

JAN 24 2024

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 well-being 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, that is fueling
5 the homelessness crisis and forcing local families to move out
6 of the State. The sustainability of the State's unique and
7 irreplaceable natural resources is critical to quality of life.
8 To address these problems and secure a prosperous future for the
9 State's keiki, greater investment into public resources from a
10 sustainable revenue source is needed to reduce the cost of
11 housing for residents, preserve the State's natural resources,
12 and provide solutions for community members experiencing
13 houselessness.

14 The legislature also finds that the conveyance tax, a one-
15 time tax at the time of real property sales, 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. Presently, the State's conveyance tax is
4 significantly lower than the rates of other high-cost areas in
5 the country.

6 The legislature notes that almost all homes in the State
7 that are sold for over \$2,000,000 are purchased as investment
8 properties, not as homes for full-time residents. Accordingly,
9 it is appropriate for out-of-state investors of real estate to
10 assist in mitigating the impacts for residents who are not
11 benefiting from the current market dynamics. Renters, houseless
12 residents, and the local workforce are struggling with the
13 rising cost of housing, thus a tax on real estate at the time of
14 sale to help mitigate those costs is appropriate and fair.

15 Cities across the country are increasing their conveyance
16 tax rates to fund affordable housing. San Francisco increased
17 the tax rate to 5.5 per cent on homes valued over \$10 million in
18 2020, and two years ago, Los Angeles increased the real property
19 transfer tax to 4.5 per cent on any residential or commercial
20 property over \$5 million in value and six per cent on property
21 sales over \$10 million in value. Smaller cities with high



1 housing costs are also increasing the taxes on real estate sales
2 to mitigate the impacts of housing costs. Crested Butte and
3 Telluride in Colorado that attract wealthy buyers due to access
4 to world class ski opportunities, have a tax of three per cent
5 on home sales regardless of price. Aspen, Colorado, which has
6 the most well-developed workforce housing program in the country
7 where almost forty per cent of the housing total housing stock
8 is reserved as permanently affordable housing for full-time
9 residents, has largely funded their workforce housing program
10 through a 1.5 per cent tax on property sales that has been in
11 place since 1989.

12 Presently, it is common practice to tax property sales as a
13 means to mitigate the impacts of high home costs and the loss of
14 land due to housing development. Furthermore, a conveyance tax
15 of 0.5 per cent on homes valued at less than \$2,000,000, a rate
16 of four per cent on homes valued between \$2,000,000 and \$10
17 million, and six per cent on homes valued at over \$10 million
18 conforms to tax rates that other cities are assessing to fund
19 their various housing programs.

20 The legislature additionally finds that increases in tax
21 rates of homes over \$2,000,000 is unlikely to have any negative



1 impact on local full-time residents as the vast majority of
2 buyers who purchase these homes do so as an investment and not
3 as their full-time residence. The monthly mortgage costs of a
4 \$2,000,000 home are approximately \$13,000 a month, which is
5 unaffordable for a majority of the State's residents working in
6 the local economy. An individual or a couple would need to be
7 earning over \$300,000 a year to afford a \$2,000,000 home and
8 residents at this income bracket can most likely afford a four
9 per cent tax on the purchase of the home.

10 The legislature recognizes that the increases in housing
11 prices, residential rent, and the homeless population over the
12 past several years has accelerated the urgent need to
13 sustainably fund affordable housing and homeless services in
14 Hawaii. The 2023 point in time count estimates that there are
15 currently 6,223 individuals living unsheltered in the State, not
16 including the greater number of "hidden homeless" individuals
17 temporarily living with friends or relatives because they cannot
18 afford to live on their own. Investing in affordable housing
19 and homeless services, including supportive housing, is key to
20 addressing homelessness and ensuring that everyone in the State
21 has an affordable place to live.



- 1 Accordingly, the purpose of this Act is to:
- 2 (1) Establish the Homeless Services Fund;
- 3 (2) Amend the conveyance tax rates based on property
- 4 values;
- 5 (3) Repeal the conveyance tax rates set separately for
- 6 conveyances for which the purchasers are ineligible
- 7 for a county homeowner's exemption on property tax;
- 8 (4) Exempt from conveyance taxes, conveyances of real
- 9 property to organizations with certain affordability
- 10 requirements and to certain nonprofit organizations;
- 11 (5) Allow collected conveyance taxes to be allocated to
- 12 the affordable homeownership revolving fund and
- 13 homeless services fund, and amend the allocations to
- 14 the land conservation fund and rental housing
- 15 revolving fund; and
- 16 (6) Allow counties to apply for matching funds from the
- 17 affordable homeownership revolving fund for housing
- 18 projects that are subject to a perpetual affordability
- 19 requirement.



1 SECTION 2. Chapter 356D, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§356D- Homeless services fund. (a) There is
5 established within the state treasury a homeless services fund,
6 into which shall be deposited:

7 (1) Ten per cent of the conveyance tax collected and
8 allocated to the homeless services fund pursuant to
9 section 247-7; and

10 (2) Appropriations made by the legislature.

11 (b) Moneys from any other private or public source may be
12 deposited in or credited to the fund; provided that mandates,
13 regulations, or conditions on these funds do not conflict with
14 the use of the fund under this section. Moneys received as a
15 deposit or private contribution shall be deposited, used, and
16 accounted for in accordance with the conditions established by
17 the agency or person making the contribution.

18 (c) The homeless services fund shall be administered and
19 managed by the authority. Moneys in the homeless services fund
20 shall be expended for homeless services and supportive housing,



1 including homeless facilities programs for the homeless
2 authorized by the authority.

3 (d) The authority shall submit a report to the legislature
4 no later than twenty days prior to the convening of each regular
5 session, providing an accounting of the fund. The report shall
6 include, at minimum:

- 7 (1) A detailed account of all funds received; and
- 8 (2) All moneys expended from the homeless services fund."

9 SECTION 3. Section 201H-206, Hawaii Revised Statutes, is
10 amended by amending subsection (d) to read as follows:

11 "(d) The fund may include [~~sums~~]:

- 12 (1) Sums appropriated by the legislature [~~, private~~];
- 13 (2) Private contributions [~~, proceeds~~];
- 14 (3) Proceeds from repayment of loans [~~, interest~~];
- 15 (4) Interests and other returns [~~]~~;
- 16 (5) Conveyance taxes collected under chapter 247 and
17 allocated to the affordable homeownership revolving
18 fund pursuant to the percentage identified in section
19 247-7. Counties may be eligible to apply for matching
20 funds from the fund; provided that the counties shall



1 have an approved comprehensive affordable housing plan

2 that:

3 (A) Consulted with at least one per cent of their
4 full-time resident population;

5 (B) Identifies available lands for affordable
6 housing;

7 (C) Identifies infrastructure needs and availability;
8 and

9 (D) Requires housing projects developed using moneys
10 from the fund to be subject to an affordability
11 clause that keeps the property affordable in
12 perpetuity, also known as a "deed-restricted
13 property";

14 provided further that costs for the development of or
15 an update to an existing county comprehensive
16 affordable housing plan may, upon application, be paid
17 out of these funds; and [~~moneys~~]

18 (6) Moneys from other sources."

19 SECTION 4. Section 247-2, Hawaii Revised Statutes, is
20 amended to read as follows:



1 "**§247-2 Basis and rate of tax.** The tax imposed by section
2 247-1 shall be based on the actual and full consideration
3 (whether cash or otherwise, including any promise, act,
4 forbearance, property interest, value, gain, advantage, benefit,
5 or profit), paid or to be paid for all transfers or conveyance
6 of realty or any interest therein, that shall include any liens
7 or encumbrances thereon at the time of sale, lease, sublease,
8 assignment, transfer, or conveyance, and shall be at the
9 following rates:

- 10 ~~[(1) Except as provided in paragraph (2):~~
- 11 ~~(A) Ten cents per \$100 for properties with a value of~~
12 ~~less than \$600,000;~~
- 13 ~~(B) Twenty cents per \$100 for properties with a value~~
14 ~~of at least \$600,000, but less than \$1,000,000;~~
- 15 ~~(C) Thirty cents per \$100 for properties with a value~~
16 ~~of at least \$1,000,000, but less than \$2,000,000;~~
- 17 ~~(D) Fifty cents per \$100 for properties with a value~~
18 ~~of at least \$2,000,000, but less than \$4,000,000;~~
- 19 ~~(E) Seventy cents per \$100 for properties with a~~
20 ~~value of at least \$4,000,000, but less than~~
21 ~~\$6,000,000;~~



- 1 ~~(F) Ninety cents per \$100 for properties with a value~~
- 2 ~~of at least \$6,000,000, but less than~~
- 3 ~~\$10,000,000; and~~
- 4 ~~(G) One dollar per \$100 for properties with a value~~
- 5 ~~of \$10,000,000 or greater; and~~
- 6 ~~(2) For the sale of a condominium or single family~~
- 7 ~~residence for which the purchaser is ineligible for a~~
- 8 ~~county homeowner's exemption on property tax:~~
- 9 ~~(A) Fifteen cents per \$100 for properties with a~~
- 10 ~~value of less than \$600,000;~~
- 11 ~~(B) Twenty five cents per \$100 for properties with a~~
- 12 ~~value of at least \$600,000, but less than~~
- 13 ~~\$1,000,000;~~
- 14 ~~(C) Forty cents per \$100 for properties with a value~~
- 15 ~~of at least \$1,000,000, but less than \$2,000,000;~~
- 16 ~~(D) Sixty cents per \$100 for properties with a value~~
- 17 ~~of at least \$2,000,000, but less than \$4,000,000;~~
- 18 ~~(E) Eighty five cents per \$100 for properties with a~~
- 19 ~~value of at least \$4,000,000, but less than~~
- 20 ~~\$6,000,000;~~



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

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

7 (1) Fifty cents per \$100 for properties with a value of
8 less than \$2,000,000;

9 (2) Four dollars per \$100 for properties with a value of
10 at least \$2,000,000, but less than \$10,000,000; and

11 (3) Six dollars per \$100 for properties with a value of
12 \$10,000,000 or greater,

13 of [~~such~~] the actual and full consideration; provided that in
14 the case of a lease or sublease, this chapter shall apply only
15 to a lease or sublease whose full unexpired term is for a period
16 of five years or more[, ~~and in those cases, including (where~~
17 ~~appropriate) those cases where the~~]; provided further that, if a
18 lease has been extended or amended, the tax in this chapter
19 shall be based on the cash value of the lease rentals discounted
20 to present day value and capitalized at the rate of six per
21 cent, plus the actual and full consideration paid or to be paid



1 for any and all improvements, if any, that shall include on-site
2 as well as off-site improvements, applicable to the leased
3 premises; and provided further that the tax imposed for each
4 transaction shall be not less than \$1."

5 SECTION 5. Section 247-3, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "§247-3 Exemptions. The tax imposed by section 247-1
8 shall not apply to:

- 9 (1) Any document or instrument that is executed prior to
10 January 1, 1967;
- 11 (2) Any document or instrument that is given to secure a
12 debt or obligation;
- 13 (3) Any document or instrument that only confirms or
14 corrects a deed, lease, sublease, assignment,
15 transfer, or conveyance previously recorded or filed;
- 16 (4) Any document or instrument between husband and wife,
17 reciprocal beneficiaries, or parent and child, in
18 which only a nominal consideration is paid;
- 19 (5) Any document or instrument in which there is a
20 consideration of \$100 or less paid or to be paid;



- 1 (6) Any document or instrument conveying real property
2 that is executed pursuant to an agreement of sale, and
3 where applicable, any assignment of the agreement of
4 sale, or assignments thereof; provided that the taxes
5 under this chapter have been fully paid upon the
6 agreement of sale, and where applicable, upon such
7 assignment or assignments of agreements of sale;
- 8 (7) Any deed, lease, sublease, assignment of lease,
9 agreement of sale, assignment of agreement of sale,
10 instrument or writing in which the United States or
11 any agency or instrumentality thereof or the State or
12 any agency, instrumentality, or governmental or
13 political subdivision thereof are the only parties
14 thereto;
- 15 (8) Any document or instrument executed pursuant to a tax
16 sale conducted by the United States or any agency or
17 instrumentality thereof or the State or any agency,
18 instrumentality, or governmental or political
19 subdivision thereof for delinquent taxes or
20 assessments;



1 (9) Any document or instrument conveying real property to
2 the United States or any agency or instrumentality
3 thereof or the State or any agency, instrumentality,
4 or governmental or political subdivision thereof
5 pursuant to the threat of the exercise or the exercise
6 of the power of eminent domain;

7 (10) Any document or instrument that solely conveys or
8 grants an easement or easements;

9 (11) Any document or instrument whereby owners partition
10 their property, whether by mutual agreement or
11 judicial action; provided that the value of each
12 owner's interest in the property after partition is
13 equal in value to that owner's interest before
14 partition;

15 (12) Any document or instrument between marital partners or
16 reciprocal beneficiaries who are parties to a divorce
17 action or termination of reciprocal beneficiary
18 relationship that is executed pursuant to an order of
19 the court in the divorce action or termination of
20 reciprocal beneficiary relationship;



1 (13) Any document or instrument conveying real property
2 from a testamentary trust to a beneficiary under the
3 trust;

4 (14) Any document or instrument conveying real property
5 from a grantor to the grantor's revocable living
6 trust, or from a grantor's revocable living trust to
7 the grantor as beneficiary of the trust;

8 (15) Any document or instrument conveying real property, or
9 any interest therein, from an entity that is a party
10 to a merger or consolidation under chapter 414, 414D,
11 415A, 421, 421C, 425, 425E, or 428 to the surviving or
12 new entity;

13 (16) Any document or instrument conveying real property, or
14 any interest therein, from a dissolving limited
15 partnership to its corporate general partner that
16 owns, directly or indirectly, at least a ninety per
17 cent interest in the partnership, determined by
18 applying section 318 (with respect to constructive
19 ownership of stock) of the federal Internal Revenue
20 Code of 1986, as amended, to the constructive
21 ownership of interests in the partnership; [and]



1 [+] (17) [+] Any document or instrument that conforms to the
2 transfer on death deed as authorized under chapter
3 527 [-] ;

4 (18) Any document or instrument conveying real property to
5 an organization that has a minimum of thirty years
6 remaining of a price-restricted affordability period,
7 or places a deed restriction on the property to
8 maintain permanent affordability; and

9 (19) Any document or instrument conveying real property to
10 a nonprofit organization that:

11 (A) Is exempt from federal income tax by the Internal
12 Revenue Services; and

13 (B) Will hold the property in an undeveloped state
14 and for conservation purposes in perpetuity
15 through a deed restriction on the property."

16 SECTION 6. Section 247-7, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "§247-7 **Disposition of taxes.** All taxes collected under
19 this chapter shall be paid into the state treasury to the credit
20 of the general fund of the State, to be used and expended for



1 the purposes for which the general fund was created and exists
2 by law; provided that of the taxes collected each fiscal year:

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

6 (2) [~~Fifty per cent or \$38,000,000, whichever is less,~~]
7 Twenty-five per cent shall be paid into the rental
8 housing revolving fund established by section 201H-
9 202 [-] i

10 (3) Twenty-five per cent shall be paid into the affordable
11 homeownership revolving fund established pursuant to
12 section 201H-206; and

13 (4) Ten per cent shall be paid into the homeless services
14 fund established pursuant to section 356D- ."

15 SECTION 7. Statutory material to be repealed is bracketed
16 and stricken. New statutory material is underscored.

17 SECTION 8. This Act shall take effect upon its approval.

18

INTRODUCED BY: _____



S.B. NO. 3005

Report Title:

Hawaii Public Housing Authority; Conveyance Tax; Rates; Exemption; Allocation; Homeless Services Fund; Affordable Homeownership Revolving Fund; Land Conservation Fund; Rental Housing Revolving Fund; Affordable Housing; Development; Affordability Requirements

Description:

Establishes the Homeless Services Fund. Amends the conveyance tax rates based on property values. Repeals the conveyance tax rates set separately for conveyances for which the purchasers are ineligible for a county homeowner's exemption on property tax. Exempts from conveyance taxes, conveyances of real property to organizations with certain affordability requirements and to certain nonprofit organizations. Allows collected conveyance taxes to be allocated to the Affordable Homeownership Revolving Fund and Homeless Services Fund and amends the allocations to the Land Conservation Fund and Rental Housing Revolving Fund. Allows counties to apply for matching funds from the Affordable Homeownership Revolving Fund for housing projects that are subject to a perpetual affordability requirement.

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