

JAN 20 2023

A BILL FOR AN ACT

RELATING TO THE CONVEYANCE TAX.

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

1 SECTION 1. The legislature finds that the present and
2 future health, happiness, and wellbeing of Hawaii's people
3 depends on the State's ability to address the high cost of
4 living, particularly the high cost of housing, which is fueling
5 the homelessness crisis and forcing local families to move out
6 of the State. The legislature further finds that the
7 sustainability of Hawaii's unique and irreplaceable natural
8 resources is critical to the quality of life in the State. To
9 address these problems and secure a prosperous future for our
10 keiki, the State must invest sufficient public resources from a
11 sustainable revenue source to reduce the cost of housing for
12 residents, preserve the State's natural resources, and provide
13 solutions for community members experiencing houselessness.

14 The legislature further finds that the conveyance tax,
15 which is a one-time tax at the time of sale, is an appropriate
16 revenue source for affordable housing, land conservation, and
17 homeless services. Although housing prices in the State have



1 risen dramatically over the past thirteen years, the State's
2 conveyance tax rates have not been updated since Act 59, Session
3 Laws of Hawaii 2009. Hawaii's current conveyance tax is also
4 much lower than the rates of other high-cost areas in the
5 country.

6 The legislature notes that most homes in the State that are
7 sold for over \$2,000,000 are purchased as investment properties.
8 Accordingly, it is appropriate for out-of-state investors of
9 real estate to assist in mitigating the impacts for Hawaii
10 residents who are not benefiting from the current market
11 dynamics. Modest increases in the conveyance tax for homes
12 under \$2,000,000 would have a minimal impact on any local buyer
13 since the conveyance tax is generally less than five per cent of
14 the seller's overall closing costs. A small 0.2 per cent
15 increase of the conveyance tax on a \$1,000,000 property in the
16 State is also unlikely to have any impact on the sale price
17 since the market price of homes is primarily driven by buyer
18 demand, not the closing costs of the transaction.

19 The legislature additionally finds that, due to the
20 critical need for affordable housing, land conservation, and
21 homeless services, the caps on allocations to the rental housing



1 revolving fund and land conservation fund should be removed and
2 ten per cent of funds should be dedicated to homeless services
3 and supportive housing. The legislature additionally finds that
4 previous legislation was introduced to dedicate fifty per cent
5 of the funds from the conveyance tax to the rental housing
6 revolving fund, which is the primary funding source for new low-
7 income rental housing. Although Act 84, Session Laws of Hawaii
8 2015, increased the percentage annually allocated from the
9 conveyance tax into the rental housing revolving fund from
10 twenty-five to fifty per cent, it also added a maximum cap of
11 \$38,000,000 per year, which has severely limited deposits into
12 the fund. For example, in 2022, the earnings from the
13 conveyance tax totaled \$188,000,000, of which fifty per cent
14 would be \$98,000,000. However, due to the cap, only \$38,000,000
15 was allocated to affordable housing.

16 Similarly, prior to the passage of Act 84, Session Laws of
17 Hawaii 2015, there was no maximum cap to the ten per cent of
18 revenues from the conveyance tax allocated to the legacy land
19 use conservation fund, which provides grants to community
20 organizations and government agencies to purchase and protect
21 land with exceptional and endangered resources. Accordingly, in



1 2022, ten per cent would have been \$18,800,000; however, due to
2 the current cap, only \$5,100,000 was allocated to land
3 conservation.

4 The legislature recognizes that the increases in housing
5 prices, residential rent, and the homeless population over the
6 past several years has accelerated the urgent need to
7 sustainably fund affordable housing and homeless services in
8 Hawaii. The 2022 point in time count estimates that there are
9 currently 5,973 individuals living unsheltered in the State, not
10 including the greater number of "hidden homeless" people
11 temporarily living with friends or relatives because they cannot
12 afford to live on their own. Investing in affordable housing
13 and homeless services, including supportive housing, is key to
14 addressing homelessness and ensuring that everyone in the State
15 has an affordable place to live.

16 Accordingly, the purpose of this Act is to:

- 17 (1) Establish the homeless services fund;
- 18 (2) Increase the conveyance tax rates;
- 19 (3) Exempt the conveyance tax on property with a
20 restriction on increasing the rental price or resale



1 price above any increase in the consumer price index

2 for at least thirty years;

3 (4) Remove the maximum disposition caps of the conveyance
4 tax allocated to the rental housing revolving fund and
5 legacy land use conservation fund; and

6 (5) Allocate ten per cent of the conveyance tax for
7 homeless services and supportive housing.

8 SECTION 2. Chapter 346, Hawaii Revised Statutes, is
9 amended by adding a new section to be appropriately designated
10 and to read as follows:

11 "§346- Homeless services fund. (a) There is
12 established within the state treasury a homeless services fund,
13 into which shall be deposited:

14 (1) Ten per cent of the conveyance tax collected and
15 allocated to the homeless services fund as provided by
16 section 247-7; and

17 (2) Appropriations made by the legislature to the fund.

18 (b) Moneys from any other private or public source may be
19 deposited in or credited to the fund; provided that mandates,
20 regulations, or conditions on these funds do not conflict with
21 the use of the fund under this section. Moneys received as a



1 deposit or private contribution shall be deposited, used, and
2 accounted for in accordance with the conditions established by
3 the agency or person making the contribution.

4 (c) The homeless services fund shall be administered and
5 managed by the department. Moneys in the homeless services fund
6 shall be expended for homeless services and supportive housing,
7 including homeless facilities programs for the homeless
8 authorized by the department.

9 (d) The department shall submit an annual report to the
10 legislature no later than twenty days prior to the convening of
11 each regular session. The report shall include at a minimum
12 detailing all funds received and all moneys disbursed out of the
13 homeless services fund."

14 SECTION 3. Section 247-2, Hawaii Revised Statutes, is
15 amended to read as follows:

16 **"§247-2 Basis and rate of tax.** The tax imposed by section
17 247-1 shall be based on the actual and full consideration
18 (whether cash or otherwise, including any promise, act,
19 forbearance, property interest, value, gain, advantage, benefit,
20 or profit), paid or to be paid for all transfers or conveyance
21 of realty or any interest therein, that shall include any liens



1 or encumbrances thereon at the time of sale, lease, sublease,
2 assignment, transfer, or conveyance, and shall be at the
3 following rates:

4 (1) Except as provided in paragraph (2):

5 (A) [~~Ten~~] Fifty cents per \$100 for properties with a
6 value of less than [~~\$600,000,~~

7 ~~(B) Twenty cents per \$100 for properties with a value~~
8 ~~of at least \$600,000, but less than \$1,000,000,~~

9 ~~(C) Thirty cents per \$100 for properties with a value~~
10 ~~of at least \$1,000,000, but less than]~~
11 \$2,000,000;

12 [~~(D) Fifty cents]~~ (B) \$2 per \$100 for properties with
13 a value of at least \$2,000,000, but less than
14 \$4,000,000;

15 [~~(E) Seventy cents]~~ (C) \$4 per \$100 for properties
16 with a value of at least \$4,000,000, but less
17 than \$6,000,000;

18 [~~(F) Ninety cents]~~ (D) \$5 per \$100 for properties
19 with a value of at least \$6,000,000, but less
20 than \$10,000,000; and



- 1 ~~[-(G) One dollar]~~ (E) \$6 per \$100 for properties with
2 a value of \$10,000,000 or greater; and
- 3 (2) For the sale of a condominium or single family
4 residence for which the purchaser is ineligible for a
5 county homeowner's exemption on property tax:
- 6 (A) ~~[Fifteen]~~ Fifty-five cents per \$100 for
7 properties with a value of less than ~~[\$600,000;~~
8 ~~-(B) Twenty five cents per \$100 for properties with a~~
9 ~~value of at least \$600,000, but less than~~
10 ~~\$1,000,000;~~
- 11 ~~-(C) Forty cents per \$100 for properties with a value~~
12 ~~of at least \$1,000,000, but less than]~~
13 ~~\$2,000,000;~~
- 14 ~~[-(D) Sixty cents]~~ (B) \$2 per \$100 for properties with
15 a value of at least \$2,000,000, but less than
16 \$4,000,000;
- 17 ~~[-(E) Eighty five cents]~~ (C) \$4 per \$100 for
18 properties with a value of at least \$4,000,000,
19 but less than \$6,000,000;



1 [~~(F) One dollar and ten cents~~] (D) \$5 per \$100 for
 2 properties with a value of at least \$6,000,000,
 3 but less than \$10,000,000; and

4 [~~(G) One dollar and twenty five cents~~] (E) \$6 per
 5 \$100 for properties with a value of \$10,000,000
 6 or greater,

7 of [~~such~~] the actual and full consideration; provided that in
 8 the case of a lease or sublease, this chapter shall apply only
 9 to a lease or sublease whose full unexpired term is for a period
 10 of five years or more, and in those cases, including (where
 11 appropriate) those cases where the lease has been extended or
 12 amended, the tax in this chapter shall be based on the cash
 13 value of the lease rentals discounted to present day value and
 14 capitalized at the rate of six per cent, plus the actual and
 15 full consideration paid or to be paid for any and all
 16 improvements, if any, that shall include on-site as well as off-
 17 site improvements, applicable to the leased premises; and
 18 provided further that the tax imposed for each transaction shall
 19 be not less than \$1."

20 SECTION 4. Section 247-3, Hawaii Revised Statutes, is
 21 amended to read as follows:



1 "§247-3 Exemptions. The tax imposed by section 247-1

2 shall not apply to:

3 (1) Any document or instrument that is executed prior to
4 January 1, 1967;

5 (2) Any document or instrument that is given to secure a
6 debt or obligation;

7 (3) Any document or instrument that only confirms or
8 corrects a deed, lease, sublease, assignment,
9 transfer, or conveyance previously recorded or filed;

10 (4) Any document or instrument between husband and wife,
11 reciprocal beneficiaries, or parent and child, in
12 which only a nominal consideration is paid;

13 (5) Any document or instrument in which there is a
14 consideration of \$100 or less paid or to be paid;

15 (6) Any document or instrument conveying real property
16 that is executed pursuant to an agreement of sale, and
17 where applicable, any assignment of the agreement of
18 sale, or assignments thereof; provided that the taxes
19 under this chapter have been fully paid upon the
20 agreement of sale, and where applicable, upon [~~such~~]
21 the assignment or assignments of agreements of sale;



- 1 (7) Any deed, lease, sublease, assignment of lease,
2 agreement of sale, assignment of agreement of sale,
3 instrument or writing in which the United States or
4 any agency or instrumentality thereof or the State or
5 any agency, instrumentality, or governmental or
6 political subdivision thereof are the only parties
7 thereto;
- 8 (8) Any document or instrument executed pursuant to a tax
9 sale conducted by the United States or any agency or
10 instrumentality thereof or the State or any agency,
11 instrumentality, or governmental or political
12 subdivision thereof for delinquent taxes or
13 assessments;
- 14 (9) Any document or instrument conveying real property to
15 the United States or any agency or instrumentality
16 thereof or the State or any agency, instrumentality,
17 or governmental or political subdivision thereof
18 pursuant to the threat of the exercise or the exercise
19 of the power of eminent domain;
- 20 (10) Any document or instrument that solely conveys or
21 grants an easement or easements;



- 1 (11) Any document or instrument whereby owners partition
2 their property, whether by mutual agreement or
3 judicial action; provided that the value of each
4 owner's interest in the property after partition is
5 equal in value to that owner's interest before
6 partition;
- 7 (12) Any document or instrument between marital partners or
8 reciprocal beneficiaries who are parties to a divorce
9 action or termination of reciprocal beneficiary
10 relationship that is executed pursuant to an order of
11 the court in the divorce action or termination of
12 reciprocal beneficiary relationship;
- 13 (13) Any document or instrument conveying real property
14 from a testamentary trust to a beneficiary under the
15 trust;
- 16 (14) Any document or instrument conveying real property
17 from a grantor to the grantor's revocable living
18 trust, or from a grantor's revocable living trust to
19 the grantor as beneficiary of the trust;
- 20 (15) Any document or instrument conveying real property, or
21 any interest therein, from an entity that is a party



1 to a merger or consolidation under chapter 414, 414D,
2 415A, 421, 421C, 425, 425E, or 428 to the surviving or
3 new entity;

4 (16) Any document or instrument conveying real property, or
5 any interest therein, from a dissolving limited
6 partnership to its corporate general partner that
7 owns, directly or indirectly, at least a ninety per
8 cent interest in the partnership, determined by
9 applying section 318 (with respect to constructive
10 ownership of stock) of the federal Internal Revenue
11 Code of 1986, as amended, to the constructive
12 ownership of interests in the partnership; ~~and~~

13 ~~+~~ (17) ~~+~~ Any document or instrument that conforms to the
14 transfer on death deed as authorized under chapter
15 527 ~~-~~; and

16 (18) Any document or instrument conveying real property
17 that has a land use regulatory agreement or
18 restrictive covenant that restricts the rental price
19 or resale price from increasing above any increase in
20 the consumer price index for a minimum of thirty years
21 beyond the conveyance date."



1 SECTION 5. Section 247-7, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§247-7 Disposition of taxes.** All taxes collected under
4 this chapter shall be paid into the state treasury to the credit
5 of the general fund of the State, to be used and expended for
6 the purposes for which the general fund was created and exists
7 by law; provided that of the taxes collected each fiscal year:

8 (1) Ten per cent [~~or \$5,100,000, whichever is less,~~] shall
9 be paid into the land conservation fund established
10 pursuant to section 173A-5; [~~and~~]

11 (2) Fifty per cent [~~or \$38,000,000, whichever is less,~~]
12 shall be paid into the rental housing revolving fund
13 established by section 201H-202[-]; and

14 (3) Ten per cent shall be paid into the homeless services
15 fund established pursuant to section 346- ."

16 SECTION 6. This Act does not affect rights and duties that
17 matured, penalties that were incurred, and proceedings that were
18 begun before its effective date.

19 SECTION 7. Statutory material to be repealed is bracketed
20 and stricken. New statutory material is underscored.



S.B. NO. 678

1 SECTION 8. This Act shall take effect on July 1, 2023;
2 provided that sections 3, 4, and 5 of this Act shall apply to
3 taxable years beginning after December 31, 2023.

4

INTRODUCED BY _____

A large, stylized handwritten signature in black ink, written over a horizontal line. The signature is highly cursive and difficult to decipher.

S.B. NO. 678

Report Title:

Conveyance Tax; Exemptions; Rental Housing Revolving Fund; Land Conservation Fund; Homeless Services Fund

Description:

Increases the conveyance tax rates. Exempt the conveyance tax on property with a restriction on increasing the rental price or resale price above any increase in the consumer price index for at least thirty years. Removes the maximum disposition caps of the conveyance tax allocated to the Rental Housing Revolving Fund and Legacy Land Use Conservation Fund. Allocates ten per cent of the conveyance tax for homeless services and supportive housing. Creates the Homeless Services Fund.

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

