

JOSH GREEN M.D.
GOVERNOR

SYLVIA LUKE
LT. GOVERNOR



STATE OF HAWAII
DEPARTMENT OF TAXATION

Ka 'Oihana 'Auhau
P.O. BOX 259

HONOLULU, HAWAII 96809
PHONE NO: (808) 587-1540
FAX NO: (808) 587-1560

GARY S. SUGANUMA
DIRECTOR

KRISTEN M.R. SAKAMOTO
DEPUTY DIRECTOR

**TESTIMONY OF
GARY S. SUGANUMA, DIRECTOR OF TAXATION**

TESTIMONY ON THE FOLLOWING MEASURE:

S.B. No. 1033, S.D. 1, Relating to Taxation.

BEFORE THE:

Senate Committees on Ways and Means, and Judiciary

DATE: Wednesday, February 26, 2025

TIME: 10:05 a.m.

LOCATION: State Capitol, Room 211

Chairs Dela Cruz and Rhoads, Vice-Chairs Moriwaki and Gabbard, and Members of the Committees:

The Department of Taxation (DOTAX) offers the following comments regarding S.B. 1033, S.D. 1, for your consideration.

S.B. 1033, S.D. 1, adds a new chapter to title 14, Hawaii Revised Statutes (HRS), establishing an excise tax on “applicable taxpayers” (including partnerships, corporations, and trusts) that manage funds pooled from investors and hold large real estate portfolios. It imposes an excise tax on the acquisition of newly acquired single-family residences (SFRs) and additional penalties for holding excess properties. Funds collected from this new tax will be allocated to a newly established fund to be administered by the Hawai'i Housing Finance and Development Corporation.

S.B. 1033, S.D. 1, defines several key terms as follows:

- “Applicable taxpayer”: An entity managing pooled funds and with \$50 million or more in assets, except for tax-exempt organizations described in Internal Revenue Code section 501(c)(3) organizations and organizations primarily engaged in the construction or rehabilitation of SFRs.

- “Disqualified sale”: A sale of a SFR to a business or individual who already owns a SFR.
- “Single-family residence”: A residential property with one to four dwelling units, excluding certain foreclosures, a principal residence of a person with an ownership interest in the applicable taxpayer, or federally funded.

This measure imposes a 50% excise tax on any SFR acquired by applicable taxpayers.

In addition, this measure imposes a \$50,000 per SFR tax on taxpayers owning more than the maximum permissible number of units at the end of a taxable year. The maximum permissible units is based on the number of SFRs owned by an applicable taxpayer on the applicable date of the measure. The limit decreases over a ten-year period starting at 90% of the SFRs owned at the applicable date and finishing at zero.

Taxpayers must report the acquisition dates of properties and certify if buyers of their properties own other residences. A \$20,000 penalty applies for failure to comply with reporting requirements. Furthermore, buyers of single-family residences must certify that the sale is not a disqualified sale.

This bill has a defective effective date of July 1, 2050 and applies to taxable years beginning after December 31, 2026.

This measure creates a new tax type, distinct from existing income, general excise, property, and conveyance taxes. DOTAX is required to publish a new form for calculating the tax owed “not later than [180] days after the effective date of the” measure.

DOTAX faces significant challenges in verifying key components of this new tax. First, identifying applicable taxpayers with available existing data and filings is not possible. Current income and conveyance tax filings do not require taxpayers to disclose whether they manage funds pooled from investors or are one of the specified “asset classes” mentioned on page 2 of the bill. DOTAX would need to impose new information reporting requirements and make extensive changes to its systems to administer the proposed tax.

Second, the measure would necessitate new reporting requirements for every SFR real estate transaction in the state. As written, all SFR buyers would need to provide multiple certifications or representations, which presumably would be submitted and processed by DOTAX. To ensure compliance, DOTAX would essentially need to track

sales and ownership of SFRs to specific taxpayers. This would be a significant departure from DOTAX's current data priorities, which focus on the reporting of income and gross receipts, not ownership of property.

Third, the measure would also require DOTAX to track companies' net asset values throughout the year since applicable taxpayers are those who have more than \$50,000,000 or more in net value or assets under management on any day during the taxable year.

DOTAX estimates that the tax provisions in the bill will result in no material revenue impact.

Thank you for the opportunity to provide comments on this measure.

TAX FOUNDATION OF HAWAII

735 Bishop Street, Suite 417

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: MISCELLANEOUS; New Excise Tax on Investment Funds Owning or Acquiring Residences, Housing Downpayment Trust Fund

BILL NUMBER: SB 1033 SD 1

INTRODUCED BY: Senate Committee on Housing

EXECUTIVE SUMMARY: Establishes an excise tax on certain taxpayers who own excess single-family residences for failure to sell those residences. Establishes and allocates excise tax revenues to the Housing Downpayment Trust Fund.

SYNOPSIS: Adds a new chapter to title 14, HRS, to impose an excise tax on certain taxpayers failing to sell excess single-family residences.

The chapter defines an “applicable taxpayer,” at which the tax is directed, as a taxpayer that:

- (1) Manages funds pooled from investors and is a fiduciary with respect to those investors;
- (2) Is an asset manager in any of the following asset classes:
 - (A) Public equity or fixed-income securities;
 - (B) A hedge fund;
 - (C) A fund of hedge funds;
 - (D) Private equity (including venture capital);
 - (E) A fund of private equity funds;
 - (F) A real estate investment fund;
 - (G) A fund of real estate funds; or
 - (H) Any other asset class for which an applicable fiduciary-controlled entity engages external asset managers; and
- (3) That has \$50,000,000 or more in net value or assets under management on any day during the taxable year.

The following taxes are imposed: (a) 50% of the fair market value of any single-family residence newly acquired by an applicable taxpayer, and (b) \$50,000 per applicable single-family residence over the permitted limit, which decreases over time.

Taxes are deposited into the Housing Downpayment Trust Fund newly established by the bill.

Adds a new section to chapter 201H, HRS, to establish the Housing Downpayment Trust Fund. The money is to be used to establish new or supplement existing programs that provide downpayment assistance to families purchasing homes within the State. The corporation shall give priority to families seeking assistance to purchase any single-family residence that is sold or transferred by an applicable taxpayer

EFFECTIVE DATE: July 1, 2050; applies to taxable years beginning after December 31, 2026.

STAFF COMMENTS: Essentially, this bill, after being phased in, bans an applicable taxpayer from buying or retaining single-family residences upon pain of paying a punitive excise tax. We question whether it is consistent with Article I, section 2 of the Hawaii Constitution which states, "All persons are free by nature and are equal in their inherent and inalienable rights. Among these rights are the enjoyment of life, liberty and the pursuit of happiness, and the acquiring and possessing of property."

Although the bill by its terms applies to entities and not necessarily individuals, it should be borne in mind that individuals, as owners, managers, employees, or investors, are behind each entity.

We also note that the new special fund proposed to be established by this bill does not appear to be self-sustaining, and thus does not meet the criteria established for special funds in section 37-52.3, HRS.

Digested: 2/24/25

SB-1033-SD-1

Submitted on: 2/21/2025 7:26:07 PM

Testimony for WAM on 2/26/2025 10:05:00 AM

Submitted By	Organization	Testifier Position	Testify
Marlies Lee	Individual	Oppose	Written Testimony Only

Comments:

I oppose restricting our way of providing for our families.

Article 1, section 2 of the Hawaii Constitution which states, “All persons are free by nature and are equal in their inherent inalienable rights. Among these rights are the enjoyment of life, liberty, and the pursuit of happiness and the acquiring and the possession of property”.

I OPPOSE SB1033!

Marlies Lee

SB-1033-SD-1

Submitted on: 2/21/2025 7:55:27 PM

Testimony for WAM on 2/26/2025 10:05:00 AM

Submitted By	Organization	Testifier Position	Testify
James K. Rzonca	Individual	Oppose	Written Testimony Only

Comments:

This is one of the most ridiculous, unconstitutional bills. Totally apposed to this bill. This is the state trying its best to steal properties from locals, properties that have been in the family for generations. Pilau politicians supporting this need to go

SB-1033-SD-1

Submitted on: 2/22/2025 8:46:50 AM

Testimony for WAM on 2/26/2025 10:05:00 AM

Submitted By	Organization	Testifier Position	Testify
Cheryl Rzonca	Individual	Oppose	Written Testimony Only

Comments:

I oppose this bill. The City already heard from the people on this subject, yet you still try to repackage it and shove it down our throats. Any way you look at it, it is unconstitutional, bottom line. We work hard to be able to buy houses /property here in Hawaii. What we do with it is none of the government's business. My family houses other family members but you're planning to charge us outrages fees to do that and yet cry that Hawaii has a homeless problem. Leave our Constitutional rights alone! Kill this bill and stop trying to bleed money from local homeowners.

SB-1033-SD-1

Submitted on: 2/22/2025 12:14:34 PM

Testimony for WAM on 2/26/2025 10:05:00 AM

Submitted By	Organization	Testifier Position	Testify
Paul Littleton	Individual	Oppose	Written Testimony Only

Comments:

I oppose SB1033.

SB-1033-SD-1

Submitted on: 2/22/2025 7:46:53 PM

Testimony for WAM on 2/26/2025 10:05:00 AM

Submitted By	Organization	Testifier Position	Testify
Denise Pronesti	Individual	Oppose	Written Testimony Only

Comments:

I strongly oppose SB1033 SD1. As a taxpayer, I respectfully voice my dissenting opinion and feel this proposed bill is highly unconstitutional. Residents of the beautiful state should not be taxed excessively if they own a second home. It is discriminatory! Many multi-generational and ohana homes are on this island. Also proposing to tax 2nd homeowners \$50K a year if the second house is paid off is also grossly excessive, especially if the owner is elderly. Many cannot afford their property tax as it is. Those who rent their 2nd home, already pay GET and pay tax on that tax! Also, this move will backfire as many folks rent to Section 8 individuals who will be displaced and not have a suitable place to live. These folks also cannot afford to purchase the home as down payments, house prices, and interest rates are sky-high. Insurance rates have more than doubled residing in a hurricane and tsunami-prone state. What will happen???... I surmise there will be more of an exodus from this state. Local folks are always considering moving to Las Vegas, Utah, or Washington State, which are more affordable. Everyone who scrapped, saved, and invested in real estate will be penalized and priced out of paradise. Is that what legislators really want? Penalizing your constituents? Forcing them to sell or be taxed to death to give up their assets. I would like to retire in Hawaii. A rental house is part of my retirement plan; it has been rented to the same family for 7 years. I am concerned for them as well as I see their kids growing up and attending good schools, living in a safe neighborhood. If folks don't want to sell, exorbitant taxes, will affect rental markets, which will also just go up higher as well. I strongly oppose SB1033. Respectfully Submitted, Denise Pronesti

SB-1033-SD-1

Submitted on: 2/23/2025 9:47:57 AM

Testimony for WAM on 2/26/2025 10:05:00 AM

Submitted By	Organization	Testifier Position	Testify
Ryan Willis	Individual	Oppose	Written Testimony Only

Comments:

I Strongly Oppose

SB-1033-SD-1

Submitted on: 2/23/2025 11:13:50 AM

Testimony for WAM on 2/26/2025 10:05:00 AM

Submitted By	Organization	Testifier Position	Testify
Candace Vizcarra	Individual	Oppose	Written Testimony Only

Comments:

Stop with the UNCONSTITUTIONAL OVERREACH OF BAD POLICIES!! GOD SEES AND KNOWS ALL!!

SB-1033-SD-1

Submitted on: 2/24/2025 11:46:50 AM

Testimony for WAM on 2/26/2025 10:05:00 AM

Submitted By	Organization	Testifier Position	Testify
Deirdre Madrid	Individual	Oppose	Written Testimony Only

Comments:

This bill infringes our inherent, inalienable rights: enjoyment of life, liberty, and the pursuit of happiness and the acquiring and the possession of property.

SB-1033-SD-1

Submitted on: 2/24/2025 1:44:43 PM

Testimony for WAM on 2/26/2025 10:05:00 AM

Submitted By	Organization	Testifier Position	Testify
Sarah Wing	Individual	Oppose	Written Testimony Only

Comments:

I oppose this bill. It is consistent with Article 1, section 2 of the Hawaii Constitution which states, "All persons are free by nature and are equal in their inherent inalienable rights. Among these rights are the enjoyment of life, liberty, and the pursuit of happiness and the acquiring and the possession of property".

SB-1033-SD-1

Submitted on: 2/24/2025 9:22:55 PM

Testimony for WAM on 2/26/2025 10:05:00 AM

Submitted By	Organization	Testifier Position	Testify
gary cordery	Testifying for Aloha Freedom Coalition	Oppose	Written Testimony Only

Comments:

This bill is an outrage, it violates the fundamental tenets of the Constitution.

Property rights are a mainstay of individual liberty.

This bill, imposing a tax on a second property is unconstitutional, many families buy a second property to assist their Keiki getting started or, parents moving near for long term care.

Why should government assume any right to the hard earned resources of people who have worked and planned for their retirement.

This bill is simply communism at it core and must be rejected.

Finally, I will be working tirelessly to ensure Chris Lee never gets elected again.

SB-1033-SD-1

Submitted on: 2/25/2025 10:00:28 AM

Testimony for WAM on 2/26/2025 10:05:00 AM

Submitted By	Organization	Testifier Position	Testify
Larry Duclayan	Individual	Oppose	Written Testimony Only

Comments:

Aloha,

I am writing to respectfully oppose Senate Bill 1033 (SD1), which proposes an excise tax on certain taxpayers who own "excess" single-family residences and fail to sell them, with the intent to fund a housing downpayment trust fund. While I recognize the pressing need to address Hawaii's housing crisis, I believe SB1033 is unconstitutional, economically harmful, and counterproductive to achieving sustainable housing solutions.

1. **Unconstitutionality and Violation of Property Rights**

SB1033 directly contravenes Article 1, Section 2 of the Hawaii Constitution, which guarantees all persons the inalienable rights to life, liberty, the pursuit of happiness, and the acquisition and possession of property. Imposing a punitive 50% excise tax—or a flat \$50,000 tax—on individuals who retain second single-family residences effectively punishes lawful property ownership and restricts personal freedom. As noted by the Tax Foundation of Hawaii, this bill could be interpreted as a de facto ban on owning multiple residences, undermining the constitutional protections that safeguard property rights. Such an overreach sets a dangerous precedent for government intrusion into private property decisions.

2. **Economic and Social Impacts on Local Families**

Many Hawaii residents rely on second properties for critical economic and familial purposes. As highlighted in public testimony during the failed "Empty Homes Tax" proposal at the Honolulu City Council, second homes often provide rental income for local families, house extended family members, or serve as retirement or emergency housing. A tax of this magnitude—50% of a property's value or \$50,000—would place an unbearable financial burden on these families, potentially forcing sales at distressed prices and exacerbating economic instability. This policy would disproportionately harm middle- and working-class residents who are already struggling with Hawaii's high cost of living, rather than addressing the root causes of the housing shortage.

3. **Ineffectiveness in Addressing Housing Affordability**

While the goal of funding a housing downpayment trust fund is laudable, SB1033 fails to address the structural barriers to housing supply in Hawaii, such as restrictive zoning, permitting delays, and land use policies. As noted in recent analyses (e.g., Hawaii Business Magazine), inclusionary zoning and other affordable housing policies have had mixed results, often reducing overall housing production due to developer reluctance. Punishing property owners with excessive taxes is unlikely to increase housing

availability and could deter investment in Hawaii's real estate market, further stifling economic growth. Instead, the state should focus on streamlining development, incentivizing construction, and supporting innovative housing solutions like accessory dwelling units (ADUs) and transit-oriented development.

4. Lack of Special Fund Compliance

The Tax Foundation of Hawaii's staff comments correctly point out that the proposed special fund for housing downpayments does not appear to meet the criteria established under Section 37-52.3, Hawaii Revised Statutes, for special funds. This raises additional concerns about the bill's legal and fiscal integrity, potentially leading to wasteful spending or legal challenges that could drain state resources.

5. Alternative Approaches

Rather than imposing punitive taxes on property owners, I urge the Legislature to explore policies that encourage housing production without infringing on constitutional rights. These could include public-private partnerships, tax incentives for affordable housing development, and reforms to land use and zoning regulations. Hawaii's housing crisis requires thoughtful, collaborative solutions—not policies that alienate residents and undermine property rights.

In conclusion, I strongly oppose SB1033 due to its unconstitutional nature, harmful economic impacts, and questionable effectiveness in addressing Hawaii's housing challenges. I respectfully request that this committee reject this bill and consider alternative strategies that balance housing affordability with the protection of individual rights and economic stability.

Mahalo for the opportunity to provide testimony. I am available to answer any questions or provide further input.

Respectfully,

Larry Duclayan