OFFICE OF HAWAIIAN AFFAIRS
Legislative Testimony

SB2416 SD1
RELATING TO THE CONVEYANCE TAX
Senate Committee on Ways and Means

February 28, 2018 11:00 a.m. Room 211

The Office of Hawaiian Affairs **SUPPORTS** SB2416 SD1, which will provide substantial and much-needed housing relief to Native Hawaiians and other residents of Hawaiʻi.

This bill will help 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 lack of affordable housing 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 the rental housing revolving fund, 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 only 1.1% of Native Hawaiians, and 2.0% of Hawai'i residents own homes valued over $2 million.[5] **In other words, 98% of**

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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/.

[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, Hawai'i, Owner-occupied housing units value.

Hawaiʻi residents do <u>not</u> own properties whose sales would be currently affected by this measure.

The Native Hawaiian community may particularly benefit from the bill. Native Hawaiians are particularly reliant on the rental housing market, as research shows that Native Hawaiians are less likely to own a home, and have homeownership rates lower than the state average.[6] Native Hawaiian renters 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 rental housing opportunities in the state. **By generating increased revenues to facilitate the development of affordable rental housing units, this measure may directly address the particular housing needs of the Native Hawaiian community.**

Therefore, OHA urges the Committee to **<u>PASS</u>** SB2416 SD1. Mahalo for the opportunity to testify on this matter.

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[6] The Native Hawaiian homeownership rate for non-DHHL properties is only 38.9%, 18.3 percentage points below the statewide rate of 57.2% *See* Census Bureau. (2017). American Community Survey (ACS) 1-year Estimates: 2016; DHHL: Homestead Services Division. (01/24/17) Commission submittal

[7] The average Native Hawaiian household size was 3.63, notably larger than the 2.62 average for non-Native Hawaiian households. *See* SMS, HAWAIʻI HOUSING PLANNING STUDY, at 70 (2016), *available at* https://dbedt.hawaii.gov/hhfdc/files/2017/03/State_HHPS2016_Report_031317_final.pdf

[8] 24.8% of Native Hawaiian households, compared to 9.6% of state households include more than two generations or unrelated individuals. 14.1% of Native Hawaiian households, compared to 4.2% of state households have a hidden homeless family member. *See id.* at 70.

DAVID Y. IGE
GOVERNOR

CRAIG K. HIRAI
EXECUTIVE DIRECTOR

STATE OF HAWAII
DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT AND TOURISM
HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION
677 QUEEN STREET, SUITE 300
Honolulu, Hawaii 96813
FAX: (808) 587-0600

IN REPLY REFER TO:

Statement of
Craig K. Hirai
Hawaii Housing Finance and Development Corporation
Before the

SENATE COMMITTEE ON WAYS AND MEANS
February 28, 2018 at 11:00 a.m.
State Capitol, Room 211

In consideration of
S.B. 2416, S.D. 1
RELATING TO THE CONVEYANCE TAX.

The HHFDC ***offers the following comments*** on S.B. 2416, S.D. 1.

HHFDC supports Section 2 of the bill, which, like S.B. 2756, an Administration bill previously heard by this Committee, repeals the statutory cap on the disposition of conveyance taxes for deposit into the Rental Housing Revolving Fund (RHRF).

However, HHFDC has concerns with the proposed increase in the conveyance tax rates on properties over $2 million in value, because it would have a negative effect on the economic feasibility of affordable rental housing projects. Accordingly, we respectfully request that if the Committee intends to move this bill forward, that affordable housing be exempted from the conveyance tax. A proposed amendment is attached for the Committee's consideration.

Thank you for the opportunity to provide written comments on this bill.

PROPOSED AMENDMENT TO S.B. 2416, S.D. 1

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

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

(1) Any document or instrument that is executed prior to January 1, 1967;

(2) Any document or instrument that is given to secure a debt or obligation;

(3) Any document or instrument that only confirms or corrects a deed, lease, sublease, assignment, transfer, or conveyance previously recorded or filed;

(4) Any document or instrument between husband and wife, reciprocal beneficiaries, or parent and child, in which only a nominal consideration is paid;

(5) Any document or instrument in which there is a consideration of $100 or less paid or to be paid;

(6) Any document or instrument conveying real property that is executed pursuant to an agreement of sale, and where applicable, any assignment of the agreement of sale, or assignments thereof; provided that the taxes under this chapter have been fully paid upon the agreement of sale, and where applicable, upon such assignment or assignments of agreements of sale;

(7) 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 or any agency, instrumentality, or governmental or political subdivision thereof are the only parties thereto;

(8) Any document or instrument executed pursuant to a tax sale conducted by the United States or any agency or instrumentality thereof or the State or any agency, instrumentality, or governmental or political subdivision thereof for delinquent taxes or assessments;

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

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

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

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

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

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

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

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

[~~[~~](17)[~~]~~]Any document or instrument that conforms to the transfer on death deed as authorized under chapter 527[~~.~~]; and

(18) Any document or instrument conveying real property subject to a government assistance program qualified by the Hawaii housing finance and development corporation and administered or operated by the State, the corporation, the United States, or any of their political subdivisions, agencies, or instrumentalities, corporate or otherwise, which may be used to effectuate housing development and acquisition for the provision of affordable housing for qualified persons in the State."

DAVID Y. IGE
GOVERNOR

DOUGLAS S. CHIN
LIEUTENANT GOVERNOR

LINDA CHU TAKAYAMA
DIRECTOR

DAMIEN A. ELEFANTE
DEPUTY DIRECTOR

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830 PUNCHBOWL STREET, ROOM 221
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To: The Honorable Donovan M. Dela Cruz, Chair
and Members of the Senate Committee on Ways and Means

Date: Wednesday, February 28, 2018
Time: 11:00 A.M.
Place: Conference Room 211, State Capitol

From: Linda Chu Takayama, Director
Department of Taxation

Re: S.B. 2416, S.D. 1, Relating to the Conveyance Tax

The Department of Taxation (Department) offers the following comments on S.B. 2416, S.D. 1, for the Committee's consideration.

Section 1 of S.B. 2416, S.D. 1, increases the conveyance tax rate for properties with a value of at least $2,000,000 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	$2.50 per $100	$.70 per $100
$6,000,000 less than $10,000,000	$3.50 per $100	$.90 per $100
$10,000,000 or greater	$4.50 per $100	$1.00 per $100

Section 1 of S.B. 2416, S.D. 1, also increases the conveyance tax for condominiums and single family residences with values of at least $2,000,000 and for which the purchaser is ineligible for a county homeowner's exemption. The adjusted rates are as follows:

Value of Property	Proposed Rate	Current Rate
$2,000,000 less than $4,000,000	$2.00 per $100	$.60 per $100
$4,000,000 less than $6,000,000	$3.00 per $100	$.85 per $100
$6,000,000 less than $10,000,000	$4.00 per $100	$1.10 per $100
$10,000,000 or greater	$5.00 per $100	$1.25 per $100

Under current law, 50% of the conveyance tax is allocated to the rental housing revolving fund with a $38 million per year cap. Section 2 of this measure keeps the 50% allocation and removes the $38 million cap.

The Department notes that it is able to administer the changes proposed by this bill given the current effective date of January 1, 2019.

Thank you for the opportunity to provide comments.

LAND USE RESEARCH
FOUNDATION OF HAWAII
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February 22, 2018

Senator Donovan M. Dela Cruz, Chair
Senator Gilbert S.C. Keith-Agaran, Vice Chair
Senate Committee on Ways and Means

Comments, Concerns and Opposition to SB 2416, S.D. 1, Relating to the Conveyance Tax (Increases the rate of real estate conveyance tax for properties with a value of at least $2,000,000; amends the calculation for the amount of conveyance taxes to be deposited into the rental housing revolving fund.)

Wednesday, February 28, 2018, at 11:00 a.m., in Conference Room 211

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 2416, S.D. 1. 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 funds specifically proposed to be subsidized by the conveyance tax, which in this case, includes the general fund of the State; the land conservation fund established pursuant to section 173A-5; and the rental housing revolving fund established by section 201H-202. To do so, this bill proposes to increase the rate of real estate conveyance tax for properties with a value of at least $2,000,000.

LURF's Position. The proposed increase of the conveyance tax rate for the sale of certain properties 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 or property owners, could be characterized as imposing an improper penalty, hidden tax, or surcharge, which may be subject to legal challenge.

2. **SB 2416, S.D. 1, 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, or increase subsidies to special funds which do not have a clear nexus between the benefits sought and charges made upon the users or beneficiaries of the program.**

   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 2416, S.D. 1 is to find an additional source of funding for affordable housing by increasing conveyance tax revenues for the transfer of "luxury" properties. However, the 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, particular types of real estate transactions) should be repealed.

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 the State's general fund, or to subsidize or 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 2416, S.D. 1, **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.

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GCA of Hawaii
GENERAL CONTRACTORS ASSOCIATION OF HAWAII
Quality People. Quality Projects.

Uploaded via Capitol Website

February 28, 2018

TO: HONORABLE DONOVAN DELA CRUZ, CHAIR, HONORABLE GIL KEITH AGARAN, VICE CHAIR, SENATE COMMITTEE ON WAYS AND MEANS

SUBJECT: **CONCERNS REGARDING S.B. 2416 RELATING TO THE CONVEYANCE TAX.** Increases the rate of real estate conveyance tax for properties with a value of at least $2,000,000. Amends the calculation for the amount of conveyance taxes to be deposited into the rental housing revolving fund. Takes effect on 01/01/2019. (SD1)

PUBLIC DECISION MAKING

DATE: Wednesday, February 28, 2018
TIME: 11:00 a.m.
PLACE: Conference Room 211

Dear Chair Dela Cruz, Vice Chair Keith Agaran and Members of the Committee,

The General Contractors Association (GCA) is an organization comprised of over 500 general contractors, subcontractors, and construction related firms. The GCA is the largest construction association in the State of Hawaii and its mission is to represent its members in all matters related to the construction industry, while improving the quality of construction and protecting the public interest.

GCA has grave concerns regarding S.B 2416, Relating to the Conveyance Tax, which proposes to increase the conveyance tax for properties of at least $2,000,000.00 and amends the amount of the conveyance tax deposited into the rental housing trust fund. While GCA understands the intent of this measure to increase funding for available rental housing units for those in need, there is concern that such an increase may be detrimental to small businesses. Furthermore, the measure does not appear to satisfy the "clear nexus" criteria that requires that such should be funded by a broad tax which is imposed on all residents who benefit from those programs, and not by the conveyance tax, which is only imposed on the sellers of real property. Additionally, the proposed increase could detrimentally impact small businesses who may want to sell their property to a business partner or a family member or some other reason.

Thank you for this opportunity to share our concerns regarding S.B. 2416 and we respectfully request that you defer this measure.

TAX FOUNDATION OF HAWAII
126 Queen Street, Suite 304 Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: CONVEYANCE, Tax Hike on Properties Above $2M

BILL NUMBER: SB 2416, SD-1

INTRODUCED BY: Senate Committee on Housing

EXECUTIVE SUMMARY: Increases the rates for certain conveyance tax categories. Repeals the statutory cap on the disposition of conveyance taxes dedicated for deposit into the rental housing revolving fund for the financing of affordable rental housing development

SYNOPSIS: Amends section 247-2, HRS, to raise the conveyance tax rates as follows:

For a condominium or single-family residence for which the purchaser is ineligible for a county homeowner's exemption on real property tax:

Minimum Property Value	Current Tax (per $100 of consideration)	New Tax (per $100 of consideration)
$0	$ 0.15	$ 0.15
$600,000	0.25	0.25
$1,000,000	0.40	0.40
$2,000,000	0.60	**2.00**
$4,000,000	0.85	**3.00**
$6,000,000	1.10	**4.00**
$10,000,000	1.25	**5.00**

For all other conveyances:

Minimum Property Value	Current Tax (per $100 of consideration)	New Tax (per $100 of consideration)
$0	$ 0.10	$ 0.10
$600,000	0.20	0.20
$1,000,000	0.30	0.30
$2,000,000	0.50	**1.50**
$4,000,000	0.70	**2.50**
$6,000,000	0.90	**3.50**
$10,000,000	1.00	**4.50**

Amends section 247-7, HRS, to repeal the ceiling (now $38 million) on money distributable to the rental housing revolving fund.

EFFECTIVE DATE: January 1, 2019.

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 the rental housing revolving fund, land conservation fund, and the general fund.

The first question lawmakers need to ask is which taxpayers are going to be impacted by these hikes. Although the intent may be to soak the rich fat cats, the increases will affect developments of multi-unit property, including affordable housing being developed.

Next, the earmark deserves scrutiny. 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 2/22/2018

CATHOLIC CHARITIES HAWAI'I

TESTIMONY IN SUPPORT OF SB 2416 SD1: Relating to the Conveyance Tax

TO: Senator Donovan Dela Cruz, Chair, Senator Gilbert Keith-Agaran, Vice Chair, and Members, Committee on Ways and Means
FROM: Terrence L. Walsh, Jr., President and Chief Executive Officer
Hearing: Wednesday, 2/28/18; 11:00 AM; CR 211

Chair Dela Cruz, Vice-Chair Keith-Agaran, and Members, Committee on Ways and Means:

Thank you for the opportunity to provide testimony **in support** of **SB 2416 SD1**, which repeals the cap on conveyance tax proceeds to the Rental Housing Revolving Fund and increases the tax rate on properties over $2 million. I am Terry Walsh, with Catholic Charities Hawai'i.

Catholic Charities Hawai`i (CCH) is a tax exempt, non-profit agency that has been providing social services in Hawai`i for over 60 years. Our mission is to provide services and advocacy for the most vulnerable in Hawai`i. To end homelessness we must create significantly more affordable housing on an ongoing basis. This is a top priority for 2018.

The Star Advertiser (1/10/18) reported on a study by Aloha United Way, which found that nearly half of isle households do not earn enough to cover basic needs, much less save anything for an emergency. Any crisis can put these families at great risk for long-term problems like loss of housing. The situation is dire and demands a great investment to create rental units that struggling families can afford.

The Rental Housing Revolving Fund provides crucial gap financing to build affordable rental projects. However, one major break on the ability of the RHRF to create more affordable housing is the $38 million cap on funding from the conveyance tax. In FY 2017, the RHRF lost $6 million in potential funding. Without the cap, the additional funding could have been used toward another 40 units of affordable rental housing.

<u>A significant increase in funding to the RHRF is critical, especially now that the new federal Tax Cut law is cutting into the ability of the RHRF to create new rentals.</u> Due to this new law, it is estimated that the federal Low Income Housing Tax Credits will suffer a loss of 14% in value. This is 14% that projects must now find from other resources like the RHRF, in order to make their housing projects pencil out. Current projects, already "100% funded" now are experiencing short-falls of millions of dollars. This added demand on the resources of the RHRF will result in fewer overall units, unless action is taken this year!

The State Legislature tasked the Special Action Team on Affordable Rental Housing to make recommendations on actions to promote rental housing and set a goal of 22,500 additional rental units by the year 2026. This bill is a strong step in the right direction. It would fund projects ongoing into the future. Hawaii's housing crisis demands a multi-year response.

We need to act now; we urge your support. Please contact our Legislative Liaison, Betty Lou Larson, at 373-0356 or bettylou.larson@catholiccharitieshawaii.org, if you have any questions.

Hawaiʻi Association of REALTORS®

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1259 Aʻala Street, Suite 300
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February 28, 2018

The Honorable Donovan Dela Cruz, Chair
Senate Committee on Ways and Means
State Capitol, Room 211
Honolulu, Hawaii 96813

RE: S.B. 2416, SD1, Relating to the Conveyance Tax

HEARING: Wednesday, February 28, 2018, at 11:00 a.m.

Aloha Chair Dela Cruz, Vice Chair Keith-Agaran and Members of the Committee,

I am Ken Hiraki, Director of Government Affairs, here to testify on behalf of the Hawaiʻi Association of REALTORS® ("HAR"), the voice of real estate in Hawaiʻi, and its over 9,500 members. HAR **strongly opposes** S.B. 2416, SD1, which increases the rate of real estate conveyance tax for properties with a value of at least $2 million. Additionally, this measure amends the calculation for the amount of conveyance taxes to be deposited into the Rental Housing Trust Fund.

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:

Property Value:	Current Rate:	Proposed Rate:	Rate Increase:	In Dollars (rounded):
$2 mil - $3.99 mil	50 cents per $100	$1.50 per $100	300%	$60,000 ($3.99 mil property)
$4 mil - $5.99 mil	70 cents per $100	$2.50 per $100	357%	$150,000 ($5.99 mil property)
$6 mil - $9.99 mil	90 cents per $100	$3.50 per $100	388%	$350,000 ($9.99 mil property)
$10 mil +	$1.00 per $100	$4.50 per $100	450%	$450,000 ($10 mil property)

For the sale of a condo or single-family residence for which the purchaser is ineligible for a county homeowner's exemption, the conveyance tax is increased at the following rates:

Property Value:	Current Rate:	Proposed Rate:	Rate Increase:	In Dollars (rounded):
$2 mil - $3.99 mil	60 cents per $100	$2.00 per $100	233.33%	$80,000 ($3.99 mil property)
$4 mil - $5.99 mil	85 cents per $100	$3.00 per $100	252.94%	$180,000 ($5.99 mil property)
$6 mil - $9.99 mil	$1.10 per $100	$4.00 per $100	263%	$400,000 ($9.99 mil property)
$10 mil +	$1.25 per $100	$5.00 per $100	300%	$500,000 ($10 mil property)

The Conveyance Tax applies to the conveyance of multi-family rentals, land for residential subdivisions, mixed-income and multi-use properties, commercial properties, resort properties, and agricultural lands, as well as condominium and single-family homes. It applies whether or not a property is sold at a gain or a loss.

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.

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 Rental Housing Trust Fund and increasing the allocation of funds to the program, we oppose increasing the Conveyance Tax to do so.

Mahalo for the opportunity to testify in opposition to this measure.

46-063 Emepela Pl. #U101 Kaneohe, HI 96744 · (808) 679-7454 · Kris Coffield · Co-founder/Executive Director

TESTIMONY FOR SENATE BILL 2416, SENATE DRAFT 1, RELATING TO THE CONVEYANCE TAX

Senate Committee on Ways and Means
Hon. Donovan M. Dela Cruz, Chair
Hon. Gilbert S.C. Keith-Agaran, Vice Chair

Wednesday, February 28, 2018, 11:00 AM
State Capitol, Conference Room 211

Honorable Chair Dela Cruz and committee members:

I am Kris Coffield, representing IMUAlliance, a nonpartisan political advocacy organization that currently boasts over 400 members. On behalf of our members, we offer this testimony <u>in support of</u> Senate Bill 2416, SD 1, relating to the conveyance tax.

Hawai'i residents face the highest housing costs in the nation, at more than twice the national average. Researchers who authored the National Low Income Housing Coalition's *Out of Reach 2017* report found that a full-time worker would need to earn $35.20/hour to afford a two-bedroom apartment at fair market value in our state, with Honolulu experiencing a 67 percent increase in fair market rent between 2005 and 2015. Average rent for a two-bedroom unit surpassed $2,000 in recent years, with minimum wage workers needing to log 116 hours per week to afford a modest one-bedroom apartment at fair market value and 139 hours per week to afford a two-bedroom–a number that is equivalent to working 20 hours a day with no days off year-round. In the past three years alone, Honolulu rent has increased by more than 25 percent. While 46 percent of Hawai'i residents are renters (a number that does not include individuals and families renting outside of the regulated rental market), they earn an average wage of $16.53/hour, scarcely enough to meet their basic needs. One out of every four households in Hawai'i report that they are "doubling up" or are three paychecks or less away from being homeless, per the Hawai'i Appleseed Center for Law and Economic Justice. Additionally, 54 percent of households are cost-burdened, meaning that they pay more than 30 percent of their income for housing costs, a number that rises to 83 percent of extremely low-income households. Homelessness is directly tied to our state's exorbitant cost of living and penchant for catering to people who use the islands as their own private Monopoly board. We beseech you to seek innovative ways of making Hawai'i more affordable for our economically disadvantaged neighbors.

Our state's cost of housing has skyrocketed over the last decade, leaving many families searching for affordable alternatives, in shelters, or on the streets. For context, the median price of condominiums on O'ahu increased 6 percent in the summer of 2017 to a record $425,000, while the median price for single-family homes increased by 3 percent to $795,000, according to the Honolulu Board of Realtors, a number that they expect to increase by at least another 5 percent in 2018. Average fair market rent for two-bedroom apartments in *outlying* communities in the City and County of Honolulu now exceeds $2,000, with the cost of a four-bedroom home in urban Honolulu now exceeding $1.1 million. At least 46 percent of residences in Hawai'i are owner unoccupied, according to the National Low-Income Housing Coalition, meaning that nearly 50 percent–and by some estimates over half–of Hawai'i's homes are likely investment properties.

The time for deliberation is over. It's time to act. Experts at the Department of Business, Economic Development, and Tourism now estimate that Hawai'i needs 66,000 new housing units by the year 2025 to keep up with demand, more than 80 percent of which is needed to meet the demand of people who qualify for affordable housing. Yet, for every 100 extremely low-income renters on O'ahu, there exist only 40 affordable rentals, according to the Urban Institute, of which only 11 are "naturally affordable," meaning they are affordable without federal subsidies. Though our state is committed to a goal of building 22,500 affordable rental housing units in the next 10 years, figures from the Hawai'i Housing Finance and Development Corporation show that in 2015 and 2016, we added only approximately 1,000 affordable rental units to our state's inventory, with further plans finalized for a mere 3,240 more affordable rentals by 2022. Analysts believe that boosting the overall housing supply will lower home prices–and, in turn, rent–for all residents, an ancillary benefit that cannot be overstated in our undersaturated, luxury-driven, "investor first" housing market.

Conveyance taxes are levied on transfers of real property. Currently, HRS §247-7 caps the amount of conveyance tax collections paid into the rental housing revolving fund at the lesser of 50 percent or $38 million. Per the Hawai'i Housing Finance and Development Corporation, the revolving fund exists "for the development, pre-development, construction, acquisition, preservation, and substantial rehabilitation of rental housing units." To increase available funding for affordable housing, we support increasing or eliminating the cap on conveyance tax collections paid into the revolving fund and increasing conveyance taxes on properties valued in excess of $2,000,000. That said, **we urge the committee to consider amending this measure to increase conveyance taxes for all properties valued at $1,000,000 and above**, noting that the wealth gap in our state is widening and an exponentially greater number of residents are unable to afford rent, much less the benefits of buying and selling a home. According to a study released in May of 2016 by DBEDT, there are "clear distinctions" between the average price of homes bought by local residents, mainlanders, and foreigners. Analyzing purchases made between 2008 and 2015, DBEDT found: "The average sale price was highest among foreign buyers. The average sale price of the total of 5,775 homes sold to foreign buyers from 2008 to 2015 was $786,186, 28.3 percent higher than the average sale price to the mainlanders ($612,770) and 64.7 percent higher than the average sale price to local buyers ($477,460)." Thus, increasing conveyance tax prices directly impacts the real estate speculators driving up Hawai'i's housing costs and, in turn, rental prices, i.e. those most responsible for pricing local residents out of paradise.

We need housing now. Mahalo for the opportunity to testify <u>in support</u> of this bill.

Sincerely,
Kris Coffield
Executive Director
IMUAlliance

Kris Coffield **(808) 679-7454** **imuaalliance@gmail.com**

PARTNERS IN CARE

Oahu Continuum of Care

Partners in Care is a coalition of Oahu's homeless service providers, government representatives and community stakeholders working together in partnership to end homelessness.

Testimony in Support of SB 2416 SD1

Relating to the Conveyance Tax

TO: Senate Committee on Ways and Means
FROM: Partners in Care (PIC)
HEARING: Wednesday, February 28, 2018 at 11:00am, Conference Room 221

Dear Chair Dela Cruz, Vice Chair Keith-Agaran, and members of the Committee on Ways and Means:

Thank you for the opportunity to provide testimony on SB2416 SD1 which increases the conveyance tax rate on luxury homes and removes the cap on the amount of conveyance tax proceeds paid into the Rental Housing Revolving Fund. Partners in Care (PIC)—a coalition of more than 35 non-profit, homelessness providers—supports the intent SB2416 SD1 to increase funding to the RHRF, which provides crucial gap financing for the development of affordable rental housing.

With over half of Hawaii's renters spending more than thirty percent of their income on housing (cost burdened) and one third of Hawaii's renters spending fifty-five percent of their income on housing (extremely cost burdened), our state cannot ignore the need to increase the supply of affordable rentals to drive down housing costs. In addition, over 20% of Hawaii's homeless are working or on a fixed income meaning that a massive infusion of affordable rental housing is required for our state to make additional strides in housing the portion of our homeless population that are simply too economically disadvantaged to remain in housing that is increasing unavailable and unaffordable.

Given the need of bringing online 22,500 additional rental units in the next 10 years (a goal expressly adopted by the state), properly funding the RHRF will be crucial. The recently passed changes to the federal tax system are already decreasing the incentive to purchase Low Income Housing Tax Credits, creating further demand on the RHRF to fill the gap in financing the development of affordable rental housing. However, due to the $38 million cap, the RHRF lost $6 million of potential funding in FY2017 that could have been used toward an additional 40 units of affordable rental housing.

SB2416 SD1 is timely. We are in the midst of a housing crisis that is getting worse. To turn the tide, we need much, much more in the way of housing subsidies to fund the development of affordable housing in Hawai'i, and SB2416 SD1 is an important step in the right direction.

For these reasons, Partners In Care supports SB2416 SD1, especially with respect to the removal of the cap on proceeds paid into the Rental Housing Revolving Fund. Thank you for your consideration of this very important bill.

Contact for (PIC) Advocacy Committee: Chair: Gavin Thornton, 808-369-2510, picadvocacychair@gmail.com

PARTNERS IN CARE, c/o Aloha United Way
200 North Vineyard • Suite 700 • Honolulu, Hawaii 96817 • www.PartnersinCareOahu.org

HAWAII APPLESEED
CENTER FOR LAW & ECONOMIC JUSTICE

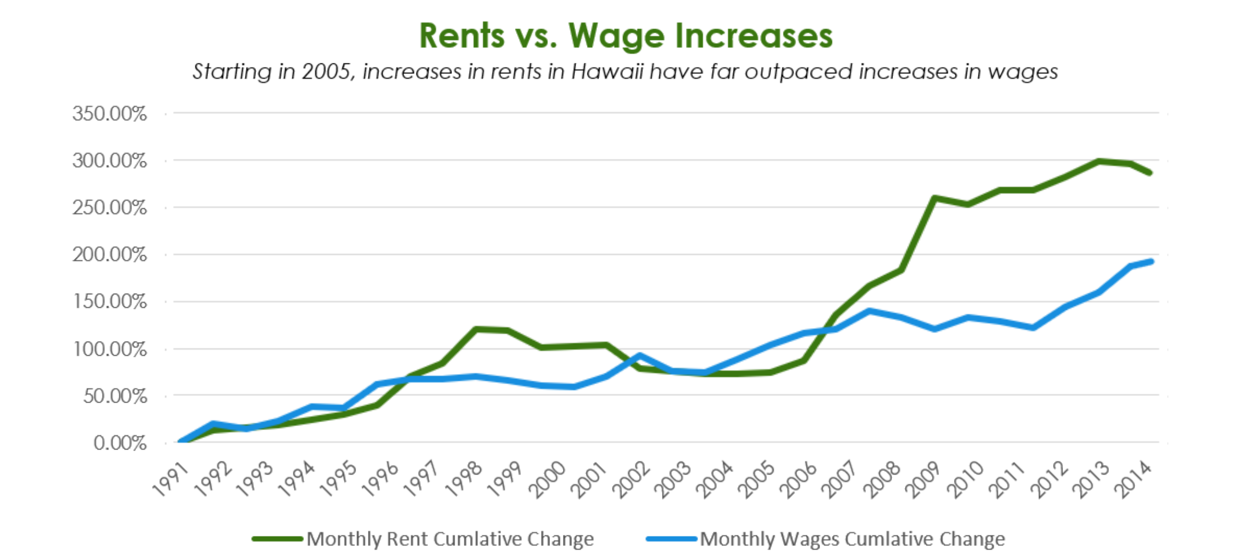
Testimony of Hawaiʻi Appleseed Center for Law and Economic Justice
Supporting SB 2416 SD1, Relating to the Conveyance Tax
Senate Committee on Ways and Means
Scheduled for Hearing Wednesday, February 28, 2018 at 11:00am, Conference Room 221

Hawaiʻi Appleseed Center for Law and Economic Justice Hawaii Appleseed is committed to a more socially just Hawaiʻi, where everyone has genuine opportunities to achieve economic security and fulfill their potential. We change systems that perpetuate inequality and injustice through policy development, advocacy, and coalition building.

Dear Chair Dela Cruz, Vice Chair Keith-Agaran, and members of the Committee on Ways and Means:

Thank you for the opportunity to testify in **strong support** of SB 2416 SD1, which increases the conveyance tax rate on luxury homes and removes the cap on the amount of conveyance tax proceeds dedicated to the Rental Housing Revolving Fund (RHRF) to help create additional affordable housing for the many Hawaiʻi families struggling to make ends meet.

The housing crisis is one of the most critical problems in Hawaiʻi today. We have the highest housing costs in the nation, the lowest wages when adjusted for cost of living, the highest rate of homelessness, the highest rate of overcrowding in housing, and these problems continue to worsen with housing costs increasing at more than twice the rate of increases in wages. In just one year, from 2015 to 2016, the annual fair market rent for a two-bedroom apartment increased by over $5,400, while the average annual wage for renters in Hawaiʻi increased by a mere $83. Housing has always been expensive in Hawaiʻi, but as shown by the below graph, the increase in housing costs has become an increasingly serious problem over the last decade.



The increase in housing costs at a more rapid rate than the growth of wages is creating a tremendous barrier for those struggling to make ends meet—a problem that extends beyond just those at the lowest end of the income scale. Nearly half of Hawai‘i tenants live in housing that is, by definition, unaffordable, spending more than 35% of household income on their monthly gross rent. Households at the bottom of the income scale face the biggest barriers. For households making $44,000 a year—two and a half times what a minimum wage earner makes—out of every 100 homes needed, only 40 are affordable and available. All told, the Department of Business, Economic Development & Tourism projects that the state will need an additional 64,700 to 66,000 housing units between 2015 and 2025, yet Hawai‘i's housing stock has only been increasing at a rate of 1,115 units per year. As demand outpaces supply, housing prices will continue to rise further and further out of reach for low- and moderate-income families.

This already-a-crisis situation is likely to get even worse if Hawai‘i does not take serious action to increase the availability of affordable housing. One of the most important means of funding affordable housing development is the Rental Housing Revolving Fund (RHRF). Much of our affordable housing stock in recent years has been built using the federal Low-Income Housing Tax Credit (LIHTC) program. The LIHTC projects cannot be done with LIHTC alone—the RHRF provides crucial gap financing that the projects need to "pencil out." Unfortunately, the recently-passed changes to the federal tax system have decreased the value of the Low-Income Housing Tax Credits, and Hawai‘i needs more RHRF dollars to simply sustain Hawai‘i's current pace of affordable housing development—RHRF funds were awarded for the development of only 326 affordable units in the 2016 calendar year. We need to invest more to build more.

SB 2416 SD1 will increase the rate of conveyance tax on those purchasing luxury homes—purchasers who are more likely to be non-resident investors and vacation home purchasers rather than residents who need homes to live and work in Hawai‘i. Additionally, SB 2416 SD1 will eliminate the $38 million cap on the amount of conveyance tax proceeds that go to the RHRF. These changes are a critical component of ensuring that Hawai‘i adequately invests in affordable housing development.

For these reasons, Hawai‘i Appleseed strongly supports SB 2416 SD1. Thank you for your consideration of this very important issue.