



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

March 13, 2018 at 10:00 a.m.
State Capitol, Room 423

In consideration of
S.B. 2416, S.D. 2
RELATING TO THE CONVEYANCE TAX.

The HHFDC supports S.B. 2416, S.D. 2, which, among other things, repeals the statutory cap on the disposition of conveyance taxes for deposit into the Rental Housing Revolving Fund (RHRF).

However, we share the Department of Taxation's concerns with the broadness of the affordable housing exemption added in the S.D. 2. Accordingly, we request that the language contained on page 8, lines 13 through 16 of the S.D. 2 be replaced with the following:

(18) Any document or instrument conveying real property subject to a government assistance program qualified by the Hawaii housing finance and development corporation and administered or operated by the State, the corporation, the United States, or any of their political subdivisions, agencies, or instrumentalities, corporate or otherwise, which may be used to effectuate housing development and acquisition for the provision of affordable housing for qualified persons in the State.

Thank you for the opportunity to testify.



STATE OF HAWAII
DEPARTMENT OF TAXATION
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HONOLULU, HAWAII 96813
<http://tax.hawaii.gov/>
Phone: (808) 587-1540 / Fax: (808) 587-1560
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To: The Honorable Tom Brower, Chair
and Members of the House Committee on Housing

Date: Tuesday, March 13, 2018
Time: 10:00 A.M.
Place: Conference Room 423, State Capitol

From: Linda Chu Takayama, Director
Department of Taxation

Re: S.B. 2416, S.D. 2, Relating to the Conveyance Tax

The Department of Taxation (Department) offers the following comments on S.B. 2416, S.D. 2, for the Committee's consideration.

Section 1 of S.B. 2416, S.D. 2, increases the conveyance tax rate for properties with a value of at least \$2,000,000 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	\$2.50 per \$100	\$.70 per \$100
\$6,000,000 less than \$10,000,000	\$3.50 per \$100	\$.90 per \$100
\$10,000,000 or greater	\$4.50 per \$100	\$1.00 per \$100

Section 1 of S.B. 2416, S.D. 2, also increases the conveyance tax for condominiums and single family residences with values of at least \$2,000,000 and for which the purchaser is ineligible for a county homeowner's exemption. The adjusted rates are as follows:

Value of Property	Proposed Rate	Current Rate
\$2,000,000 less than \$4,000,000	\$2.00 per \$100	\$.60 per \$100
\$4,000,000 less than \$6,000,000	\$3.00 per \$100	\$.85 per \$100
\$6,000,000 less than \$10,000,000	\$4.00 per \$100	\$1.10 per \$100
\$10,000,000 or greater	\$5.00 per \$100	\$1.25 per \$100

Under current law, 50% of the conveyance tax is allocated to the rental housing revolving fund with a \$38 million per year cap. Section 3 of this measure keeps the 50% allocation and removes the \$38 million cap.

First, the Department notes that it has concerns about the authority granted to it in regards to the new conveyance tax exemption. Section 2 of S.B. 2416, S.D. 2, adds an exemption from conveyance tax for any document conveying real property that is used for affordable housing. The bill also states that the Department is responsible for determining what property qualified as being “used for the purpose of affordable housing.” The Department does not believe it is appropriate to delegate such broad authority over a tax exemption to the Department. If it is the intent of the Legislature to exempt affordable housing from the conveyance tax, then exempt affordable housing should be defined or identified in the bill.

Second, the Department notes that existing conveyance tax exemptions are categorical in nature. The proposed exemption would be the first policy based exemption in the conveyance tax. The Department acknowledges the need for low-income and affordable housing, but asks that the Legislature pay careful attention to other conveyance tax exemption proposals that may follow.

Finally, despite the concerns noted above, the Department is able to administer the changes proposed by this bill. However, noting the defective effective date of July 1, 2050, the Department requests that if this measure is moved forward, the effective date be set no earlier than January 1, 2019. This will give the Department adequate time to update its forms and instructions, and to develop rules regarding the exemption.

Thank you for the opportunity to provide comments.



March 9, 2018

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

Comments, Concerns and Opposition to SB 2416, S.D. 2, Relating to the Conveyance Tax (Increases the rate of real estate conveyance tax for properties with a value of at least \$2,000,000; amends the calculation for the amount of conveyance taxes to be deposited into the rental housing revolving fund; exempts specified transactions including certain affordable housing developments from conveyance taxes.)

Tuesday, March 13, 2018, at 10:00 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.

SB 2416, S.D. 2. 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 funds specifically proposed to be subsidized by the conveyance tax, which in this case, includes the general fund of the State; the land conservation fund established pursuant to section 173A-5; and the rental housing revolving fund established by section 201H-202. To do so, this bill proposes to increase the rate of real estate conveyance tax for properties with a value of at least \$2,000,000.

LURF's Position. The proposed increase of the conveyance tax rate for the sale of certain properties 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 or property owners, could be characterized as imposing an improper penalty, hidden tax, or surcharge, which may be subject to legal challenge.

- 2. SB 2416, S.D. 2, 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, or increase subsidies to special funds which do not have a clear nexus between the benefits sought and charges made upon the users or beneficiaries of the program.**

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 SB 2416, S.D. 2 is to find an additional source of funding for affordable housing by increasing conveyance tax revenues for the transfer of “luxury” properties. However, the 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, particular types of real estate transactions) should be repealed.

- 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 the State’s general fund, or to subsidize or 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 SB 2416, S.D. 2, **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.

To: House Committee on Housing

Date: March 10, 2018

Place: Hawaii State Capitol – Room No. 423

Re: SB-2416, SD2, Relating to the Conveyance Tax

Testimony in Strong Support

Representative Tom Brower ,Chair; Representative Nadine Nakamura, Vice Chair, and members of the Committee on Housing:

My name is Ellen Godbey Carson and I am with Housing Now, a non-profit program of Faith Action for Community Equity. We urge you to pass SB-2416.

The purpose of this bill is to help provide additional funds to address the severe shortage of affordable housing here in Hawaii, by increasing our real estate tax rates for properties with a value of \$2 million or more. This will help affordable housing and the state's treasury.

Our current tax rates for real estate conveyances range from 0.1% to 1.25% at the highest rate, even on multi-million dollar and luxury properties. By contrast, most consumer transactions are taxed from 4% to 10% (for goods, services, dining and accommodations). Why do we allow our real estate property taxes to be so low, when the sale of our real estate at such high prices creates our affordable housing problem? That requires low to moderate income people to pay much higher tax rates - 4% - 10%, than millionaires. Shouldn't people engaging in high-end property transactions pay a higher and fairer rate of taxation, at least closer to our excise tax rate, to help address our state's financial and housing needs? This bill only targets properties valued at \$2 million or above, where buyers and sellers have substantial means. It does not affect tax rates for real estate transactions under \$2 million, nor sale of affordable housing units.

I've calculated the impact of these tax changes on the most reliable data I could find, from MLS residential real property sales on Oahu from the Honolulu Board of Realtors. For these Oahu sales alone, additional revenues of at least \$14 – 18 million would be generated annually. The State's Tax Department can estimate total new revenues, which should be much higher to include neighbor islands, commercial sales and leasing, and new condo sales.

Please pass this. We really need affordable housing now! Mahalo.

Respectfully submitted by

Ellen Godbey Carson, 1080 S. Beretania St, GPH2, Honolulu, HI 96814, egcarson@icloud.com



March 11, 2018

Representative Tom Brower, Chair
Representative Nadine Nakamura, Vice Chair
House Committee on Housing
Hawaii State Capitol

Dear Representative Brower, Representative Nakamura and Members of the House Committee on Housing:

Testimony in Opposition to SB2416 SD2

The Kohala Coast Resort Association (KCRA) opposes SB2416 SD2 proposing steep increases to the conveyance tax for properties with a value of \$2,000,000 and amending the amount of money to be deposited into the account for the affordable rental housing revolving fund.

The Kohala Coast Resort Association supports the development of affordable rental housing. However, we recognize that the state already receives the largest share of the transient accommodations taxes, which are placed in the general fund. The TAT allocation in the state's general fund has gone from \$7.79 million in 2009 (3.7% of total collections) to \$292.4 million in 2017 (57.5% of total collections). Therefore, it is already within the Legislature's authority to use those funds to incentivize the development of affordable rental housing. And though not under the purview of the Legislature directly, we would like members of the committee to recognize that residential investment properties and resort zoned properties, many of which would be impacted by the proposed conveyance tax increase, saw a disproportionate increase in their property taxes in Hawaii County last year. Government authorities at both the county and state levels cannot continue to place the largest tax burden time and time again on the same citizens.

KCRA is a collection of master-planned resorts and hotels situated north of the airport which represents more than 3,500 hotel accommodations and an equal number of resort residential units. This is approximately 35 percent of the accommodations available on the Island of Hawai'i. KCRA member properties annually pay more than \$20 million in TAT and \$20 million in GET.

We encourage your opposition to this measure.

Sincerely,

A handwritten signature in black ink that reads "Stephanie P. Donoho". The signature is written in a cursive, flowing style.

Stephanie Donoho
Administrative Director



CATHOLIC CHARITIES HAWAII

TESTIMONY IN SUPPORT OF SB 2416 SD2: Relating to the Conveyance Tax

TO: Representative Tom Brower, Chair, Representative Nadine Nakamura, Vice Chair, and Members, Committee on Housing
FROM: Terrence L. Walsh, Jr., President and Chief Executive Officer
Hearing: **Tuesday, March 13, 2018; 10:00 am; CR 423**

Chair Brower, Vice Chair Nakamura, and Members, Committee on Housing:

Thank you for the opportunity to provide testimony **in strong support** of **SB 2416 SD2**, which repeals the cap on conveyance tax proceeds to the Rental Housing Revolving Fund and increases the tax rate on properties over \$2 million. I am Terry Walsh, with Catholic Charities Hawai'i.

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. Our mission is to provide services and advocacy for the most vulnerable in Hawai'i. To end homelessness we must create significantly more affordable housing on an ongoing basis. This is a top priority for 2018.

The Star Advertiser (1/10/18) reported on a study by Aloha United Way, which found that nearly half of isle households do not earn enough to cover basic needs, much less save anything for an emergency. Any crisis can put these families at great risk for long-term problems like loss of housing. The situation is dire and demands a great investment to create rental units that struggling families can afford. On the other hand, Hawaii is an international market and new luxury condos as well as single family homes now sell for millions of dollars. This bill brings some balance into the Hawai'i housing market and would provide more support for the community's overall need for additional affordable housing.

The Rental Housing Revolving Fund provides crucial gap financing to build affordable rental projects. However, one major break on the ability of the RHRF to create more affordable housing is the \$38 million cap on funding from the conveyance tax. In FY 2017, the RHRF lost \$6 million in potential funding. Without the cap, the additional funding could have been used toward another 40 units of affordable rental housing. We support repeal of this cap on the RHRF.

A significant increase in funding to the RHRF is critical, especially now that the new federal Tax Cut law is cutting into the ability of the RHRF to create new rentals. Due to this new law, it is estimated that the federal Low Income Housing Tax Credits will suffer a loss of 14% in value. This is 14% that projects must now find from other resources like the RHRF, in order to make their housing projects pencil out. Current projects, already "100% funded" now are experiencing short-falls totaling millions of dollars. This added demand on the resources of the RHRF will result in fewer overall units, unless action is taken this year!

This bill is a strong step in the right direction. It would fund projects ongoing into the future. Hawaii's housing crisis demands a multi-year response. We need to act now; we urge your support. Please contact our Legislative Liaison, Betty Lou Larson, at 373-0356 or bettylou.larson@catholiccharitieshawaii.org, if you have any questions.





SB2416 SD2
RELATING TO THE CONVEYANCE TAX
House Committee on Housing

March 13, 2018

10:00 a.m.

Room 423

The Office of Hawaiian Affairs **SUPPORTS** SB2416 SD2, which will provide substantial and much-needed housing relief to Native Hawaiians and other residents of Hawai'i.

This bill will help provide much-needed housing relief for the state's current affordable housing crisis. It has become abundantly clear that our islands' residents have a dire and growing need for affordable housing opportunities: recent research indicates a need for 65,000 more housing units by 2025, with half of this demand for units at or below 60% of the Area Median Income (AMI);ⁱ only 11 percent of this demand is for housing units at or above 140% AMI,ⁱⁱ or for units that do not meet the State's current definition of "affordable housing."ⁱⁱⁱ With 48% of households in the State already unable to afford basic household expenses including that of housing, food, transportation, health care, and child care,^{iv} the lack of affordable housing and rising housing costs require bold and aggressive policies that meaningfully prioritize the housing needs of local residents.

As such, this measure's conveyance tax increase for certain high-end property transactions, with a commensurate contribution to the rental housing revolving fund, may help to curb the foreign investment and speculation that have fueled the rise in our islands' housing costs, while providing targeted relief to Hawai'i residents most in need of affordable housing. Notably, data indicate that only 1.1% of Native Hawaiians, and 2.0% of Hawai'i residents, own homes valued over \$2 million.^v **In other words, 98% of Hawai'i residents do not own properties whose sales would be currently affected by this measure.**

The Native Hawaiian community may particularly benefit from the bill. Native Hawaiians are particularly reliant on the rental housing market, as research shows that Native Hawaiians are less likely to own a home, and have homeownership rates lower than the state average.^{vi} Native Hawaiian renters also have a particular need for affordable rental units, as more than half of Native Hawaiian renters, many of whom already live in overcrowded situations^{vii} to reduce costs, live in homes they are struggling to afford.^{viii} Native Hawaiians may therefore be disproportionately impacted by the lack of affordable rental housing opportunities in the state. **By generating increased revenues to facilitate the development of affordable rental housing units, this measure may directly address the particular housing needs of the Native Hawaiian community.**

OHA does have some concern that the amendments proposed in Section 2 of SB2416 SD2, which intend to exempt affordable housing projects from the conveyance tax, may not include specific enough language to ensure that such a valuable tax incentive will be appropriately targeted. As drafted, the bill exempts “any document or instrument conveying real property used for the purpose of affordable housing, as determined by rules adopted by the director of taxation” from the conveyance tax. Such broad language may exempt the sale of projects that include only a small fraction of affordable housing, which may also include “affordable” units priced at levels most Hawai’i residents cannot afford. In addition, the Department of Taxation may not have sufficient statistical knowledge or expertise to conduct rulemaking that should be based upon the actual housing needs of Hawai’i residents.

Accordingly, OHA strongly recommends more narrowly tailoring the proposed conveyance tax exemption, to apply only to the conveyance of property that is wholly comprised of affordable residential units needed most by Hawai’i residents, pursuant to rules developed in consultation with the Hawai’i Housing Finance & Development Corporation, by amending the language found on page 8, lines 13-16 as follows:

“Any document or instrument conveying real property subject to a covenant or other agreement whereby all residential units are to be reserved for households with incomes at or below one hundred forty per cent of the area median family income as determined by the United States Department of Housing and Urban Development, and where all residential units are reserved for households with a total weighted average household income of one hundred per cent of the area median family income as determined by the United States Department of Housing and Urban Development, as further determined by rules adopted by the director of taxation in consultation with the Hawai’i housing finance and development corporation.”

Therefore, OHA urges the Committee to **PASS** SB2416 SD2. Mahalo for the opportunity to testify on this matter.

ⁱ See SMS, HAWAI’I HOUSING PLANNING STUDY, at 34 (2016), available at

https://dbedt.hawaii.gov/hhfdc/files/2017/03/State_HHPS2016_Report_031317_final.pdf.

ⁱⁱ Notably, an individual earning 140% AMI would be making up to **\$102,620 per year**; at 140% AMI, a family of four would earn **\$146,440 a year**. See HHFDC 2017 INCOME, SALES, AND RENT GUIDELINES, HONOLULU COUNTY INCOME SCHEDULE BY FAMILY SIZE available at

http://dbedt.hawaii.gov/hhfdc/developers/copy2_of_copy_of_copy2_of_copy_of_income-sales-rent-guidelines/.

iii See SMS, HAWAI'I HOUSING PLANNING STUDY, at 34 (2016), available at https://dbedt.hawaii.gov/hhfdc/files/2017/03/State_HHPS2016_Report_031317_final.pdf.

iv ALOHA UNITED WAY, ALICE: A STUDY OF FINANCIAL HARDSHIP IN HAWAI'I (2017),

v See U.S. Census Bureau latest 5-year estimates for 2011-2015, Hawai'i, Owner-occupied housing units value.

vi The Native Hawaiian homeownership rate for non-DHHL properties is only 38.9%, 18.3 percentage points below the statewide rate of 57.2% See Census Bureau. (2017). American Community Survey (ACS) 1-year Estimates: 2016; DHHL: Homestead Services Division. (01/24/17) Commission submittal

vii The average Native Hawaiian household size was 3.63, notably larger than the 2.62 average for non-Native Hawaiian households. See SMS, HAWAI'I HOUSING PLANNING STUDY, at 70 (2016), available at https://dbedt.hawaii.gov/hhfdc/files/2017/03/State_HHPS2016_Report_031317_final.pdf

viii 24.8% of Native Hawaiian households, compared to 9.6% of state households include more than two generations or unrelated individuals. 14.1% of Native Hawaiian households, compared to 4.2% of state households have a hidden homeless family member. See *id.* at 70.



46-063 Emepela Pl. #U101 Kaneohe, HI 96744 · (808) 679-7454 · Kris Coffield · Co-founder/Executive Director

**TESTIMONY FOR SENATE BILL 2416, SENATE DRAFT 2, RELATING TO THE
CONVEYANCE TAX**

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

**Tuesday, March 13, 2018, 10:00 AM
State Capitol, Conference Room 423**

Honorable Chair Brower and committee members:

I am Kris Coffield, representing IMUAlliance, a nonpartisan political advocacy organization that currently boasts over 400 members. On behalf of our members, we offer this testimony in support of, with proposed amendments for Senate Bill 2416, SD 2, relating to the conveyance tax.

Hawai'i residents face the highest housing costs in the nation, at more than twice the national average. Researchers who authored the National Low Income Housing Coalition's *Out of Reach 2017* report found that a full-time worker would need to earn \$35.20/hour to afford a two-bedroom apartment at fair market value in our state, with Honolulu experiencing a 67 percent increase in fair market rent between 2005 and 2015. Average rent for a two-bedroom unit surpassed \$2,000 in recent years, with minimum wage workers needing to log 116 hours per week to afford a modest one-bedroom apartment at fair market value and 139 hours per week to afford a two-bedroom—a number that is equivalent to working 20 hours a day with no days off year-round. In the past three years alone, Honolulu rent has increased by more than 25 percent. While 43 percent of Hawai'i residents are renters (a number that does not include individuals and families renting outside of the regulated rental market), they earn an average wage of \$15.64/hour, scarcely enough to meet their basic needs. One out of every four households in Hawai'i report that they are “doubling up” or are three paychecks or less away from being homeless, per the Hawai'i Appleseed Center for Law and Economic Justice. Additionally, 54 percent of households are cost-burdened, meaning that they pay more than 30 percent of their income for housing costs, a number that rises to 83 percent of extremely low-income households. Homelessness is directly tied to our state's exorbitant cost of living and penchant for catering to people who use the islands as their own

private Monopoly board. We beseech you to seek innovative ways of making Hawai'i more affordable for our economically disadvantaged neighbors.

Our state's cost of housing has skyrocketed over the last decade, leaving many families searching for affordable alternatives, in shelters, or on the streets. For context, the median price of condominiums on O'ahu increased 6 percent in the summer of 2017 to a record \$425,000, while the median price for single-family homes increased by 3 percent to \$795,000, according to the Honolulu Board of Realtors, a number that they expect to increase by at least another 5 percent in 2018. Average fair market rent for two-bedroom apartments in *outlying* communities in the City and County of Honolulu now exceeds \$2,000, with the cost of a four-bedroom home in urban Honolulu now exceeding \$1.1 million. At least 43 percent of residences in Hawai'i are owner unoccupied, according to the National Low-Income Housing Coalition, meaning that nearly 50 percent—and by some estimates over half—of Hawai'i's homes are likely investment properties.

The time for deliberation is over. It's time to act. Experts at the Department of Business, Economic Development, and Tourism now estimate that Hawai'i needs 66,000 new housing units by the year 2025 to keep up with demand, more than 80 percent of which is needed to meet the demand of people who qualify for affordable housing. Yet, for every 100 extremely low-income renters on O'ahu, there exist only 40 affordable rentals, according to the Urban Institute, of which only 11 are “naturally affordable,” meaning they are affordable without federal subsidies. Though our state is committed to a goal of building 22,500 affordable rental housing units in the next 10 years, figures from the Hawai'i Housing Finance and Development Corporation show that in 2015 and 2016, we added only approximately 1,000 affordable rental units to our state's inventory, with further plans finalized for a mere 3,240 more affordable rentals by 2022. Analysts believe that boosting the overall housing supply will lower home prices—and, in turn, rent—for all residents, an ancillary benefit that cannot be overstated in our undersaturated, luxury-driven, “investor first” housing market.

Conveyance taxes are levied on transfers of real property. Currently, HRS §247-7 caps the amount of conveyance tax collections paid into the rental housing revolving fund at the lesser of 50 percent or \$38 million. Per the Hawai'i Housing Finance and Development Corporation, the revolving fund exists “for the development, pre-development, construction, acquisition, preservation, and substantial rehabilitation of rental housing units.” To increase available funding for affordable housing, we support increasing or eliminating the cap on conveyance tax collections paid into the revolving fund and increasing conveyance taxes on properties valued in excess of \$2,000,000. That said, **we urge the committee to consider amending this measure to increase conveyance taxes for all properties valued at \$1,000,000 and above**, noting that the wealth gap in our state is widening and an exponentially greater number of residents are unable to afford rent, much less the benefits of buying and selling a home. According to a study released in May of 2016 by DBEDT, there are “clear distinctions” between the average price of homes bought by local residents, mainlanders, and foreigners. Analyzing purchases made between 2008 and 2015,

DBEDT found: “The average sale price was highest among foreign buyers. The average sale price of the total of 5,775 homes sold to foreign buyers from 2008 to 2015 was \$786,186, 28.3 percent higher than the average sale price to the mainlanders (\$612,770) and 64.7 percent higher than the average sale price to local buyers (\$477,460).” Thus, increasing conveyance tax prices directly impacts the real estate speculators driving up Hawai’i’s housing costs and, in turn, rental prices, i.e. those most responsible for pricing local residents out of paradise.

We need housing now. Mahalo for the opportunity to testify in support of this bill.

Sincerely,
Kris Coffield
Executive Director
IMUAlliance



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Ph: 808-587-7886
Toll Free: 1-866-400-1116
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March 12, 2018

Senate Committee on Housing
Tuesday, March 13, 2018, 10am
Conference Room 423

SB2416, SD2 – Relating to Housing

Aloha Chair Brower, Vice-Chair Nakamura, and Committee Members:

I am submitting testimony on behalf of Hawaiian Community Assets (HCA), the State's largest HUD-approved housing counseling agency to **STRONGLY SUPPORT SB2416, SD2 WITH AMENDMENTS.**

SB2416, SD2 recognizes the need for us as a state to invest in affordable rental housing, especially if we are to meet the demand documented by the Department of Business, Economic Development, and Tourism for as many as 66,000 housing units between 2015 and 2025.

During the 2015 Session, the State Legislature passed Act 127 which mandates the State of Hawaii to build 22,500 affordable housing units for our low- and moderate-income residents by 2026. This amounts to investing in 2,250 units per year. Unfortunately, according to the Hawaii Housing Finance and Development Corporation's 2017 report to the State Legislature, Rental Housing Trust funds were awarded for the development of only 326 affordable units in the 2016 and 1,276 affordable units in 2017. Without pursuing strategies for increasing the State's investment in affordable rental housing units, it could take the State more than 28 years to meet the mandate set in place by Act 127 if we were to continue at our current rate of investment. Meanwhile, our local workers and families would continue to struggle to find stable, affordable housing creating uncertainty for business owners and missed opportunity for our state economy.

CDFIs Using Public Investment to Attract Private Capital

In recent years, Community Development Financial Institutions (CDFIs) have dedicated capital to affordable housing in Hawaii - from consumer lending CDFIs like Hawaii Community Lending to down payment assistance and mortgage lending CDFIs like Hawaii Habitat for Humanity, Council for Native Hawaiian Advancement, and HHOC Mortgage to infrastructure, pre-development, and gap financing by Rural Community Assistance Corporation, Local Initiative Support Corporation, and Hawaii Community Reinvestment Corporation. SB2416, SD2 would create a unique opportunity for these CDFIs to leverage public investment to attract private capital for affordable rental housing development. CDFIs are nonprofit intermediaries certified by the US Department of the Treasury that pool together public and private capital for deployment to underserved populations through loans and grants. The Carsey Institute cites that CDFIs are leveraging Federal investments at a rate of up to

8:1¹. The bill would take advantage of the power of CDFIs and their ability to leverage investments from foundations, banks, and government entities to increase affordable housing for our workers, families, and your constituents.

Amendment: Effective July 1, 2018

HCA recommends to amend the bill to make its effective date July 1, 2018 so the funds can begin to increase our supply of affordable units in Hawaii as soon as possible. We must move forward with increased investment in affordable rental housing development if we are to meet the State mandate set in place by Act 127.

With the highest homeless rate per capita and some of the highest housing cost burdens of any state in the nation, we cannot wait to invest in the development of affordable rental housing units. SB2416, SD2 with recommended amendments would help us make the investment that is necessary to meet the affordable housing needs of our community and in particular our low- and moderate-income households as part of a comprehensive strategy. Please take action to create a Homeownership Housing Revolving Fund. **Pass SB2416, SD2 with the proposed amendments.**

Mahalo for your time, leadership and consideration. Please contact me directly at 808.587.7653 or jeff@hawaiiancommunity.net should you have any questions or need additional information.

Sincerely



Jeff Gilbreath
Executive Director

¹ CDFI Industry Analysis: Summary Report. Carsey Institute, Spring 2012.
<https://www.cdfifund.gov/Documents/Carsey%20Report%20PR%20042512.pdf>



March 11, 2018

From: George S. Massengale
To: Committee on Housing
Date: Hearing March 13, 2018 at 10:00 A.M.
Subj: SB2416, SD2, Relating to The Conveyance Tax

Testimony in Strong Support

Chair, Brower, Vice Chair, Nakamura, and members of the Committee on Housing. Thank you for the opportunity to provide testimony in support of this measures, which pertain to the Conveyance Tax.

SB2416, SD2, would increase the rate of the conveyance tax for properties with a value of \$2,000,000 or more. In addition, it would remove the existing conveyance tax cap of \$38,000,000 while allotting 50% of tax revenues to the rental housing revolving trust fund.

Although Habitat for Humanity's focus is home ownership as a means for our lower income families to build a pathway out of poverty. We must ensure that those families which elect to pursue this option, have sufficient financial resources available to qualify for Habitat Home. This would be extremely hard for a family to do when they pay half of their total income for rental housing. These families live paycheck to paycheck, and if they do manage to save a little extra every month, unanticipated expenses, such as car/truck repair, often deplete these savings.

A family that pays over half its monthly income for rental housing, will more than likely have a very difficult time of even qualifying to participate in Habitat's self-help building program.

Because of the exigency of our housing crisis, we ask that the Committee on Housing pass SB2416, SD2, onto the Finance Committee for the final hearing on this measure.

Respectfully,

A handwritten signature in black ink, appearing to read "G. Massengale".

George S. Massengale
Chair, Advocacy Committee



Imanaka Asato
A LIMITED LIABILITY LAW COMPANY

March 12, 2018

Representative Tom Brower, Chair
Representative Nadine Nakamura, Vice Chair
Members of the House Committee on Housing
Twenty-Ninth Legislature
Regular Session of 2018

RE: SB 2416, SD2 - Relating to the Conveyance Tax
Hearing date: March 13, 2018 at 10:00 a.m.

Aloha Chair Brower and Members of the Committee on Housing,

Thank you for allowing me to submit testimony on behalf of NAIOP Hawaii in **OPPOSITION** to SB 2416, SD2. NAIOP Hawaii fully supports affordable housing, however SB 2416, SD2 is not the solution to solve our housing crisis. NAIOP Hawaii is the local chapter of the nation's leading organization for commercial real estate development professionals. NAIOP Hawaii has over 150 members in the State including local developers, owners, investors, asset managers and other professionals. Importantly, NAIOP Hawaii members are leaders and active participants in affordable for sale and rental housing throughout Hawaii.

SB 2416, SD2 increases the conveyance tax rate for properties with a value of at least \$2,000,000 and amends the conveyance tax revenues allocated to the rental housing revolving fund. Although providing much needed funds to the rental housing revolving fund is commendable, NAIOP Hawaii **strongly opposes SB 2416, SD2** for several reasons:

First, the tax increase disproportionately punishes commercial property without a rational nexus to affordable housing. Although there are some residential properties that fall into the highest conveyance tax category, most of the new tax burden will fall on office, hotels and industrial properties as the majority of these property types exceed \$2,000,000 in value. Thus, the primary burden of increased funding is attributed to commercial property without the ability to draw a rational link between a business transaction and funding for affordable rentals.

Second, the proposed increase is up to four and a half times the current conveyance tax rate. The increased tax rate would have a significant impact on all parts of the economy: such as small and large businesses that own their own building as well as the elderly, many of whom have worked hard their entire lives to build equity through real estate. Sharp tax increases almost always have a chilling effect on business transactions, due in part to the unplanned costs, which will adversely affect the state's economy. Buyers of large transactions often make significant investments to renovate, redevelop or reposition in conjunction with their acquisition. This additional conveyance tax may cause a disincentive to transact, which will lead to less

House Committee on Housing
March 12, 2018
Page Two

capital spending, further deterioration of our aging properties, and may ultimately provide less economic stimulus into our economy.

Third, the new rule completely ignores whether the property is being sold for a profit or loss, nor does it take into account the amount of indebtedness that the property holds. In some cases, the amount of conveyance taxes may be in excess of the net proceeds to the seller, thereby forcing a seller to fund conveyance taxes out of pocket.

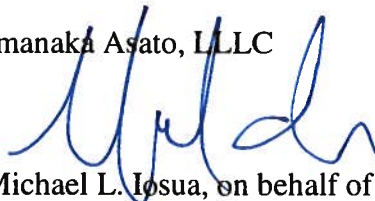
Finally, a drastic increase in the conveyance tax will likely decrease property values in lockstep by the increase in tax rate. The payment of conveyance tax in commercial property transactions are heavily negotiated, and as a result, buyers will factor in this added cost when arriving at a purchase price. For example, increasing the conveyance tax rate from 1.0% to 4.5% will cause a simultaneous decrease in property values by 3.5% because buyers will factor in this added transaction cost and pay 3.5% less for the property. This reduction in property values will ultimately affect the property tax base, which will reduce funds received by county governments to maintain infrastructure or services.

NAIOP Hawaii believes there are alternative solutions for increasing the money available in the affordable housing fund. For example, the legislature could raise or eliminate the current \$38 million ceiling on the Rental Housing Revolving Fund. The legislature could also keep the conveyance tax at the current rates, but create a separate affordable housing tax at a substantially lower rate of 0.10%-0.15% of purchase price that would be similar to a conveyance tax but the use of proceeds would be clearly earmarked for affordable housing. This lower rate would make the tax palatable to all property tax owners.

We hope the legislature will continue to support the development of affordable housing without negatively affecting real estate sales with a sharp increase to the conveyance tax rate. Mahalo for your consideration.

Sincerely,

Imanaka Asato, LLC



Michael L. Iosua, on behalf of
NAIOP Hawaii

March 13, 2018

The Honorable Tom Brower, Chair
House Committee on Housing
State Capitol, Room 423
Honolulu, Hawaii 96813

LATE

RE: S.B. 2416, SD2, Relating to the Conveyance Tax

HEARING: Tuesday, March 13, 2018, at 10:00 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 over 9,500 members. HAR **strongly opposes** S.B. 2416, SD2, which increases the rate of real estate conveyance tax for properties with a value of at least \$2 million. Additionally, this measure amends the calculation for the amount of conveyance taxes to be deposited into the Rental Housing Revolving 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 to the following:

Property Value:	Current Rate:	Proposed Rate:	Rate Increase:	In Dollars (rounded):
\$2 mil - \$3.99 mil	50 cents per \$100	\$1.50 per \$100	300%	\$60,000 (\$3.99 mil property)
\$4 mil - \$5.99 mil	70 cents per \$100	\$2.50 per \$100	357%	\$150,000 (\$5.99 mil property)
\$6 mil - \$9.99 mil	90 cents per \$100	\$3.50 per \$100	388%	\$350,000 (\$9.99 mil property)
\$10 mil +	\$1.00 per \$100	\$4.50 per \$100	450%	\$450,000 (\$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	\$2.00 per \$100	233.33%	\$80,000 (\$3.99 mil property)
\$4 mil - \$5.99 mil	85 cents per \$100	\$3.00 per \$100	252.94%	\$180,000 (\$5.99 mil property)
\$6 mil - \$9.99 mil	\$1.10 per \$100	\$4.00 per \$100	263%	\$400,000 (\$9.99 mil property)
\$10 mil +	\$1.25 per \$100	\$5.00 per \$100	300%	\$500,000 (\$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 applies whether or not a property is sold at a gain or a loss.

Regarding residential and commercial sales, the tax is assessed whether or not there is a gain on the sale. It's possible that a principal may have purchased property during a peak in the market and subsequently sold the property for less than the original purchase price. The principal may need to come out of pocket to pay outstanding loans along with the conveyance tax and other closing costs. There is a tax rate at which the cost of paying the Conveyance Tax will influence sellers to hold property longer, hoping for market appreciation, and thereby reduce the number of transactions.

Furthermore, the problem linking 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 programs. 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 the Rental Housing Revolving Fund and increasing the allocation of funds to the program, we oppose increasing the Conveyance Tax to do so.

Mahalo for the opportunity to testify in opposition to this measure.



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

On behalf of the nearly 600 registered members of the Young Progressives Demanding Action (YPDA) – Hawai‘i, I would like to express **strong support** for SB2416 SD2. The cost of living is so high that our local families are fleeing to mainland rather than end up on the streets. At the same time, we are in the midst of a housing and homelessness crisis and we don't have the funds to fully deal with the situation. Many of our working families do end up on the streets. Meanwhile, each day, our island home is becoming more and more a playground for the rich. While we do not believe there is anything inherently wrong with being wealthy, we strongly believe that those who are wealthy and who expect to enjoy beautiful Hawai‘i nei must pay their fair share to support the people who were born and raised here; who work and live here; and who hope to raise the next generation here. If they don't—if they only continue to take and not to give, there will be no Hawai‘i left for any of us. To support this, we believe that raising the property conveyance tax to raise funding to help working families thrive will mean helping all of Hawai‘i. When working people thrive, everyone benefits, including those who we are asking to pay a bit more into the pot.

Mahalo for your support,

Will Caron
Social Justice Action Committee Chair
8083874920

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 304

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: CONVEYANCE, Tax Hike on Properties Above \$2M

BILL NUMBER: SB 2416 SD-2

INTRODUCED BY: Senate Committee on Ways & Means

LATE

EXECUTIVE SUMMARY: Increases the rates for certain conveyance tax categories. Repeals the statutory cap on the disposition of conveyance taxes dedicated for deposit into the rental housing revolving fund for the financing of affordable rental housing development

SYNOPSIS: Amends section 247-2, HRS, to raise the conveyance tax rates as follows:

For a condominium or single-family residence for which the purchaser is ineligible for a county homeowner’s exemption on real property tax:

Minimum Property Value	Current Tax (per \$100 of consideration)	New Tax (per \$100 of consideration)
\$0	\$ 0.15	\$ 0.15
\$600,000	0.25	0.25
\$1,000,000	0.40	0.40
\$2,000,000	0.60	2.00
\$4,000,000	0.85	3.00
\$6,000,000	1.10	4.00
\$10,000,000	1.25	5.00

For all other conveyances:

Minimum Property Value	Current Tax (per \$100 of consideration)	New Tax (per \$100 of consideration)
\$0	\$ 0.10	\$ 0.10
\$600,000	0.20	0.20
\$1,000,000	0.30	0.30
\$2,000,000	0.50	1.50
\$4,000,000	0.70	2.50
\$6,000,000	0.90	3.50
\$10,000,000	1.00	4.50

Adds a new paragraph (18) to section 247-3, HRS, providing an exemption for any document or instrument conveying real property used for the purpose of affordable housing, as determined by rules adopted by the department of taxation.

Amends section 247-7, HRS, to repeal the ceiling (now \$38 million) on money distributable to the rental housing revolving fund.

EFFECTIVE DATE: July 1, 2050.

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 the rental housing revolving fund, land conservation fund, and the general fund.

The first question lawmakers need to ask is which taxpayers are going to be impacted by these hikes. Although the intent may be to soak the rich fat cats, the increases will affect developments of multi-unit property. Affordable housing may be exempted under the new exemption enacted in this bill, but similar housing not qualifying for that exemption would be impacted.

Next, the earmark deserves scrutiny. 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

Re: SB 2416, SD-2
Page 3

priorities. If the money were appropriated, lawmakers could then evaluate the real or actual needs of each program.

Digested 3/12/2018

SB-2416-SD-2

Submitted on: 3/10/2018 11:19:29 AM

Testimony for HSG on 3/13/2018 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Jojhn Ferguson	Individual	Oppose	No

Comments:

This is a ridiculous attempt to tax the wealthy individuals with zero regard for the consequences to our economy.

Builders, architects, Brokers, inspectors and numerous other professions will feel the sting of this measure.

In afew years when the economy settles down you will be begging high end buyers to come spend their money in our market.

SB-2416-SD-2

Submitted on: 3/10/2018 9:01:22 AM

Testimony for HSG on 3/13/2018 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Robert Merriman	Individual	Oppose	No

Comments:

I oppose increasing the state conveyance tax (CT) schedule. Already, the **current** CT schedule causes significant transactional disruption. This substantial increase may put in question the overall feasibility of a given transaction and as a minimum add negative pressure to real property valuations while simultaneously agravating the acceptability of other justified and rational market based fees and costs associated with a transfer or sale.

SB-2416-SD-2

Submitted on: 3/12/2018 10:02:58 AM

Testimony for HSG on 3/13/2018 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Wally Inglis	Individual	Support	No

Comments:

Chair Brower, Vice-Chair Nakamura and Members of Housing Committee:

I strongly support this measure which will help create much-needed affordable housing for Hawaii.

As a member of Housing Now! and President of the Coalition for Specialized Housing, I have worked with others over many years to provide low-income housing in our community. This measure enables those of higher-income levels to help those who are at the lower end of the economic scale. It is a matter of equity and fairness.

Aloha,

Wally Inglis

Palolo Valley

LATE

SB-2416-SD-2

Submitted on: 3/12/2018 1:09:49 PM

Testimony for HSG on 3/13/2018 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Phylleen Jackson	Individual	Oppose	No

Comments:

SB-2416-SD-2

Submitted on: 3/12/2018 4:40:40 PM

Testimony for HSG on 3/13/2018 10:00:00 AM

LATE

Submitted By	Organization	Testifier Position	Present at Hearing
james shipman	Individual	Oppose	No

Comments: