

GOV. MSG. NO. 675

EXECUTIVE CHAMBERS

HONOLULU

LINDA LINGLE
GOVERNOR

May 7, 2009

The Honorable Colleen Hanabusa, President
and Members of the Senate
Twenty-Fifth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

I am transmitting herewith HB1741 HD1 SD1 CD1, without my approval, and with the statement of objections relating to the measure.

HB1741 HD1 SD1 CD1

A BILL FOR AN ACT
RELATING TO THE CONVEYANCE TAX.

Sincerely,



LINDA LINGLE

EXECUTIVE CHAMBERS

HONOLULU

May 7, 2009

STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 1741

Honorable Members
Twenty-Fifth Legislature
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, House Bill No. 1741, entitled "A Bill for an Act Relating to the Conveyance Tax."

The purpose of House Bill No. 1741 is to increase the rate of the conveyance tax on all transfers or conveyances of properties with a value of \$1,000,000 or more. This bill also reduces from July 1, 2009 to June 30, 2012, the distribution of conveyance tax moneys into the Rental Housing Trust Fund and the Natural Area Reserve Fund.

This bill is objectionable because it would discourage investments, adversely impact land transactions to promote business and housing development, and further slow our economic recovery by extracting money out of the pockets of families and businesses.

In the first quarter of 2009, sales of single family homes were down 35 percent compared to the first quarter of 2008. March 2009 was the 9th consecutive month of double-digit increases in Hawaii's foreclosure rate. Reversing these trends cannot be achieved by adding to the tax burden. Economic recovery depends on encouraging capital investment, yet this bill does the opposite.

Although there is the perception that only the wealthy will be impacted by this bill, the reality is this bill increases the conveyance tax by over 230 percent on purchases of commercial, industrial, and agricultural properties.

STATEMENT OF OBJECTIONS
HOUSE BILL NO. 1741
Page 2

Legislators fail to recognize that the sale or purchase of non-residential property means properties are being conveyed that will provide space for a business, house the production of goods or services for consumers, and provide a site for employment of our residents.

What is equally unfortunate is the conveyance tax increase will also adversely impact affordable housing projects and non-profit organizations, including churches, schools, and youth organizations. For example, an affordable housing project like Kukui Gardens on Oahu, which sold for \$72 million, would pay \$504,000 or over half a million dollars more in conveyance taxes if this bill became law.

Even religious or non-profit organizations that are recipients of donated property would have to pay the higher conveyance tax rates on the property donation. Further, kamaaina landowners who are transferring larger properties for agricultural farms, housing development, and environmental programs would also be adversely impacted, if not discouraged, from doing the right thing when they are faced with tax payments 230 percent higher than current levels.

Whether it is the non-residential property that will house a business producing goods and services for consumers or a charity providing much-needed services in the community, this conveyance tax increase ultimately impacts everyone.

For the foregoing reasons, I am returning House Bill No. 1741 without my approval.

Respectfully,


LINDA LINGLE
Governor of Hawaii

A BILL FOR AN ACT

RELATING TO THE CONVEYANCE TAX.

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

SECTION 1. The purpose of this Act is to:

(1) Temporarily reduce the distribution of portions of the conveyance tax to the rental housing trust fund and the natural area reserve fund; and

(2) Increase the rate of the conveyance tax on transfers or conveyances of properties of \$2,000,000 or more and second house purchases.

SECTION 2. Section 173A-5, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

"(d) ~~[Ten per cent]~~ The appropriate percentage identified under section 247-7 of all taxes imposed and collected ~~[by section 247-1]~~ under chapter 247 shall be deposited in or credited to the fund every fiscal year."

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

"**§247-2 Basis and rate of tax.** The tax imposed by section 247-1 shall be based on the actual and full consideration (whether cash or otherwise, including any promise, act,



1 forbearance, property interest, value, gain, advantage, benefit,
2 or profit), paid or to be paid for all transfers or conveyance
3 of realty or any interest therein, that shall include any liens
4 or encumbrances thereon at the time of sale, lease, sublease,
5 assignment, transfer, or conveyance, and shall be at the
6 following rates:

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

8 (A) Ten cents per \$100 for properties with a value of
9 less than \$600,000;

10 (B) Twenty cents per \$100 for properties with a value
11 of at least \$600,000, but less than \$1,000,000;
12 [and]

13 (C) Thirty cents per \$100 for properties with a value
14 of at least \$1,000,000 [~~or greater; and~~], but
15 less than \$2,000,000;

16 (D) Fifty cents per \$100 for properties with a value
17 of at least \$2,000,000, but less than \$4,000,000;

18 (E) Seventy cents per \$100 for properties with a
19 value of at least \$4,000,000, but less than
20 \$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; ~~[and]~~

14 (C) ~~[Thirty-five]~~ Forty cents per \$100 for properties
15 with a value of at least \$1,000,000 ~~[or greater]~~,
16 but less than \$2,000,000;

17 (D) Sixty cents per \$100 for properties with a value
18 of at least \$2,000,000, but less than \$4,000,000;

19 (E) Eighty-five cents per \$100 for properties with a
20 value of at least \$4,000,000, but less than
21 \$6,000,000;



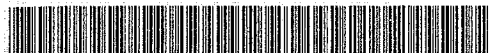
1 (F) One dollar and ten cents per \$100 for properties
2 with a value of at least \$6,000,000, but less
3 than \$10,000,000; and

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

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

19 SECTION 4. Section 247-7, Hawaii Revised Statutes, is
20 amended to read as follows:

21 "**§247-7 Disposition of taxes.** All taxes collected under
22 this chapter shall be paid into the state treasury to the credit



1 of the general fund of the State, to be used and expended for
2 the purposes for which the general fund was created and exists
3 by law; provided that of the taxes collected each fiscal year:

4 (1) Ten per cent shall be paid into the land conservation
5 fund established pursuant to section 173A-5;

6 (2) ~~[Thirty]~~ Twenty-five per cent from July 1, 2009, until
7 June 30, 2012, and thirty per cent in each fiscal year
8 thereafter shall be paid into the rental housing trust
9 fund established by section 201H-202; and

10 (3) ~~[Twenty-five]~~ Twenty per cent from July 1, 2009, until
11 June 30, 2012, and twenty-five per cent in each fiscal
12 year thereafter shall be paid into the natural area
13 reserve fund established by section 195-9; provided
14 that the funds paid into the natural area reserve fund
15 shall be annually disbursed by the department of land
16 and natural resources in the following priority:

17 (A) To natural area partnership and forest
18 stewardship programs after joint consultation
19 with the forest stewardship committee and the
20 natural area reserves system commission;

21 (B) Projects undertaken in accordance with watershed
22 management plans pursuant to section 171-58 or



1 watershed management plans negotiated with
2 private landowners, and management of the natural
3 area reserves system pursuant to section 195-3;
4 and

5 (C) The youth conservation corps established under
6 chapter 193."

7 SECTION 5. Statutory material to be repealed is bracketed
8 and stricken. New statutory material is underscored.

9 SECTION 6. This Act shall take effect on July 1, 2009.

