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STATE OF HAWAII
DEPARTMENT OF TAXATION

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To: The Honorable Tom Brower, Chair
and Members of the House Committee on Housing

Date: Tuesday, March 20, 2018
Time: 10:00 A.M.
Place: Conference Room 423, State Capitol

From: Linda Chu Takayama, Director
Department of Taxation

Re: S.B. 2188, S.D. 3, Relating to the Conveyance Tax

The Department of Taxation (Department) offers the following comments on S.B. 2188, S.D. 3, for the Committee's consideration.

Section 1 of S.B. 2188, S.D. 3, imposes an additional 1% conveyance tax on condominiums and single family residences with a value of more than $2,000,000. The resulting effective tax rates for condominiums and single family residences for which the purchaser is eligible for a county homeowner's exemption are as follows:

Value of Property	Proposed Rate	Current Rate
$2,000,000 less than $4,000,000	$1.50 per $100	$.50 per $100
$4,000,000 less than $6,000,000	$1.70 per $100	$.70 per $100
$6,000,000 less than $10,000,000	$1.90 per $100	$.90 per $100
$10,000,000 or greater	$2.00 per $100	$1.00 per $100

The resulting effective tax rates for condominiums and single family residences for which the purchaser is ineligible for a county homeowner's exemption are as follows:

Value of Property	Proposed Rate	Current Rate
$2,000,000 less than $4,000,000	$1.60 per $100	$.60 per $100
$4,000,000 less than $6,000,000	$1.85 per $100	$.85 per $100
$6,000,000 less than $10,000,000	$2.10 per $100	$1.10 per $100
$10,000,000 or greater	$2.25 per $100	$1.25 per $100

Section 2 of this bill allocates 100% of the revenue from the additional tax rate to the revolving affordable housing fund of the county where the property is located. Additionally, the bill limits the use of the revenue to specific uses related to purchase, planning, design, and construction of housing; making grants or loans to nonprofits such as community land trusts; and investment in public infrastructure. S.B. 2188, S.D. 3, has a defective effective date of July 1, 2050.

The Department is able to administer the changes proposed by this bill. If Committee wishes to move this measure forward, the Department requests the effective date be made no earlier than January 1, 2019. This will allow the Department time to update the relevant forms and instructions.

Thank you for the opportunity to provide comments.

COUNTY COUNCIL
COUNTY OF MAUI
200 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793
www.MauiCounty.us

March 18, 2018

TO: The Honorable Tom Brower, Chair
House Committee on Housing

FROM: Mike White
Council Chair

SUBJECT: **HEARING OF MARCH 20, 2018; TESTIMONY IN SUPPORT OF SB 2188 SD 3, RELATING TO THE CONVEYANCE TAX**

Thank you for the opportunity to testify in support of this important measure. The purpose of this bill is to establish an additional conveyance tax rate for the sale of certain condominiums or single family residences and allocate the revenue collected in each county from the additional conveyance tax rate to the respective county's affordable housing fund.

This measure is included in the Maui County Legislative Package. Therefore, I offer this testimony on behalf of the Maui County Council.

I **support** this measure for the following reasons:

1. In each of the four counties, creating additional affordable housing units is a top priority. Demand is far outpacing supply and creative solutions and resources are needed for each county to uniquely address the dire shortage of housing.

2. Placing a conveyance tax on properties at least $2 million in value is a new way to generate additional revenue. Since the value is relatively high compared to average home prices, the transactions are not likely to adversely impact owners or working families.

3. Without a drastic change in the way affordable housing is supported, the ongoing housing supply crises will not be resolved. This proposal adds another tool to supplement the counties current efforts and will help to purchase existing housing units and other interests in real property; allow for the planning, design, or construction of housing units; allow for grants or loans to nonprofit organizations, including community land trusts; and allow for investment in public infrastructure.

For the foregoing reasons, I strongly **support** this measure.

ocs:proj:legis:18legis:18testimony:sb2188_sd3_paf18-114_ssm

LAND USE RESEARCH
FOUNDATION OF HAWAII
1100 Alakea Street, Suite 408
Honolulu, Hawaii 96813
(808) 521-4717
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March 16, 2018

Representative Tom Brower, Chair
Representative Nadine K. Nakamura, Vice Chair
House Committee on Housing

Comments, Concerns and Opposition to SB 2188, S.D. 3, Relating to the Conveyance Tax (Establishes an additional conveyance tax for the sale of certain condominiums or single-family residences; requires that the revenue collected in each county from the additional conveyance tax be allocated to the respective county's affordable housing fund.)

Tuesday, March 20, 2018, at 10:00 a.m., in Conference Room 423

The Land Use Research Foundation of Hawaii (LURF) is a private, non-profit research and trade association whose members include major Hawaii landowners, developers and a utility company. One of LURF's missions is to advocate for reasonable, rational and equitable land use planning, legislation and regulations that encourage well-planned economic growth and development, while safeguarding Hawaii's significant natural and cultural resources and public health and safety.

LURF appreciates the opportunity to provide **comments, concerns and opposition** to this bill.

SB 2188, S.D. 3. While this measure does not contain a purpose clause, it is presumed that it is intended as a method to generate revenue for the identified fund specifically proposed to be subsidized by the conveyance tax, which in this case, is each county's affordable housing fund. To do so, this bill proposes to establish an additional conveyance tax for the sale of condominiums and single-family residences with values of at least $2,000,000.

LURF's Position. The proposed establishment of an additional conveyance tax for the sale of certain condominiums or single-family residences is inappropriate, improper, and illegal, given the following:

1. **The Hawaii Conveyance Tax was never intended as a revenue-generating tax**.

   Hawaii Revised Statutes ("HRS"), Chapter 247 (Conveyance Tax), was purposefully enacted in 1966 to provide the State Department of Taxation ("DoTax") with informational data for the determination of market value of properties transferred, and to assist the DoTax in establishing real property assessed values. In short, the sole intent of the conveyance tax was originally to cover the administrative costs of collecting and assessing said informational data, which necessarily entails the recording of real estate transactions, as performed by the Bureau of Conveyances.

Since the enactment of HRS Chapter 247, however, the State Legislature has proposed, and has successfully implemented changes to the law 1) to allow application of conveyance tax revenue to a number of non-conveyance type uses (land conservation fund; rental housing trust fund; and natural area reserve fund) to the point where there is no longer any clear nexus between the benefits sought by the original Act and the charges now proposed to be levied upon property-holding entities transferring ownership; and 2) also to increase the tax rates to the point where said revenues now appear to far exceed the initially stated purpose of the Act.

These expansions and deviations which go beyond the scope of the original intent of the conveyance tax law are concerning since the proposed bills, particularly if unlawfully targeting certain types of transactions, could be characterized as imposing an improper penalty, hidden tax, or surcharge, which may be subject to legal challenge.

2. **SB 2188, S.D. 3, appears to be illegal and in violation of Sections 37-52.3 and 37-52.4, Hawaii Revised Statutes ("HRS"), because it attempts to use the Conveyance Tax to subsidize special funds which a) do not have a clear nexus between the benefits sought and charges made upon the users or beneficiaries of the program; and b) were not established by the Legislature through criteria contained in the HRS.**

Special funds are subject to Sections 37-52.3 and 37-52.4 HRS. Criteria for the establishment and continuance of special and revolving funds was enacted by the 2002 Legislature through Act 178, SLH 2002, Sections 37-52.3 and 37-52.4, HRS. To be approved for continuance, a special fund must:

a. serve the purpose for which it was originally established;
b. reflect a <u>clear nexus</u> between the benefits sought and charges made upon the users or beneficiaries of the program, as opposed to serving primarily as a means to provide the program or users with an automatic means of support that is removed from the normal budget and appropriation process;
c. provide an appropriate means of financing for the program or activity; and
d. demonstrate the capacity to be financially self-sustaining.

The first and second criteria are nearly identical to those in Act 240, SLH 1990, codified in Section 23-11, HRS, requiring the Auditor to review all legislative bills in each session to establish new special or revolving funds. It appears that the intent of SB 2188, S.D. 3 is to find an additional source of funding for affordable housing by increasing conveyance tax revenues for the transfer of "luxury" properties. However, that State Auditor has in the past concluded that such an arrangement where there is no *clear link* with the funding source (individuals and companies involved in specific types of real estate transactions) should be repealed.

Moreover, in the present case, SB 2188, S.D. 3 proposes to require that revenue from the additional tax rate be allocated to the **affordable housing fund in each county where said revenue was collected**. LURF believes that such county special funds which have not been properly established pursuant to the criteria for State special funds as set forth in HRS Sections 37-52.3 and 37-52.4 (and are therefore not subject to examination and audit by the State Auditor), **do not even qualify for consideration as repositories for conveyance tax revenues in the first place**.

3. **Other legal and voluntary alternatives may be available to increase funding or incentivize support for affordable housing.**

   In lieu of improperly imposing increases of conveyance taxes to increase revenue for certain unrelated special funds with no clear link to the conveyance tax purposes or beneficiaries, proponents of those special funds or programs are urged to look to other possible legitimate means to do so, including funding support through other “related” or “linked” state and county charges, fees or taxes.

   Given the *“clear nexus”* requirement for special and revolving funds, and also given that general funding and alternative methods to secure revenues for these funds exist, expansions and deviations of HRS Chapter 247 which go beyond the scope of the original intent of the conveyance tax law are concerning since this proposed bill, particularly if it unlawfully targets transactions involving the sale of interests by a particular group of individuals or entities which own real property in the State, could be characterized as imposing an improper penalty, hidden tax, or surcharge, which may be subject to legal challenge.

Understanding the importance of the conveyance tax issues raised by SB 2188, S.D. 3, **LURF respectfully requests that this bill be deferred, or held by this Committee** to allow stakeholders, including, but not limited to government agencies, the public, private landowners, legal experts and other interested parties to work together to come to a consensus regarding the bill’s purpose, as well as alternatives to funding affordable housing through the general fund and perhaps other broad-based supplemental funding by Hawaii’s taxpayers and visitors.

Thank you for the opportunity to provide comments and concerns relating to this proposed measure.

Kohala Coast
RESORT ASSOCIATION

March 19, 2018

Representative Tom Brower, Chair
Representative Nadine Nakamura, Vice Chair
House Committee on Housing
Hawaii State Capitol

Dear Representative Brower, Representative Nakamura and Members of the House Committee on Housing:

Testimony in Opposition to SB2188 SD3

The Kohala Coast Resort Association (KCRA) opposes SB2188 SD3 proposing increases to the conveyance tax on the sale of condominiums and single family residences.

The Kohala Coast Resort Association supports the development of affordable rental housing. However, we recognize that the state already receives the largest share of the transient accommodations taxes, which are placed in the general fund. The TAT allocation in the state's general fund has gone from $7.79 million in 2009 (3.7% of total collections) to $292.4 million in 2017 (57.5% of total collections). Therefore, it is already within the Legislature's authority to use those funds to incentivize the development of affordable rental housing. And though not under the purview of the Legislature directly, we would like members of the committee to recognize that residential investment properties and resort zoned properties, many of which would be impacted by the proposed conveyance tax increase, saw a disproportionate increase in their property taxes in Hawaii County last year. Government authorities at both the county and state levels cannot continue to place the largest tax burden time and time again on the same citizens.

KCRA is a collection of master-planned resorts and hotels situated north of the airport which represents more than 3,500 hotel accommodations and an equal number of resort residential units. This is approximately 35 percent of the accommodations available on the Island of Hawai`i. KCRA member properties annually pay more than $20 million in TAT and $20 million in GET.

We encourage your opposition to this measure.

Sincerely,

Stephanie P. Donoho

Stephanie Donoho
Administrative Director

PO Box 6991, Kamuela, HI 96743 * (808) 747-5762 * kohalacoastresortassn@gmail.com * www.kohalacoastresorts.com

Hawaii
Habitat
for Humanity®
Association

Building Housing, Building Hope

March 19, 2018

To: House Committee on Housing
Date: Hearing March 20, 2018 at 10:00 A.M.
Subj: SB2188, SD3, Relating to the Conveyance Tax

Testimony in Support

Chair, Brower, Vice Chair, Nakamura and members of the Committee on Housing. Please accept our testimony today in support of SB2756, SD1 which pertains to the Conveyance Tax.

This measure establishes an additional conveyance tax for the sale of certain condominiums or single-family residences. Requires that the revenue collected in each county from the additional conveyance tax be allocated to the respective county's affordable housing fund.

We concur with the previous testimony of Maui Council Chair Mike White who noted that, ***"Without a drastic change in the way affordable housing is supported, the ongoing housing supply crises will not be resolved. This proposal adds another tool to supplement the counties current efforts and will help to purchase existing housing units and other interests in real property; allow for the planning, design, or construction of housing units; allow for grants or loans to nonprofit organizations, including community land trusts; and allow for investment in public infrastructure."***

Because of our county Habitat affiliates have built a considerable number of homes on Hawaii Home Lands, we also support the previous testimony of OHA in which they state: ***"The Native Hawaiian community may particularly benefit from the bill. Research shows that Native Hawaiians are less likely to own a home, and have homeownership rates lower than the state average. Native Hawaiians also have a particular need for affordable rental units, as more than half of Native Hawaiian renters, many of whom already live in overcrowded situations to reduce costs, live in homes they are struggling to afford. Native Hawaiians may therefore be disproportionately impacted by the lack of affordable housing opportunities in the state. By generating increased revenues for county affordable housing projects and programs, this measure may directly address the particular housing needs of the Native Hawaiian community."***

Mahalo, for the opportunity to offer this testimony here today.

George Massengale
Chair, Advocacy Committee

2051 Young Street, #82, Honolulu, HI 96826 - 808.897.7676 - www.hawaiihabitat.org

SB-2188-SD-3
Submitted on: 3/19/2018 9:52:24 AM
Testimony for HSG on 3/20/2018 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Melodie Aduja	Oahu County Committee on Legislative Priorities, Democratic Party of Hawai'i	Support	No

Comments:

Hawai'i Association of REALTORS®

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808-737-4977
1259 A'ala Street, Suite 300
Honolulu, HI 96817

March 20, 2018

The Honorable Tom Brower, Chair
Senate Committee on Housing
State Capitol, Room 423
Honolulu, Hawaii 96813

RE: Senate Bill 2188, SD3, Relating to the Conveyance Tax

HEARING: Tuesday, March 20, 2018, at 10:00 a.m.

Aloha Chair Brower, Vice Chair Nakamura, and Members of the Committee,

I am Ken Hiraki, Government Affairs Director, here to testify on behalf of the Hawai'i Association of REALTORS® ("HAR"), the voice of real estate in Hawai'i, and its 9,500 members. HAR **strongly opposes** Senate Bill 2188, SD3, which establishes an additional conveyance tax rate for the sale of certain condominiums or single-family residences. Requires that the revenue collected in each county from the additional conveyance tax rate be allocated to the respective county's affordable housing fund. Sunsets on June 30, 2023.

In 2005, the Conveyance Tax was increased on a tiered scale on 1) the sale of realty for all transfers or conveyance of realty or any interest (i.e. commercial, timeshare, agricultural, industrial, etc. and condominium or single-family residences for which the purchaser is eligible for a county homeowner's exemption); and 2) the sale of a condominium or single-family residence for which the purchaser is ineligible for a county homeowner's exemption.

In 2009, the Legislature once again increased the Conveyance Tax on 1) the sale of realty from 30 cents per $100 (.30%) for properties over $1,000,000 to a maximum of $1.00 (1%) per $100 for properties over $10,000,000 -- an increase of over 333%, and 2) the sale of a property ineligible for a county homeowner exemption from 30 cents per $100 to $1.25 per $100 (1.25%) -- an increase of over 416.66%.

This measure proposes to increase the Conveyance tax to the following rates:

Condominiums and single-family residences:

Property Value:	Current Rate:	Proposed Rate:	Current - In Dollars (rounded)	Proposed - In Dollars (rounded):	Rate Increase:
$2 mil - $3.99 mil	50 cents per $100	$1.50 per $100	$20,000 ($3.99 mil property)	$60,000 ($3.99 mil property)	200%
$4 mil - $5.99 mil	70 cents per $100	$1.70 per $100	$42,000 ($5.99 mil property)	$102,000 ($5.99 mil property)	142.85%
$6 mil - $9.99 mil	90 cents per $100	$1.90 per $100	$90,000 ($9.99 mil property)	$190,000 ($9.99 mil property)	111.11%
$10 mil +	$1.00 per $100	$2.00 per $100	$100,000 ($10 mil property)	$200,000 ($10 mil property)	100%

For the sale of a condo or single-family residence for which the purchaser is ineligible for a county homeowner's exemption:

Property Value:	Current Rate:	Proposed Rate:	Current - In Dollars (rounded)	Proposed - In Dollars (rounded):	Rate Increase:
$2 mil - $3.99 mil	60 cents per $100	$1.60 per $100	$24,000 ($3.99 mil property)	$64,000 ($3.99 mil property)	166.66%
$4 mil - $5.99 mil	85 cents per $100	$1.85 per $100	$51,000 ($5.99 mil property)	$111,000 ($5.99 mil property)	117.64%
$6 mil - $9.99 mil	$1.10 per $100	$2.10 per $100	$110,000 ($9.99 mil property)	$210,000 ($9.99 mil property)	90.91%
$10 mil +	$1.25 per $100	$2.25 per $100	$125,000 ($10 mil property)	$225,000 ($10 mil property)	80%

Under this section, the higher rates were intended to provide a disincentive where the seller is selling to a non-occupant buyer of residential real estate. However, as the word residential is removed, any sale of industrial, commercial, office, agricultural or other type of non-residential condominium property is subject to the higher tax rate. This has a severe impact not only on residential properties but to small businesses as well.

Additionally, the tax applies to the entire purchase price, and does not take into account the amount of indebtedness that may be on the property being sold, or whether the seller may be selling at less than what the seller originally acquired the property for. Thus, in certain circumstances the seller may not have the cash to be able to pay the Conveyance Tax, or the amount of tax may be so high relative to the net proceeds that the seller is receiving as to become confiscatory.

Regarding residential and commercial sales, the tax is assessed whether or not there is a gain on the sale. It's possible that a principal may have purchased property during a peak in the market and subsequently sold the property for less than the original purchase price. The principal may need to come out of pocket to pay outstanding loans along with the conveyance tax and other closing costs. There is a tax rate at which the cost of paying the Conveyance Tax will influence sellers to hold property longer, hoping for market appreciation, and thereby reduce the number of transactions. Investment in real estate is a way to build equity for future generations.

Furthermore, the problem linking funding to the Conveyance tax is that when the real estate market is down, there are not enough funds to pay for the programs and special funds it covers. Then, the Conveyance Tax would need to be increased to cover the programs. However, when the market is up, there are excess funds over and above the program's needs. This becomes a cyclical issue, and unreliable in forecasting these program's needs.

While HAR supports the counties affordable housing initiatives, we strongly oppose increasing the Conveyance Tax to do so.

Mahalo for the opportunity to testify.

LATE

OFFICE OF HAWAIIAN AFFAIRS
Legislative Testimony

SB2188 SD3
RELATING TO THE CONVEYANCE TAX
House Committee on Housing

March 20, 2018 10:00 a.m. Room 423

The Office of Hawaiian Affairs (OHA) offers the following testimony in **SUPPORT** of SB2188 SD3, which will help to provide substantial and much-needed housing relief to Native Hawaiians and other residents of Hawaiʻi.

This bill will help to provide much-needed housing relief for the state's current affordable housing crisis. It has become abundantly clear that our islands' residents have a dire and growing need for affordable housing opportunities: recent research indicates a need for 65,000 more housing units by 2025, with half of this demand for units at or below 60% of the Area Median Income (AMI);[1] only 11 percent of this demand is for housing units at or above 140% AMI[2], or for units that do not meet the State's current definition of "affordable housing."[3] With 48% of households in the State already unable to afford basic household necessities including housing, food, transportation, health care, and child care,[4] the growing need for affordable housing opportunities and rising housing costs require bold and aggressive policies that meaningfully prioritize the housing needs of local residents.

As such, this measure's conveyance tax increase for certain high-end property transactions, with a commensurate contribution to county affordable housing funds, may help to curb the foreign investment and speculation transactions that have fueled the rise in our islands' housing costs, while providing targeted relief to Hawaiʻi residents most in need of affordable housing. Notably, data indicate that only 1.1% of Native Hawaiians, and 2.0% of Hawaiʻi residents, own homes valued over $2 millon.[5] **In other words, 98%**

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[1] *See* SMS, HAWAIʻI HOUSING PLANNING STUDY, at 34 (2016), *available at* https://dbedt.hawaii.gov/hhfdc/files/2017/03/State_HHPS2016_Report_031317_final.pdf.

[2] Notably, an individual earning 140% AMI would be making up to $102,620 per year, At 140% AMI, a family of four would earn $146,440 a year *See* HHFDC 2017 INCOME, SALES, AND RENT GUIDELINES, HONOLULU COUNTY INCOME SCHEDULE BY FAMILY SIZE *available at* http://dbedt.hawaii.gov/hhfdc/developers/copy2_of_copy_of_copy2_of_copy_of_income-sales-rent-guidelines/. At 140% AMI, a family of four would earn $146,440 a year.

[3] *See* SMS, HAWAIʻI HOUSING PLANNING STUDY, at 34 (2016), *available at* https://dbedt.hawaii.gov/hhfdc/files/2017/03/State_HHPS2016_Report_031317_final.pdf.

[4] ALOHA UNITED WAY, ALICE: A STUDY OF FINANCIAL HARDSHIP IN HAWAIʻI (2017).

[5] See U.S. Census Bureau latest 5-year estimates for 2011-2015 , Hawaiʻi, Owner-occupied housing units value.

of Hawai'i residents do not own properties whose sales would be currently affected by this measure.

The Native Hawaiian community may particularly benefit from the bill. Research shows that Native Hawaiians are less likely to own a home, and have homeownership rates lower than the state average.[6] Native Hawaiians also have a particular need for affordable rental units, as more than half of Native Hawaiian renters, many of whom already live in overcrowded situations[7] to reduce costs, live in homes they are struggling to afford.[8] Native Hawaiians may therefore be disproportionately impacted by the lack of affordable housing opportunities in the state. By generating increased revenues for county affordable housing projects and programs, this measure may directly address the particular housing needs of the Native Hawaiian community.

Therefore, OHA urges the Committee to **PASS** SB2188 SD3. Mahalo for the opportunity to testify on this matter.

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[6] In 2014, the Native Hawaiian homeownership rate was 52.9% compared to the state average rate of 56.7%. DHHL provides about 22.1% of owner-occupied housing units among Native Hawaiians. Therefore the Native Hawaiian homeownership rate for non-DHHL properties is only 30.8%. *See* OFFICE OF HAWAIIAN AFFAIRS, NATIVE HAWAIIAN HOMEOWNERSHIP HO'OKAHUA WAIWAI FACT SHEET VOL.2016, NO. 1, page 10, *available at* http://www.oha.org/wp-content/uploads/NH-Homeownership-Fact-Sheet-2016.pdf

[7] In 2013, the average size of a Native Hawaiian family was 4.04, larger than the state average. *See* OFFICE OF HAWAIIAN AFFAIRS, INCOME INEQUALITY AND NATIVE HAWAIIAN COMMUNITIES IN THE WAKE OF THE GREAT RECESSION: 2005 TO 2013 (2014), page 5, *available at* http://www.oha.org/wp-content/uploads/2014/05/Income-Inequality-and-Native-Hawaiian-Communities-in-the-Wake-of-the-Great-Recession-2005-2013.pdf. Recent research has further shown that state and Native Hawaiian housing rental housing demand is almost entirely for units that are affordable, rather than for market-rate or other 'gap'-rate units. *See* SMS, HAWAI'I HOUSING PLANNING STUDY, at 34 (2016), *available at* https://dbedt.hawaii.gov/hhfdc/files/2017/03/State_HHPS2016_Report_031317_final.pdf.

[8] See OFFICE OF HAWAIIAN AFFAIRS, RENTERS INDICATOR SHEET 2015 (2015) *available at* http://www.oha.org/wp-content/uploads/Hookahua-Waiwai.-Indicator-Sheet.-Renter.-2015.pdf

SUBJECT: CONVEYANCE, Hike Rates and Allocate to County Affordable Housing Fund

BILL NUMBER: SB 2188, SD-3

INTRODUCED BY: Senate Floor Amendment

EXECUTIVE SUMMARY: Establishes an additional conveyance tax rate for the sale of condominiums or single-family residences valued at more than $2 million, whether or not owner-occupied. Requires that the revenue collected in each county from the additional conveyance tax rate be allocated to the respective county's affordable housing fund. Sunsets 6/30/2023.

SYNOPSIS: Amends section 247-2, HRS, to add a surcharge of $1.00 per $100 of actual and full consideration for condominiums or single-family residences with a value of more than $2 million, whether or not owner-occupied.

Amends section 247-7, HRS, to provide that all of the revenue generated in each county from the application of the surcharge shall be paid into the respective county's affordable housing fund and shall be used only to increase the supply of affordable housing by:

(A) The purchase of existing housing units and other interests in real property;

(B) The planning, design, or construction of housing units;

(C) Making grants or loans to nonprofit organizations, including community land trusts; or

(D) Investment in public infrastructure.

EFFECTIVE DATE: July 1, 2050. Sunsets June 30, 2023.

STAFF COMMENTS: The conveyance tax was enacted by the 1966 legislature after the repeal of the federal law requiring stamps for transfers of real property. It was enacted for the sole purpose of providing the department of taxation (which at the time also administered the real property tax) with additional data for the determination of market value of properties transferred. This information was also to assist the department in establishing real property assessed values and at that time the department stated that the conveyance tax was not intended to be a revenue raising device.

Prior to 1993, the conveyance tax was imposed at the rate of 5 cents per $100 of actual and full consideration paid for a transfer of property. At the time all revenues from the tax went to the general fund. The legislature by Act 195, SLH 1993, increased the conveyance tax to 10 cents per $100 and earmarked 25% of the tax to the rental housing trust fund and another 25% to the natural area reserve fund. As a result of legislation in 2005 and in 2009, the conveyance tax rates were substantially increased and bifurcated between nonowner-occupied residential properties and all other properties. Tax brackets were based on the amount of the value transferred. Until

2005, 50% of the receipts went into the general fund and the other half was split with the affordable rental housing program and the natural area reserve program. Beginning in 2005, another 10% was taken for the land conservation fund. In 2009, legislators reduced the amount of conveyance tax revenues earmarked to the rental housing trust fund from 30% to 25% until June 30, 2012 in an effort to generate additional revenues for the state general fund. Act 164, SLH 2014, increased the earmark to 50% as of July 1, 2014, and Act 84, SLH 2015, imposed the $38 million cap on the earmark.

This bill raises the conveyance tax to feed county affordable housing funds.

As with any earmarking of revenues, the legislature will be preapproving each of the programs fed by the fund into which the tax monies are diverted, expenses from the funds largely avoid legislative scrutiny, and the effectiveness of the programs funded becomes harder to ascertain. It is also difficult to determine whether the fund has too little or too much revenue.

If the legislature deems the programs and purposes funded by this special fund to be a high priority, then it should maintain the accountability for these funds by appropriating the funds as it does with other programs. Earmarking revenues merely absolves elected officials from setting priorities. If the money were appropriated, lawmakers could then evaluate the real or actual needs of each program.

Digested 3/16/2018

SB-2188-SD-3
Submitted on: 3/19/2018 8:58:10 AM
Testimony for HSG on 3/20/2018 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Robert Carroll	Individual	Support	No

Comments:

I support testimony submitted by Maui County Council Chair Mike White on March 19th, 2018, and ask that you appove SB 2188. Thank you.