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ISAAC W. CHOY
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DEPARTMENT OF TAXATION
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To: The Honorable Stanley Chang, Chair;
The Honorable Dru Mamo Kanuha, Vice Chair;
and Members of the Senate Committee on Housing

From: Isaac W. Choy, Director
Department of Taxation

Date: Tuesday, February 8, 2022
Time: 1:00 P.M.
Place: Via Video Conference, State Capitol

Re: S.B. 2237, Relating to the Conveyance Tax

The Department of Taxation (Department) appreciates the intent of S.B. 2237 and offers the following comments for your consideration.

S.B. 2237 increases the rate of conveyance tax for condominiums and single-family residences that are ineligible for a county homeowner's exemption and have a value of at least \$2,000,000. It also exempts from the conveyance tax documents and instruments conveying real property subject to a government assistance program approved and certified by Hawaii Housing Finance and Development Corporation (HHFDC) and used for the provision of affordable housing for qualified persons in the State and eliminates the maximum dollar amount of conveyance tax revenues that are to be paid into the rental housing revolving fund each fiscal year. The measure is effective on approval.

The Department notes that it will need time to inform escrow companies and other interested parties of the change. This is especially important because under Hawaii Revised Statutes section 247-3, the person responsible for the tax is generally the transferor, grantor, lessor, sublessor, conveyor, or other person conveying the real property interest. This measure substantially raises the conveyance tax for properties valued at least \$2 million where the property is ineligible for a homeowner's exemption which the seller may not be aware of in negotiating a selling price for the property. As such, the Department respectfully requests that the effective date be made no earlier than January 1, 2023 to allow sufficient time to inform affected parties of the changes and to prepare the necessary forms and instructions to administer the changes proposed by this measure.

Thank you for the opportunity to provide testimony.

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 305

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: CONVEYANCE, Tax Hike

BILL NUMBER: SB 2237

INTRODUCED BY: CHANG, KEOHOKALOLE, LEE, RHOADS, Baker, Ihara, Keith-Agaran, San Buenaventura

EXECUTIVE SUMMARY: Increases the rate of conveyance tax for condominiums and single family residences ineligible for a county homeowner's exemption with a value of at least \$2,000,000. Exempts from the conveyance tax documents and instruments conveying real property subject to a government assistance program approved and certified by Hawaii Housing Finance and Development Corporation and used for the provision of affordable housing for qualified persons in the State. Removes maximum dollar amount of conveyance tax revenues that are to be paid into the rental housing revolving fund each fiscal year.

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

Amends section 247-3, HRS, to add an exemption for any document or instrument conveying real property for the development or acquisition of affordable housing for qualified persons and subject to a government assistance program approved and certified by the Hawaii housing finance and development corporation and administered or operated by the corporation, or any of its instrumentalities, corporate or otherwise.

Defines "Affordable housing" as in section 201H-57.

Defines "Qualified person" as an individual who has no ownership interest in any real property.

EFFECTIVE DATE: Upon approval.

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. Because 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.

This bill proposes to raise conveyance tax rates yet again, and in dramatic fashion once property values exceed a certain amount.

There are two points lawmakers may wish to consider. First, the proposed new brackets have discontinuities at the bracket break points, which means that if taxable income increases by \$1 at a break point, such as from \$9,999,999 to \$10,000,000, the increase in tax will be substantially more than \$1. In this example the tax would go from \$399,999.96 to \$500,000.00. Substantial discontinuities such as these may motivate behavior for taxpayers near a break point. This behavior might not be desirable from an economic standpoint. Consideration should be given to making the conveyance tax brackets more like the existing income tax brackets which do not have this problem.

Second, it should be kept in mind that a large dollar value transaction doesn't necessarily mean that a filthy rich person ripe for the fleecing is on one or the other end. A multi-unit condominium housing development, for example, easily could sell for an eight digit number.

Digested: 2/6/2022



AMERICANS FOR DEMOCRATIC ACTION

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P.O. Box 23404
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February 6, 2022

TO: Chair Chang & Members of HOU Committee

RE: SB2237 Relating to the Conveyance Tax

Support for hearing on February 8

Americans for Democratic Action is an organization founded in the 1950s by leading supporters of the New Deal and led by Patsy Mink in the 1970s. We are devoted to the promotion of progressive public policies.

We support this bill as it would increase the rate of conveyance tax for condominiums and single-family residences ineligible for a county homeowner's exemption with a value of at least \$2,000,000. It would also exempt from the conveyance tax documents and instruments conveying real property subject to a government assistance program approved and certified by Hawaii Housing Finance and Development Corporation and used for the provision of affordable housing for qualified persons in the State. We like the way this bill makes taxes more progressive and protects affordable housing projects.

Thank you for your favorable consideration.

Sincerely,

John Bickel, President



Hawaii
Children's Action Network Speaks!
Building a unified voice for Hawaii's children

Hawai'i Children's Action Network Speaks! is a nonpartisan 501c4 nonprofit committed to advocating for children and their families. Our core issues are safety, health, and education.

To: Senate Committee on Housing

Re: **SB 2237 - Relating to the Conveyance Tax**
Hawai'i State Capitol, Conference Room 225 & Videoconference
February 8, 2022, 1:00 PM

Dear Chair Chang, Vice Chair Kanuha, and committee members,

On behalf of Hawai'i Children's Action Network Speaks!, I write in SUPPORT of SB 2237 – relating to the conveyance tax. This bill would increase the rate of conveyance tax for certain residences worth at least \$2 million, but exempt conveyances subject to a program approved and certified by Hawaii Housing Finance and Development Corporation and used for the provision of affordable housing. It also would remove the cap on the amount of conveyance tax revenues that are to be paid into the rental housing revolving fund each fiscal year.

During the pandemic, residential real estate prices in Hawai'i have been skyrocketing to record highs over and over again. But current conveyance tax rates are only 0.50–1.25 percent on multi-million dollar properties. If the conveyance tax rate were raised on properties valued at \$2 million and above, as this bill would, that would generate millions of dollars in additional revenues per year.

In addition, **more than half of homes priced above \$2 million were sold to non-Hawai'i residents** between January 2019 and September 2020, according to the Bureau of Conveyances.

It is well known that Hawai'i's families are facing an affordable housing crisis. The rental housing revolving fund, which provides low-interest loans or grants for qualified affordable housing projects, can help to alleviate it.

However, the amount paid into the rental housing revolving fund annually from the conveyance tax has been capped at the lesser of 50 percent or \$38 million. If there had been no cap on the fund, it would have received millions more dollars per year over the past several years.

In other words, this bill has the potential to help increase the number of affordable rental units in our state. Hawai'i's families with children badly need them.

Mahalo the opportunity to provide this testimony. Please pass this bill.

Thank you,

Nicole Woo
Director, Research and Economic Policy

SB-2237

Submitted on: 2/7/2022 8:57:53 AM

Testimony for HOU on 2/8/2022 1:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Kevin Carney	Testifying for EAH Housing	Support	No

Comments:

Senator Chang, Chair, Senator Kanuha, Vice Chair and Members of the Senate Committee on Housing, I am Kevin Carney, Vice President of EAH Housing, a non-profit developer and manager of low-income rental housing, submitting testimony in SUPPORT of SB 2237 Relating to the Conveyance Tax (CT).

The CT is the primary source of funding for the Rental Housing Revolving Fund (RHRF), the principal source of "gap" funding for our low-income rental projects. Removing the cap of \$38 million imposed by the Legislature will allow the RHRF to receive the full 50% of the CT allocation. While this change may not result in a huge increase in funding, it will help to produce more affordable rentals.

In addition EAH supports the proposed exemption from the CT for affordable housing projects approved by HHFDC. The exemption will help to reduce the cost of producing low-income affordable rental housing.

Sincerely,

Kevin R. Carney, (PB) NAHP-E

EAH Housing, VP of Special Projects

808-523-8826

www.eahhousing.org

February 8, 2022

The Honorable Stanley Chang, Chair

Senate Committee on Housing

Via Videoconference

RE: Senate Bill 2237 Relating to the Conveyance Tax

HEARING: Tuesday, March 2, 2021, at 9:25 a.m.

Aloha Chair Chang, Vice Chair Kanuha, and Members of the Committee,

I am Ken Hiraki, Director of Government Affairs, testifying on behalf of the Hawai'i Association of REALTORS® ("HAR"), the voice of real estate in Hawai'i, and its over 10,800 members. HAR **strongly opposes** Senate Bill 2237, which increases the rate of conveyance tax for condominiums and single family residences ineligible for a county homeowner's exemption with a value of at least \$2,000,000. Exempts from the conveyance tax documents and instruments conveying real property subject to a government assistance program approved and certified by Hawaii Housing Finance and Development Corporation and used for the provision of affordable housing for qualified persons in the State. Removes maximum dollar amount of conveyance tax revenues that are to be paid into the rental housing revolving fund each fiscal year.

Under this measure, it proposes to drastically increase the Conveyance Tax for single-family and condominiums for which the purchaser is ineligible to qualify for a homeowner exemption. The following are the proposed rates:

Property Value:	Current Per \$100:	Proposed:	Current Rate (in Dollars):	Proposed (in Dollars) :
\$2 mil - \$3.99 mil	\$0.60	\$2.00	\$12,000 (\$2 mil property)	\$40,000
\$4 mil - \$5.99 mil	\$0.85	\$3.00	\$34,000 (\$4 mil property)	\$120,000
\$6 mil - \$9.99 mil	\$1.10	\$4.00	\$66,000 (\$6 mil property)	\$240,000
\$10 mil +	\$1.25	\$5.00	\$125,000 (\$10 mil property)	\$500,000

The Conveyance Tax was not intended as a revenue generating tax. It was designed to cover the administrative costs to assist the Department of Taxation in determining market value of properties transferred.

More importantly, it taxes the gross value of a sale even when there is no profit; worse yet if there is a loss, unlike capital gains which taxes only when a profit has been made. As such, real estate is now being taxed twice unlike other capital assets.

Furthermore, this impacts the development of housing. At a time where we need more housing to be built at all price points, a punitive tax of this level would discourage housing from being built or greatly add to the costs.

Mahalo for the opportunity to testify.

SB-2237

Submitted on: 2/8/2022 7:43:58 AM

Testimony for HOU on 2/8/2022 1:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Ellen Godbey Carson	Individual	Support	No

Comments:

Please support this bill. It can 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, 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 that creates our affordable housing problem? That requires low to moderate income people to pay much higher tax rates - 4% - 10% (excise for goods, services, dining and accommodations). Shouldn't people engaging in high-end property transactions pay a higher and fairer rate of taxation, at least comparable to our excise tax, to help address our state's financial and housing needs? This bill only targets properties valued at \$2million or above, where buyers and sellers have substantial means, and does not affect tax rates for transactions under \$2 million.

Thank you for your consideration and support of measures to address our state's fiscal needs and affordable housing crisis.