

LINDA LINGLE
GOVERNOR

JAMES R. AIONA, JR.
LT. GOVERNOR



KURT KAWAFUCHI
DIRECTOR OF TAXATION

STANLEY SHIRAKI
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF TAXATION
P.O. BOX 259
HONOLULU, HAWAII 96809

PHONE NO: (808) 587-1510
FAX NO: (808) 587-1560

**HOUSE COMMITTEE ON WATER, LAND & OCEAN RESOURCES
TESTIMONY REGARDING HB 1953
RELATING TO TAXATION**

*****WRITTEN TESTIMONY ONLY*****

TESTIFIER: KURT KAWAFUCHI, DIRECTOR OF TAXATION (OR DESIGNEE)

DATE: JANUARY 29, 2010

TIME: 9AM

ROOM: 325

This measure proposes to subject transfers of real property to the general excise tax where sold by a person in business.

The Department of Taxation (Department) opposes this measure as a tax increase.

THIS BILL WILL DRIVE UP THE COST OF PROPERTY—The Department opposes tax increases as a general matter. The Department is concerned with this measure specifically because the net effect of assessing the general excise tax on property transfers is simply to increase the cost of the property. In a state with some of the highest real property prices, the Department cannot support a measure that only makes prices higher.

REVENUE IMPACT—A 1% GET on real property sales will result in a revenue gain of \$16.5 million.

TAXBILLSERVICE

126 Queen Street, Suite 304

TAX FOUNDATION OF HAWAII

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: GENERAL EXCISE, Additional imposition on certain real property sales

BILL NUMBER: HB 1953

INTRODUCED BY: Say

BRIEF SUMMARY: Adds a new section to HRS chapter 237 to provide for the imposition of a general excise tax of 1% on the gross proceeds received from the sale of fee simple real property owned and sold by a sole proprietorship, partnership, corporation, or limited liability entity in the business of selling real property. Provides that: (1) commissions paid to the real estate broker or sales person subject to HRS section 237-13(6); and (2) conveyance taxes paid on the real property shall be deducted from the gross proceeds of sales. Casual sales of real property shall be exempt from this imposition. This additional tax shall be repealed on June 30, 2015 and shall not be reenacted after June 30, 2015.

Amends HRS section 237-1 to amend the definition of "casual sale" to include and define "real property." Makes conforming amendments to HRS chapter 237-3.

Stipulates that revenues generated from this act shall be expended for the improvement or expansion of infrastructure necessary to accommodate land development and population growth resulting from land use plans and policies approved by pertinent government agencies. For the purposes of this section, appropriates for fiscal 2011:

- (1) \$ _____ in general funds to the department of transportation;
- (2) \$ _____ in general funds as a grant-in-aid to the city and county of Honolulu for infrastructure projects;
- (3) \$ _____ in general funds as a grant-in-aid to the county of Maui for infrastructure projects;
- (4) \$ _____ in general funds as a grant-in-aid to the county of Hawaii for infrastructure projects;
- (5) \$ _____ in general funds as a grant-in-aid to the county of Kauai for infrastructure projects;
- (6) \$ _____ in general funds to the drinking water treatment revolving fund; \$ _____ out of the drinking water treatment revolving fund to award grants or loans authorized by HRS section 340E-35;
- (7) \$ _____ in general funds to the water pollution control revolving fund; \$ _____ out of the water pollution control revolving fund to awards grants or loans authorized by HRS section 342D-83.

This act shall be repealed on June 30, 2015 and HRS section 237-1, 237-3(a) and (b) shall be reenacted in the form in which they read on the day prior to the effective date of this act.

EFFECTIVE DATE: July 1, 2010

STAFF COMMENTS: This measure proposes to impose a 1% general excise tax on the gross proceeds of a business selling real property owned by the business to generate revenue to fund infrastructure projects necessary to accommodate land development and population growth. While the measure proposes to impose an additional general excise tax on certain sales of real property to generate funds for infrastructure, it should be noted that since the amount of the tax is a percentage of the gross proceeds from the sale, the amount realized from its imposition will fluctuate depending on the number of real property units sold and the value of the property sold. If real property sales plummet, so will revenues making this funding mechanism an unreliable source of revenues for the desired purposes. In addition, if the revenues generated under this measure are insufficient to fund the various programs, there is no doubt that the 1% may be increased to generate sufficient revenues.

If it is deemed that infrastructure projects are necessary to accommodate land development and population growth, a direct appropriation of funds would be preferable to the proposed general excise tax on certain real property sales. In addition, if this measure is adopted, it may open the door for other general excise tax impositions and additional rates which may result in a convoluted general excise tax system.

Finally, it should be noted that any additional cost incurred by a business, such as proposed by this measure, will, no doubt, be passed onto prospective purchasers of the real property. Inasmuch as this bill probably is aimed at large land owners and/or developers, the cost of the tax will exacerbate what is already a very expensive market for real estate. Though the tax is proposed to be for temporary period expiring in 2015, because the added tax has been imposed, every subsequent purchaser of that real property will have to pay the cost of the additional one percent imposed during this period. On the "median priced" house sold by a developer, the additional cost is \$6,000. That is in addition to that particular house's share of the tax imposed on the land owner who has sold the land under the entire development. So much for attacking the problem of affordable housing in Hawaii.

Digested 1/28/10



**Hawai'i
Association of
REALTORS®**
www.hawaiiirealtors.com

The REALTOR® Building
1136 12th Avenue, Suite 220
Honolulu, Hawaii 96816

Phone: (808) 733-7060
Fax: (808) 737-4977
Neighbor Islands: (888) 737-9070
Email: har@hawaiiirealtors.com

January 28, 2010

The Honorable Ken Ito, Chair
House Committee on Water, Land & Ocean Resources
State Capitol, Room 325
Honolulu, Hawaii 96813

RE: H.B. 1953 Relating to Taxation

HEARING: Friday, January 29, 2010 at 9:00 a.m.

Aloha Chair Ito, Vice Chair Har and Members of the Committee:

I am Craig Hirai, a member of the Subcommittee on Taxation and Finance, here to testify on behalf of the Hawai'i Association of REALTORS® ("HAR"), the voice of real estate in Hawai'i, and its 8,800 members in Hawai'i. HAR strongly opposes H.B. 1953 which imposes the General Excise Tax at the rate of 1% on the gross proceeds from certain real property sales, less a deduction for real estate salespersons' commissions and Conveyance Tax paid on the sale. The bill appropriates the revenues generated for state programs and projects to accommodate land development and population growth resulting from land use plans and policies.

HAR believes that while funding for infrastructure improvements and expansion have value, HAR strongly opposes imposing what is the functional equivalent of a 626% increase (\$2,816 ÷ \$450) in the Conveyance Tax on the sale of a \$300,000 condominium which the seller had held as an investment and which is subject to the Conveyance Tax at the rate of 0.15% under HRS §247-2.

Selling Price	\$300,000
Approximate Real Estate Commission @ 6%	(18,000)
Conveyance Tax @ 0.15%	(450)
	<u>\$281,550</u>
GET @ 1%	\$2,816

HAR would also note that the GET imposed under this bill is a cost to the seller which will most likely be passed on to home buyers, including first time home buyers. This cost would be in addition to a down payment and closing costs for an appraisal, title insurance, survey, recording costs, points on the mortgage, and attorney's fees.

During these tough economic times, this measure will exacerbate the already high cost of living and affordability of housing in Hawai'i.

HAR looks forward to working with our state lawmakers in building better communities by supporting quality growth, seeking sustainable economies and housing opportunities, embracing the cultural and environmental qualities we cherish, and protecting the rights of property owners.

Mahalo for the opportunity to testify.

REALTOR® is a registered collective membership mark which may be used only by real estate professionals who are members of the NATIONAL ASSOCIATION OF REALTORS® and subscribe to its strict Code of Ethics.

