

ACT 5

S. B. 48.

A Bill for an Act Relating to Taxation.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. This Act is hereby declared to be an urgency measure deemed necessary in the public interest within the meaning of section 11 of Article III of the Constitution of the State of Hawaii.

The following is a statement of facts constituting such urgency:

In the 1966 budget session, the legislature enacted the Conveyance Tax

Law which took effect for the first time on January 1, 1967. In the 1967 general session, the legislature made changes to the Conveyance Tax Law. It is apparent at this time that additional changes in the Conveyance Tax Law are necessary. It is urgent and in the public interest that changes in the Conveyance Tax Law be made at the earliest possible opportunity to alleviate present problems of administering said law and to avoid any possible inconvenience to the public.

SECTION 2. Section 128A-1, Revised Laws of Hawaii 1955, as amended, is hereby amended to read as follows:

“§ 128A-1. **Imposition of tax.** There is hereby imposed and shall be levied, collected, and paid, a tax as hereinafter provided, on all transfers or conveyances of realty or any interest therein, by way of deeds, leases, subleases, assignments of lease, agreements of sale, assignments of agreement of sale, instruments, writings, and any other document, whereby any lands, interests in land, tenements, or other realty sold shall be granted, assigned, transferred, or otherwise conveyed to, or vested in, the purchaser or purchasers, lessee or lessees, sublessee or sublessees, assignee or assignees, or any other person or persons, by his, her, or their direction.”

SECTION 3. Section 128A-2, Revised Laws of Hawaii 1955, as amended, is hereby amended to read as follows:

“§ 128A-2. **Basis and rate of tax.** The tax herein shall be based on the actual and full consideration paid or to be paid, which shall include any liens or encumbrances thereon at the time of sale, lease, sublease, assignment, transfer, or conveyance, and shall be at the rate of five cents (\$.05) per one hundred dollars (\$100.00) of such actual and full consideration; provided, however, that in the case of a lease or sublease, the provisions of this chapter shall apply only to a lease or sublease whose full unexpired term is for a period in excess of ten (10) years, and in those cases, including (where appropriate) those cases where the lease has been extended or amended, the tax herein shall be based on the cash value of the lease rentals discounted to present day value and capitalized at the rate of 6 per cent, plus the actual and full consideration paid or to be paid for any and all improvements, if any, which shall include on site as well as off site improvements, applicable to the leased premises; and provided further, that the tax imposed for each transaction shall be not less than \$1.”

SECTION 4. Subsection 128A-3(a), Revised Laws of Hawaii 1955, as amended, is hereby amended to read as follows:

“(a) Any document or instrument which is executed prior to January 1, 1967.”

SECTION 5. Subsection 128A-3(e), Revised Laws of Hawaii 1955, as amended, is hereby amended to read as follows:

“(e) Any document or instrument in which there is a consideration of \$100.00 or less paid or to be paid.”

SECTION 6. Subsection 128A-3(f), Revised Laws of Hawaii 1955, as amended, is hereby amended by substituting the words "document or instrument" for the word "deed" appearing in the first line thereof.

SECTION 7. Subsection 128A-3(g), Revised Laws of Hawaii 1955, as amended, is hereby amended to read as follows:

"(g) Any deed, lease, sublease, assignment of lease, agreement of sale, assignment of agreement of sale, instrument or writing in which the United States or any agency or instrumentality thereof or the State of Hawaii or any agency, instrumentality, or governmental or political subdivision thereof are the only parties thereto."

SECTION 8. Section 128A-3, Revised Laws of Hawaii 1955, as amended, is hereby amended by adding thereto a new subsection, to be designated as subsection (j), and to read as follows:

"(j) Any document or instrument which solely conveys or grants an easement or easements."

SECTION 9. Subsection 128A-4(b), Revised Laws of Hawaii 1955, as amended, is hereby amended to read as follows:

"(b) The tax imposed by this chapter shall be paid at such place or places as the director of taxation may direct and shall be due and payable no later than ninety days after the taxable transaction, and in any event prior to the imprinting of the seal or seals as provided by section 128A-5. Penalties and interest shall be added to and become a part of the tax, when and as provided by section 115-43."

SECTION 10. Section 128A-5, Revised Laws of Hawaii 1955, as amended, is hereby amended by amending the second sentence thereof, to read as follows:

"The seal or seals shall be so imprinted upon the payment of the tax, together with the appropriate penalty and interest where applicable, and, in any event, prior to the recordation or filing of the document or instrument with the registrar of conveyances or the assistant registrar of the land court."

SECTION 11. Subsection 128A-6(a), Revised Laws of Hawaii 1955, as amended, is hereby amended by inserting thereto the following between the words "party" and "to" appearing in the first sentence thereof, to read as follows:

"with the exception of governmental bodies, agencies, or officers,"

SECTION 12. Subsection 128A-6(b) (3), Revised Laws of Hawaii 1955, as amended, is hereby amended to read as follows:

"(3) In the case of any document or instrument described under subsection 128A-3(e), any party to such document or instrument shall file a certificate declaring the reasons why the consideration is \$100.00 or less."

SECTION 13. Subsection 128A-6(b) (4), Revised Laws of Hawaii

1955, as amended, is hereby amended by substituting the words "document or instrument" for the word "deed" wherever it appears thereof.

SECTION 14. Section 128A-6, Revised Laws of Hawaii 1955, as amended, is hereby amended by deleting therefrom subsection (b) (5), and re-designating subsection (b) (6) to read as subsection (b) (5).

SECTION 15. Subsection 128-A 6(d), Revised Laws of Hawaii 1955, as amended, is hereby amended to read as follows:

"(d) Notwithstanding the foregoing, where the director of taxation deems it impracticable to require the filing of a certificate or certificates or to obtain the signatures of any or all parties to a certificate or certificates required under this section, he may, in his discretion, waive the requirement of filing the certificate or certificates or of securing the signature of any or all parties to the certificate or certificates."

SECTION 16. Material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material or the underscoring.*

SECTION 17. This Act, upon its approval, shall be effective as of January 1, 1969.

(Approved April 9, 1968.)

* Edited accordingly.