

DAVID Y. IGE
GOVERNOR

JOSH GREEN M.D.
LIEUTENANT GOVERNOR



LINDA CHU TAKAYAMA
DIRECTOR

DAMIEN A. ELEFANTE
DEPUTY DIRECTOR

**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 Donovan M. Dela Cruz, Chair
and Members of the Senate Committee on Ways and Means

Date: Wednesday, February 6, 2019
Time: 10:00 A.M.
Place: Conference Room 211, State Capitol

From: Linda Chu Takayama, Director
Department of Taxation

Re: S.B. 395, Relating to Conveyance Tax

The Department of Taxation (Department) offers the following comments regarding S.B. 395 for the Committee's consideration.

S.B. 395 amends section 247-2, Hawaii Revised Statutes (HRS), to impose the conveyance tax on all leases. Under current law, only leases with an unexpired period of 5 years or more are subject to conveyance tax. The measure takes effect on July 1, 2019.

The Department is able to administer the bill as written, but respectfully requests that the effective date of the bill be changed to January 1, 2020, to allow sufficient time to make the necessary form and instruction changes.

Thank you for the opportunity to provide comments.

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 304

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: CONVEYANCE TAX

BILL NUMBER: SB 395

INTRODUCED BY: DELA CRUZ, Keith-Agaran

EXECUTIVE SUMMARY: Repeals exemption from conveyance tax for realty leases of less than 5 years. The additional administrative burden required might not be offset by the incremental revenue.

SYNOPSIS: Amends section 247-2, HRS, to delete the language stating that the tax applies only to a lease or sublease whose full unexpired term is for a period of five years or more. Also deletes language specifying that extensions or amendments of lease are subject to the tax.

EFFECTIVE DATE: This Act shall take effect on July 1, 2019.

STAFF COMMENTS: This measure seeks to expand the conveyance tax to include within its clutches short-term leases, presumably including all rental agreements for real estate.

This move would pick up within the tax all common rental agreements, including month-to-month leases. However, there is no readily ascertainable enforcement mechanism. Long-term leases need to be recorded, and lessors need to pay the conveyance tax when they present their lease for recording. Short-term leases currently do not have to be recorded, so when do they pay the tax, and to whom?

Applying the conveyance tax to short-term leases is unlikely to result in a large amount of tax per transaction. If, for example, a tenant signs a one-year lease for an apartment with a monthly rent of \$1000, we calculate the conveyance tax due at about \$25. A month-to-month lease with the same monthly rent would result in a monthly conveyance tax of about \$2. It is tough to see this as worth the incremental administrative costs the measure would entail.

It should also be noted that the amendment suggested by this bill may have an unintended consequence. The bill deletes the words “including (where appropriate) those cases where the lease has been extended or amended.” Those words authorize application of the tax to commercial lease extensions and rent renegotiations, both common occurrences. If this bill is to move forward, the words quoted above should be reinstated.

Digested 2/1/2019

February 6, 2019

The Honorable Donovan Dela Cruz, Chair
Senate Committee on Ways and Means
State Capitol, Room 423
Honolulu, Hawaii 96813

RE: S.B. 395 Relating to Conveyance Tax

HEARING: Wednesday February 6, 2019, at 10:00 a.m.

Aloha Chair Dela Cruz, Vice Chair Keith-Agaran, and Members of the Committee,

I am Ken Hiraki Government Affairs Director, testifying 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** Senate Bill 395 which repeals the exemption from conveyance tax for realty leases of less than 5 years.

This measure proposes to apply the Conveyance Tax to all leases or subleases regardless of length of the lease. Additionally, the conveyance tax rate would be based on the cash value of the lease rentals discounted to present day value and capitalized at a rate of 6%. As most Residential Rental Agreements (leases) are typically less than a year, this measure would apply the Conveyance Tax every time a residential property is leased.

Property Value:	Current Rate per \$100:	Conveyance Tax Due:
\$600,000	\$0.15	\$900
\$1,000,000	\$0.25	\$2,500
\$2,000,000	\$0.60	\$12,000
\$6,000,000	\$0.85	\$51,000
\$10,000,000	\$1.10	\$110,000
\$10,000,001	\$1.25	\$125,000

According to the United States Census data, 41.48% of householders are renters. In a report by the Harvard Joint Center for Housing Studies, Hawai'i is one of the highest cost-burdened states for renters. 50.8% of Hawai'i residents are cost-burdened, where the household pays more than 30% of income for housing, including utilities. 27.1% of renters are severely cost-burdened, where the household pays more than 50% of their income in rent.

This Conveyance Tax increase measure would add to the cost of rentals should it be passed down to the renter. Or it would discourage property owners from renting properties if they cannot afford to pay the upfront cost of the Conveyance Tax increase during the leasing process. With Hawai'i experiencing a lack of affordable rentals and housing, we should be working on solutions that adds to the pools of rental properties and look at solutions that reduces the cost and not add to it.