

JAN 27 2021

A BILL FOR AN ACT

RELATING TO DEPARTMENT OF TAXATION FEES.

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

1 SECTION 1. Section 243-3, Hawaii Revised Statutes, is
2 amended by amending subsection (d) to read as follows:

3 "(d) Permits to retail dealers shall be issued on an
4 annual basis and shall expire at the end of each calendar year.
5 ~~[A fee of \$5 shall be charged]~~ The department may adopt by rule
6 pursuant to chapter 91 a reasonable fee to be charged for each
7 permit or renewal thereof. Permits shall be numbered and each
8 certificate made by a retail dealer holding a permit shall bear
9 the same identifying number as the permit which the retail
10 dealer holds."

11 SECTION 2. Section 244D-2, Hawaii Revised Statutes, is
12 amended by amending subsections (b) and (c) to read as follows:

13 "(b) The liquor commission shall certify to the department
14 of taxation from time to time and within forty-eight hours after
15 such license is issued the name of every dealer, together with
16 the dealer's place of business and the period covered by the
17 dealer's license. The department thereupon shall issue its
18 permit to such person for the period covered by the person's

1 license [~~upon the payment of a permit fee of \$2.50.~~] and may
2 adopt by rule pursuant to chapter 91 a reasonable fee to be
3 charged to issue the permit. The permit shall be issued by the
4 department as of the date when the liquor commission issued the
5 license.

6 (c) Any permit issued under this chapter shall not be
7 assignable; it shall be conspicuously displayed on the licensed
8 premises of the permittee; it shall expire on June 30 next
9 succeeding the date upon which it is issued, unless sooner
10 suspended, surrendered, or revoked for cause by the department;
11 and it shall be renewed annually before July 1, upon fulfillment
12 of all requirements as in the case of an original permit and the
13 payment of [~~a renewal fee of \$2.50.~~] any reasonable fee adopted
14 by rule pursuant to chapter 91 to be charged to issue the
15 permit. Whenever a permit is defaced, destroyed, or lost, or
16 the licensed premises are relocated, the department may issue a
17 duplicate permit to the permittee [~~upon the payment of a fee of~~
18 ~~50 cents.~~], but may adopt by rule pursuant to chapter 91 a
19 reasonable fee to be charged for the duplicate and not to exceed
20 the fee required under subsection (b)."

21 SECTION 3. Section 245-2, Hawaii Revised Statutes, is
22 amended by amending subsection (b) to read as follows:

1 "(b) The license shall be issued by the department upon
2 application therefor, in such form and manner as shall be
3 required by rule of the department, [~~and the payment of a fee of~~
4 ~~\$2.50,~~] and shall be renewable annually on July 1 for the twelve
5 months ending the succeeding June 30. The department may adopt
6 by rule pursuant to chapter 91 a reasonable fee to be charged
7 for the permit."

8 SECTION 4. Section 245-2.5, Hawaii Revised Statutes, is
9 amended by amending subsection (c) to read as follows:

10 "(c) The retail tobacco permit shall be issued by the
11 department upon application by the retailer in the form and
12 manner prescribed by the department, and the [~~payment of a fee~~
13 ~~of \$20.~~] department may adopt by rule pursuant to chapter 91 a
14 reasonable fee to be charged for the permit. Permits shall be
15 valid for one year, from December 1 to November 30, and
16 renewable annually. Whenever a retail tobacco permit is
17 defaced, destroyed, or lost, or the permittee relocates the
18 permittee's business, the department may issue a duplicate
19 retail tobacco permit to the permittee [~~for a fee of \$5 per~~
20 ~~copy.~~], but may adopt by rule pursuant to chapter 91 a
21 reasonable fee to be charged for the duplicate and not to exceed
22 the fee required for the initial permit."

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

"§247-6 Certificate of conveyance required. (a) Any party, with the exception of governmental bodies, agencies, or officers, to a document or instrument subject to this chapter, or the party's authorized representative, shall file, in the manner and place which the director of taxation shall prescribe, a certificate of conveyance setting forth the actual and full consideration of the property transferred, including any lien or encumbrance on the property, and any other facts as the director may by rules prescribe. The certificate of conveyance shall be verified by a written declaration thereon that the statements made therein are subject to the penalties in section 231-36. The certificate shall be appended to the document or instrument made subject to this chapter and shall be filed with the director simultaneously with the aforementioned document or instrument for the imprinting of the required seal or seals.

(b) No certificate is required to be filed for any document or instrument made exempt by section 247-3, except that in the following situations, a certificate shall be filed in the manner and place that the director shall prescribe, within ninety days after the transaction or prior to the recordation or filing of the document or instrument with the registrar of

1 conveyances or the assistant registrar of the land court or
2 after the ninety-day period, recordation, or filing as the
3 director shall prescribe:

4 (1) For any document or instrument described under section
5 247-3(3), any party to the document or instrument
6 shall file a certificate declaring that the document
7 or instrument merely confirms or corrects a deed,
8 lease, sublease, assignment, transfer, or conveyance
9 previously recorded or filed.

10 (2) For any document or instrument described under section
11 247-3(4), any party to the document or instrument
12 shall file a certificate declaring the amount of the
13 nominal consideration paid and marital or parental
14 relationship of the parties.

15 (3) For any document or instrument described under section
16 247-3(5), any party to the document or instrument
17 shall file a certificate declaring the reasons why the
18 consideration is \$100 or less.

19 (4) For any document or instrument described in section
20 247-3(6), any party to the document or instrument
21 shall file a certificate declaring that the document
22 or instrument is made pursuant to an agreement of

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1 sale, and where applicable, an assignment or
2 assignments of agreements of sale.

3 (5) For any document or instrument described under section
4 247-3(8), any person made a party to the document or
5 instrument as grantee, assignee, or transferee shall
6 file a certificate declaring the full and actual
7 consideration of the property transferred.

8 (6) For any document or instrument described under section
9 247-3(11), any party to the document or instrument
10 shall file a certificate declaring each owner's:

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

13 (B) Proportionate interest and the value of that
14 interest after partition.

15 (7) For any document or instrument described under section
16 247-3(12), any party to the document or instrument
17 shall file a certificate declaring that the document
18 or instrument is made pursuant to an order of the
19 court and containing the court case number.

20 (8) For any document or instrument described under section
21 247-3(13), any party to the document or instrument
22 shall file a certificate declaring that the document

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1 or instrument conveys real property from a
2 testamentary trust to a trust beneficiary.

3 (9) For any document or instrument described under section
4 247-3(14), any party to the document or instrument
5 shall file a certificate declaring that the document
6 or instrument conveys real property from the grantor
7 to a grantor's revocable living trust or from a
8 grantor's revocable living trust to the grantor.

9 (c) The form of the certificate and the procedure to be
10 followed for the submission of the certificate shall be
11 prescribed by the director.

12 (d) Notwithstanding the foregoing, where the director
13 deems it impracticable to require the filing of a certificate or
14 certificates or to obtain the signatures of any or all parties
15 to a certificate or certificates required under this section,
16 the director may, in the director's discretion, waive the
17 requirement of filing the certificate or certificates or of
18 securing the signature of any or all parties to the certificate
19 or certificates.

20 (e) No document or instrument, on account of which a
21 certificate is required to be filed with the office of the
22 director under this section, shall be accepted for recordation
23 or filing with the registrar of conveyances or the assistant

1 registrar of the land court, unless the certificate has been
2 duly filed.

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

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

17 (g) The department may adopt by rule pursuant to chapter
18 91 a reasonable fee to be charged for providing an image of all
19 certificates of conveyances to any requester; provided that this
20 subsection shall not apply to the certificates of conveyance
21 provided to the county real property assessment divisions under
22 subsection (f)."

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1 SECTION 6. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 7. This Act shall take effect upon its approval;
4 provided that section 1 shall take effect on January 1, 2022,
5 sections 2 and 3 shall take effect on July 1, 2022, and section
6 4 shall take effect on December 1, 2022.

INTRODUCED BY: 

BY REQUEST

S.B. NO. 1200

Report Title:

Fees for Fuel Tax, Liquor Tax, Cigarette and Tobacco Tax, and Conveyance Tax

Description:

Changes the fees for permits and licenses issued under chapters 243, 244D, and 245, Hawaii Revised Statutes, from specified amounts to reasonable fees established by rule adopted by the Department of Taxation. Establishes authority to charge a reasonable fee for providing conveyance tax certificates provided to anyone other than the county real property assessment division by administrative rule.

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

JUSTIFICATION SHEET

DEPARTMENT: Taxation.

TITLE: A BILL FOR AN ACT RELATING TO DEPARTMENT OF TAXATION FEES.

PURPOSE: Change the fees for permits and licenses issued under chapters 243, 244D, and 245, HRS, from specified amounts to reasonable fees determined by administrative rule and provide authority to charge a reasonable fee for conveyance tax certificates provided to anyone other than the county real property assessment division by administrative rule.

MEANS: Amend sections 243-3(d), 244D-2(b) and (c), 245-2(b), 245-2.5(c), and 247-6, HRS.

JUSTIFICATION: The fees charged for issuance of permits and licenses under chapters 243, 244D, and 245, HRS, are not adequate to cover the cost of the service being provided to the taxpayers. This bill allows the Department of Taxation (Department) to increase these fees to reasonable amounts or to discontinue the fees entirely. This bill also allows the Department to charge a fee when providing images of all conveyance tax certificates filed except for images provided to the county real property assessment divisions.

Impact on the public: Persons seeking permits or licenses under chapter 243, 244D, or 245 may owe different fees. Persons seeking images of conveyance tax certificates must pay a reasonable fee to obtain the images.

Impact on the department and other agencies: The Department will not be required to collect and account for nominal fees and will be able to charge amounts that are reasonable compared to the service being provided.

GENERAL FUND: None.

OTHER FUNDS: None.

OTHER AFFECTED
AGENCIES: None.

EFFECTIVE DATE: Upon approval, provided that section 1 is
effective on January 1, 2022, sections 2 and
3 are effective on July 1, 2022, and section
4 is effective on December 1, 2022.