums or single-family residences with a value of more than \$2 million.

Amends section 247-7, HRS, to provide that all of the revenue generated in each county from the application of the surcharge shall be paid into the respective county's affordable housing fund and shall be used only to increase the supply of affordable housing by:

- (A) The purchase of existing housing units and other interests in real property;
- (B) The planning, design, or construction of housing units;
- (C) Making grants or loans to nonprofit organizations, including community land trusts; or
- (D) Investment in public infrastructure.

EFFECTIVE DATE: Upon approval; repealed on June 30, 2023.

STAFF COMMENTS: The conveyance tax was enacted by the 1966 legislature after the repeal of the federal law requiring stamps for transfers of real property. It was enacted for the sole purpose of providing the department of taxation (which at the time also administered the real property tax) with additional data for the determination of market value of properties transferred. This information was also to assist the department in establishing real property assessed values and at that time the department stated that the conveyance tax was not intended to be a revenue raising device.

Prior to 1993, the conveyance tax was imposed at the rate of 5 cents per \$100 of actual and full consideration paid for a transfer of property. At the time all revenues from the tax went to the general fund. The legislature by Act 195, SLH 1993, increased the conveyance tax to 10 cents per \$100 and earmarked 25% of the tax to the rental housing trust fund and another 25% to the natural area reserve fund. As a result of legislation in 2005 and in 2009, the conveyance tax rates were substantially increased and bifurcated between nonowner-occupied residential properties and all other properties. Tax brackets were based on the amount of the value transferred. Until 2005, 50% of the receipts went into the general fund and the other half was split with the

affordable rental housing program and the natural area reserve program. Beginning in 2005, another 10% was taken for the land conservation fund. In 2009, legislators reduced the amount of conveyance tax revenues earmarked to the rental housing trust fund from 30% to 25% until June 30, 2012 in an effort to generate additional revenues for the state general fund. Act 164, SLH 2014, increased the earmark to 50% as of July 1, 2014, and Act 84, SLH 2015, imposed the \$38 million cap on the earmark.

This bill raises the conveyance tax to feed county affordable housing funds.

As with any earmarking of revenues, the legislature will be preapproving each of the programs fed by the fund into which the tax monies are diverted, expenses from the funds largely avoid legislative scrutiny, and the effectiveness of the programs funded becomes harder to ascertain. It is also difficult to determine whether the fund has too little or too much revenue.

If the legislature deems the programs and purposes funded by this special fund to be a high priority, then it should maintain the accountability for these funds by appropriating the funds as it does with other programs. Earmarking revenues merely absolves elected officials from setting priorities. If the money were appropriated, lawmakers could then evaluate the real or actual needs of each program.

Digested 2/6/2018