Young Progressives Demanding Action
P.O. Box 11105
Honolulu, HI 96828

June 22, 2020
11:00 AM

TO: House Committee on Economic Development & Business
RE: Testimony in Support of SB2697 SD1 With Amendments

Aloha Chair McKelvey, Vice Chair Kitagawa, Members of the House Committee on Economic Development & Business,

Young Progressives Demanding Action (YPDA) advocates for public policies that reflect the values of young people throughout the State of Hawaiʻi. One of those values is that corporations should pay their fair share in taxes, so we can in turn invest in our communities. YPDA is in **Support** of **SB2697 SD1**, Relating to Taxation of Real Estate Investments Trusts **With Amendments**. This measure would disallow dividends paid deduction for real estate investment trusts (REITs), except for real estate investment trusts that provide affordable housing in the State. This would come into effect on 7/1/2050. It would apply to taxable years beginning after 12/31/2020, but would sunset on 12/31/2023.

As the restrictions brought on by the COVID-19 pandemic begin to lift, one of the most well known REIT-owned properties in Hawaiʻi, Ala Moana is bustling with business once more. Ala Moana is also neighbors with houseless individuals who are either sleeping nearby on the beach or apartments because of factors like lack of access to healthcare and being unable to afford to survive. The State of Hawaiʻi and by extension the legislature must remember its commitment in Article 9, Section 10 of the Hawaiʻi State Constitution to the Law of the Splintered Paddle, "Let every elderly person, woman and child lie by the roadside in safety". Protect and care for the most vulnerable members of our society, especially the houseless. We are currently living in a tale of two cities, two very stark contrasts in our community that cannot be ignored.

Closing the REITs tax loophole and making them pay their fair share of taxes is a much needed reform and a great step in the right direction to begin to address this divide and would be an asset in terms of bringing more revenue for the State of Hawaiʻi. REITs are a well-off part of our communities. They should be helping to support the communities that they are currently operating in. With REITs having federal tax exemptions and benefiting from our low property tax, they are in a great position to pay their fair share in taxes while still remaining well off. It is a common understanding among residents that it is very hard to live here. With low wages, workers are taking on several jobs and living paycheck to paycheck. The pandemic has also significantly increased the number of people who are unemployed that need actual relief. This leaves many of our peers with very few options but to leave. Please continue to work on creating a Hawaiʻi that is livable for all generations so that we can all have an opportunity to succeed, afford our basic needs, and have families of our own.

REITs are also an issue that bridges the gap between criminal justice and economic justice reform. CoreCivic, formerly known as the Corrections Corporation of America is a Real Estate Investment Trust. Our local residents are sent to their Arizona prison, Saguaro Correctional Center. The interest of the private prison industry is to make money off of prisons, which has now expanded its operations to immigration detention facilities. This means that their interest is not in rehabilitation, but keeping more people locked inside and separated from their families while working inmates to the bone without proper compensation. They profit by using the bare amount of resources in necessities like food and healthcare. We need to begin to have a meaningful discussion on how we can bring our local residents home to serve their time and return to society, while building a more restorative criminal justice system. By holding REITs accountable, it is our hope that we can end our reliance on private prisons, especially with the spotlight being put on the inherent racism, corruption, and failures of our criminal justice system by the Black Lives Matter movement.

We urge you to **amend this measure** to remove the sunset date of December 31,2023 so that Hawaiʻi taxpayers can benefit from REIT taxation for more than three years.

Young Progressives Demanding Action is in **Support** of **SB2697 SD1** **<u>With Amendments</u>**. We respectfully ask for you to pass it through your committee.

Mahalo for the opportunity to testify,

Jun Shin,
Executive Committee Member
Young Progressives Demanding Action (YPDA)
Cell: 808-255-6663
Email: junshinbusiness729@gmail.com
CC: action@ypdahawaii.org

SB-2697-SD-1
Submitted on: 6/19/2020 6:46:24 PM
Testimony for EDB on 6/22/2020 11:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Catherine Susan Graham	Faith Action/Housing Now Coalition	Support	Yes

Comments:

Welcome back, Committee Members,

What a ride we are all having with pandemics and social unrest. The tide seems to be changing. All the reforms that we have been putting off for one reason or another, we can no longer put off. Now is the time to commit to our community's health, no matter what. The future of tourism may be at stake - it remains to be seen how that plays out, but it is great to see turtles nesting at Bellows, more fish and clearer water at Hanauma Bay and cleaner air in many mainland cities.

Perhaps now is the time to pass this REITS taxation bill. The REITS supporters will say they are now currently losing money and the state will not gain much by passing this tax now. The REITS supporters will say that this will discourage more development in our state. But this lockdown has shown many of our local citizens that more development of high end real estate and hotels is NOT what this state needs. We may not know what we need or how to makeour economy thrive again but tourism may not be the answer.

Please pass this bill.

Thank you.

SB-2697-SD-1
Submitted on: 6/20/2020 7:22:54 AM
Testimony for EDB on 6/22/2020 11:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
John & Rita Shockley	FREE ACCESS COALITION	Support	No

Comments:

Aloha!

We support SB 2697. REIT corporations need to contribute to the welfare of Hawaii's people who need access to affordable housing.

Mahalo for your time and hopefully your Kokua on this important issue.

John & Rita Shockley. Coordinators: Free Access Coalition. www.freeaccesscoalition.weebly.com. Facebook page: Free Access Coalition.

AMERICANS FOR DEMOCRATIC ACTION
HAWAI'I

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MAILING ADDRESS
P.O. Box 23404
Honolulu Hawai'i 96823

June 20, 2020

TO: Honorable Chair McKelvey & EBD Committee Members

RE: SB 2697 SD1 RELATING TO TAXATION OF REAL ESTATE INVESTMENT TRUSTS

Support for hearing on June 22

Americans for Democratic Action is an organization founded in the 1950s by leading supporters of the New Deal and led by Patsy Mink in the 1970s. We are devoted to the promotion of progressive public policies.

We support SB 2697 SD1 as it would no longer allow the deduction for dividends paid for real estate investment trusts (REITS) except for affordable housing. REITs own about $17 billion worth of Hawaiʻi real estate and earn profits of about $1 billion every year, but they have a special tax status that exempts them from paying millions of dollars in corporate income tax. This bill would close the REITs tax loophole and make them pay their fair share of taxes.

Thank you for your favorable consideration.

Sincerely,

John Bickel President

ADA

HSTA
HAWAII STATE TEACHERS ASSOCIATION
Teaching Today for Hawaii's Tomorrow

1200 Ala Kapuna Street ♦ Honolulu, Hawaii 96819
Tel: (808) 833-2711 ♦ Fax: (808) 839-7106 ♦ Web: www.hsta.org

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Secretary-Treasurer

Wilbert Holck
Executive Director

TESTIMONY BEFORE THE HOUSE COMMITTEE ON
ECONOMIC DEVELOPMENT & BUSINESS

RE: SB 2697, SD1 - RELATING TO TAXATION OF REAL ESTATE INVESTMENT TRUSTS

MONDAY, JUNE 22, 2020

COREY ROSENLEE, PRESIDENT
HAWAII STATE TEACHERS ASSOCIATION

Chair McKelvey and Members of the Committee:

The Hawaii State Teachers Association **strongly supports SB 2697, SD1.**This bill once passed, disallows dividends paid deduction for real estate investment trusts.

Hawaii has some of the most highly coveted real estate in the nation not only due to its gorgeous scenery, appeal as a tourist destination, and status as an urban hub in the middle of the Pacific, but also because it has <u>the lowest property tax rate in the nation</u>. These factors have led to an explosion in real estate development throughout the islands, including real estate owned by real estate investment trusts or REITs. In fact, REITs own approximately $17 billion worth of real estate in Hawai'i—more than any other state on a per capita basis. Meanwhile, Hawaii real estate values continue to skyrocket, making it harder and harder for Hawaii residents to afford living at home. Without a disincentive to investors and speculators, Hawaii will continue to experience an exponential increase in real estate property values and those barely making it in Hawaii will be even closer to homelessness.

Unlike corporate investors, investors in real estate investment trusts are exempt from paying corporate income tax on dividends. Thus, dividends from REITS are taxed only once at the shareholder level, and these taxes are paid in the form of income tax to the investor's home state. The implication of this is that while the state plays host to REITs, it receives virtually no taxes from REITs. Because Hawaii ranks 40th in the nation for the number of REIT shareholders as a percentage of the population, income taxes paid on dividends by shareholders are, for the most part, going out of state.

Decoupling Hawaii's income tax treatment of REITs from federal income tax treatment would generate $65 million in annual revenue which would take money made off of real estate investments in Hawaii and inject it back into the people of Hawaii.

To provide a disincentive to the real estate investment and speculation driving up property values and to provide more much needed tax revenue to our state we ask you to **support this bill.**

Testimony of
Pacific Resource Partnership

House Committee on Economic Development & Business
The Honorable Angus L.K. McKelvey, Chair
The Honorable Lisa Kitagawa, Vice Chair

SB 2697 SD1 Relating to Taxation of Real Estate Investment Trusts

Monday, June 22, 2020
11:00 A.M.
Conference Room 329

Aloha Chair McKelvey, Vice Chair Kitagawa, and Members of the Committee:

Pacific Resource Partnership (PRP) writes in **strong opposition** to SB 2697 SD1, which disallows dividends paid deduction for real estate investment trusts (REITs) except for REITs that provide affordable housing in the State.

REITs invest in long-term projects that enable communities and economies to grow. They provide a means to invest in Hawaii's infrastructure. REIT investments include, but are not limited to, rental housing, medical facilities, shopping centers and commercial buildings, all of which provide important services and functions to the public. Some REIT-owned projects serve the districts you represent and serve as important economic drivers for those areas, such as Napili Plaza, Whaler's Village, Hyatt Regency—Maui Resort and Spa in Lahaina; Kaneohe Bay Shopping Center in Kaneohe; Opule Street Industrial Space, Kapolei Medical Park, and Ka Makana Alii in Kapolei; and Pearlridge Center in Aiea.

In the midst of economic uncertainty due to COVID-19, Hawaii cannot afford to enact policies that discourage REITs and their investors from doing business in Hawaii, especially since we know that REIT-owned projects play a vital role in serving our local communities.

Given the above, PRP respectfully requests that this Committee defer SB 2697 SD1. Thank you for the opportunity to submit written testimony.

PRP
PACIFIC RESOURCE PARTNERSHIP

PHONE → 808.528.5557 1100 ALAKEA STREET / 4TH FLOOR HONOLULU / HI 96813 TWITTER: @PRPHAWAII WWW.FACEBOOK.COM/ PACIFICRESOURCEPARTNERSHIP

Church of the Crossroads
United Church of Christ

House Committee on Economic Development & Business
June 22, 2020 at 11:00 a.m.
State Capitol Conference Room 329

SUPPORTING SB 2697 SD 1 WITH AN AMENDMENT

The Church of the Crossroads, founded in 1922, is Hawaii's first intentionally multicultural church and is committed to a mission of peace, justice, and environmental preservation.

The role of government includes creating an infrastructure that supports business activity in general and maintaining a level playing field so that all businesses can compete fairly. Real Estate Investment Trusts (REITs) are for-profit corporations that do not pay Hawaii's corporate tax. This is unfair to those corporations that are required to pay the corporate tax, and it deprives the State of tax revenue that can be used to fund infrastructure.

Unlike the personal income tax, Hawaii's corporate tax is a low impact tax that taxes profit, not gross income or spending. Profit is gross income minus expenses, so the corporate tax does not have a direct effect on the operations of a corporation.

By contrast, the personal income tax, for example, affects the amount people can spend, so it directly affects their choices of housing, food, clothing, transportation, health care, and the rest of their expenditures. The corporate tax that would be applied to REITs does not have an impact of that magnitude. It would have no direct effect on the operations of REITs or the corporations they own, allowing them to operate just as they are doing now.

It is no surprise, however, that REITs or the corporations they own are criticizing the bill. Their shareholders don't like the bill because they are the ones who would be affected by it. However, more than 95% of shareholders of REITS with properties in Hawaii live on the mainland or elsewhere besides Hawaii. They pay taxes elsewhere, and as a result, Hawaii loses out.

REITs earn an estimated $1 billion in profits annually in Hawaii. Applying Hawaii's corporate tax to REITs would result in an estimated $60 million in tax revenue to the State. Those funds should be applied to reducing the enormous shortage of housing that is affordable to working families. Some efforts are being made to build affordable housing, but much greater efforts must be made because the shortage is so great and the cost to develop housing is so high. Notably, this bill exempts REITs whose real property is used to provide affordable housing.

The application of REIT tax revenue to affordable housing is consistent with a study entitled, "The Housing Action Plan Final Report to the State Legislature," which was funded by the Legislature and issued in 2017. Among the financing ideas is the dedication of new tax revenue for affordable/workforce housing or infrastructure, with those funds separated from the general fund.

This bill should be amended to separate the REIT tax revenue from the general fund and to dedicate it to the creation of affordable housing in Hawaii. We suggest the Rental Housing Revolving Fund. With that amendment, the Church of the Crossroads supports this bill.

Hawaiʻi Alliance for Community-Based Economic Development
1575 South Beretania Street, Suite 211 Honolulu, HI 96826
Ph. 808.550.2661
Email info@hacbed.org www.hacbed.org

HACBED

Date: June 20, 2020
To: Representative Angus L.K. McKelvey, Chair, Representative Lisa Kitagawa, Vice-Chair, and members of the Committee on Economic Development & Business
From: Brent Kakesako, Hawaiʻi Alliance for Community-Based Economic Development (HACBED)
Re: Strong Support for SB 2697 SD1

Aloha Chair McKelvey, Vice-Chair Kitagawa, and Committee Members,

The Hawaiʻi Alliance for Community-Based Economic Development (HACBED) strongly supports SB 2697 SD1, which disallows the dividends paid deduction for real estate investment trusts (REITs), except for REITs that provide affordable housing in the State.

HACBED was established in 1992 as a statewide nonprofit intermediary to address social, economic, and environmental justice concerns through community-based economic development. It advances its mission with core competencies in the areas of community and organizational capacity building, community and economic development planning, and asset policy development and advocacy. In providing technical assistance to grassroots community-based organizations, HACBED sees so much potential in how these organizations provide opportunities for place-based economic development–critical existing examples of ways to diversify our economy as we reopen following the COVID-19 crisis. Many of these organizations carry out a wide range of environmental and cultural restoration activities as well as development of our youth and workforce in a way that is grounded in the cultures and values of Hawaiʻi. As such, eliminating the dividends paid deduction for REITs and potentially directing a proportion of that $60 million dollars of tax revenue to economic development grant programs, particularly as tied to place-based community organizations, would be of great benefit to the entire state and could also be seen as a way for REITs to truly invest in this place where they are already seeing many economic benefits.

In addition, HACBED played a facilitating role in the State Asset Policy Task Force and was a key contributor to the State Asset Policy Road Map. The 2015 State Housing Demand Study made it clear that 75% of the housing needed by 2026 must be for households earning $75,000 annually or less. Capturing that lost tax revenue from eliminating the dividends paid by REITs should also be used to support the development of truly affordable living opportunities for families to be able to live here–another way for REITs to reinvest in Hawaiʻi.

The passage of SB 2697 SD1 is an opportunity to recapture needed capital, and hopefully work with REITs to invest in place-based economic development and affordable housing development for families work and live in this place – Hawaiʻi.

Mahalo for this opportunity to testify,

Brent N. Kakesako
Executive Director

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 304 Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: INCOME, Disallow dividends paid deductions for REITs

BILL NUMBER: SB 2697, SD-1

INTRODUCED BY: Senate Committee on Ways & Means

EXECUTIVE SUMMARY: Disallows dividends paid deduction for real estate investment trusts, except for real estate investment trusts that provide affordable housing in the State.

SYNOPSIS: Amends HRS section 235-2.3(b) to provide that section 857(b)(2)(B) (with respect to the dividends paid deduction for real estate investment trusts) shall not be operative for Hawaii income tax purposes.

Amends HRS section 235-71(d) to provide that for tax years beginning after December 31, 2020, no deduction for dividends paid shall be allowed for REITs for Hawaii income tax purposes, except where 100% of the trust's real property is used to provide affordable housing in the State.

EFFECTIVE DATE: 7/1/2050.

STAFF COMMENTS: Currently under federal and state income tax law, a real estate investment trust (REIT) is allowed a dividend paid deduction, unlike most other corporations, resulting in that dividend being taxed once, to the recipient, rather than to the paying corporation. The proposed measure would make that section of the IRC inoperative for Hawaii income tax purposes for tax years beginning after 12/31/20, meaning that REITs would be subject to double taxation like other corporations.

All state income tax systems in the United States, including ours, have a set of rules that are used to figure out which state has the primary right to tax income. For example, most tax systems say that rent from real property is sourced at the location of the property, so if a couple in Florida rents out a property they own on Maui they can expect to pay our GET and our net income tax on that rent. These sourcing rules, which do vary by state but are relatively consistent across state lines, are there to assure consistent and fair treatment between states.

Real estate investment trusts (REITs) are source shifters. For income tax purposes, they take in rent income, which is sourced to the location of the property being rented. They don't pay income tax on that income as long as they distribute the money to their shareholders as dividends. The dividend income of their shareholders, on the other hand, is generally sourced to the residence of the shareholders. So, the income that the property states expected to tax is instead taxed in the states in which the shareholders live. And, to the extent that REIT shares are held by tax-exempt entities such as labor unions and retirement funds, passive income such as dividends may not be taxed at all. Source shifting is an issue specific to state taxation.

Apparently, the evil sought to be addressed by the bill is that (1) REITs are very visible in Hawaii, but do not get taxed because of the deduction allowed for dividends paid, while (2) many REIT owners who receive the dividend income are either (a) outside of Hawaii and don't get taxed either because they are outside of Hawaii, or (b) are exempt organizations that normally are not taxed on their dividend income. Normally we like to have our income tax law conform to the Internal Revenue Code to make it easier for people and companies to comply with it, but our legislature has departed from conformity when there's a good reason to do so (such as if it is costing us too much money). The issue is whether such a good reason exists here.

REITs do pay general excise and property taxes on rents received and property owned – as do the rest of us who are fortunate enough to have rental income or property to our name.

There is an issue that has developed around REITs that own hotels or other operating assets. Under federal rules, REITs cannot receive operating income, but can receive passive income from real estate (such as rent). To operate the hotels, they normally form a taxable REIT subsidiary (TRS), which is taxed as an ordinary corporation, to do that; the TRS then pays rent to the REIT. That rent is of course taxable under Hawaii's GET law, and the hotel REITs have suggested that if this bill passes the hotel REITs will unwind their ownership structure and eliminate the extra level of GET on those rents. In our mind this threat is not credible. The hotel REITs established their holdings before 2018 and presumably found that it was financially beneficial to do so despite the extra level of GET. Since then, the Tax Cuts and Jobs Act drastically reduced the federal corporate income tax rate, from 35% to 21%, and thereby lessened the burden that had been placed on the TRS's. If it was beneficial to adopt a REIT/TRS structure to run a hotel before the Tax Cuts and Jobs Act and the Act slashed the federal corporate rate, it is hard to imagine that unwinding the structure would be financially beneficial.

This bill is similar to SB 301 (2019), which was passed by the Legislature but was vetoed by the Governor amid concerns that enactment of the measure would chill investments in Hawaii and dry up the availability of already-scarce capital to Hawaii projects.

The bill's proponents have an answer to this concern, which is stated in the bill's preamble:

> The legislature further finds that real estate investment trusts in Hawaii own real estate assets of approximately $17,000,000,000, generating an annual income of $1,000,000,000, which, if taxed at the current corporate rate assessed to all other corporations, would generate Hawaii tax revenues of $65,000,000 per year. A 2016 analysis conducted by the department of business, economic development, and tourism concluded that the State had foregone about $36,000,000 in income tax revenues in 2014, and that the amount of real estate investment trust investments has risen substantially since 2014.
>
> Some real estate investment trust shareholders live in Hawaii, but a substantial majority do not. Further, while real estate investment trusts own more real estate in Hawaii per capita than in any other state, it ranks fortieth in the nation for the number of real estate investment trust shareholders as a percentage of the population. As a result, many real estate investment trusts and their shareholders pay a mere fraction of the Hawaii state income tax compared to what other corporations pay.

> The legislature therefore finds that it would be more equitable to decouple from the federal system in this regard so that corporations and other business entities doing business in Hawaii pay a fair tax burden, commensurate with the substantial privileges and resources in Hawaii that were used to generate their profits. Real estate investment trusts would continue to receive their generous federal tax exemptions and benefit from Hawaii's low property tax rates.

The Foundation is attempting to present both sides of the argument and is not taking a position for or against this bill's passage.

Digested 3/10/2020

LEAGUE OF WOMEN VOTERS®

49 South Hotel Street, Room 314 | Honolulu, HI 96813
www.lwv-hawaii.com | 808.531.7448 | voters@lwv-hawaii.com

COMMITTEE ON ECONOMIC DEVELOPMENT AND BUSINESS

MONDAY, JUNE 22,2020, 11 AM, Room 329
SB2697 SD1,RELATING TO TAXATION OF REAL ESTATE INVESTMENT TRUSTS

Beppie Shapiro, Legislative Committee, League of Women Voters of Hawaii

Chair McKelvey, Vice-Chair Kitagawa and Committee Members:

The League of Women Voters of Hawaii **supports SB2697 SD1** that provides for taxation of profits of REITs investing in Hawaii real estate without deducting dividends paid to shareholders**.**

The League of Women Voters supports an equitable tax system that provides adequate and flexible funding of government programs, that is progressive overall and that relies primarily on a broad-based income tax.

In regards to SB2697 SD1:

Our State government has many urgent needs for funding, exacerbated by the anticipated decrease in tax revenues due to the economic slowdown during the Covid-19 pandemic (for example the unfunded liabilities for public employees retirement benefits; affordable housing on all islands; protection of state lands and parks; replacing fossil fuels with renewable energy quickly; moving infrastructure away from rising seas; etc.)

The existing tax base does not provide adequate funds for all or even most of these urgent needs.

Taxing REIT profits from Hawaii real estate investments without deducting dividends would provide additional funds.

Investors in REITs are obviously not our poorest residents, so such taxes would make the state tax system more progressive.

Please support SB2697 SD1.

Thank you for the opportunity to submit testimony.

HAWAII APPLESEED
CENTER FOR LAW & ECONOMIC JUSTICE

Testimony of the Hawaiʻi Appleseed Center for Law & Economic Justice
In Support of SB 2697, SD1 – Relating to Taxation of Real Estate Investment Trusts
House Committee on Economic Development & Business
Monday, June 22, 2020, 11:00 AM, in conference room 329

Dear Chair McKelvey, Vice Chair Kitagawa, and members of the Committee:

Mahalo for the opportunity to provide testimony in **SUPPORT of SB 2697, SD1**, which would disallow the corporate tax exemption for real estate investment trusts (REITs), except for those that provide affordable housing in the state.

Currently income produced from Hawaiʻi REIT property is escaping Hawaiʻi income tax. In contrast, all other individuals and corporations in Hawaiʻi that generate income off Hawaiʻi real estate are paying state income tax. REITs should be no exception. Eliminating the exemption could generate up to $60 million in tax revenue to fund the infrastructure, projects and programs our that community, and even REITs themselves, depend on.

A Real Estate Investment Trust or "REIT," is a corporation that owns income-producing real estate, like hotels and shopping malls. Like a mutual fund for real estate, people can purchase shares in a REIT to get a portion of the income it generates. REIT's have been granted a special tax status that exempts them from paying corporate income tax on the dividends paid to its shareholders.

REITs suggest that the exemption is appropriate because REIT shareholders pay income tax. However, while REITs own approximately $17 billion worth of real estate in Hawaiʻi—more than any other state on a per capita basis—we have relatively few residents who are REIT shareholders, ranking 40th in the nation for the number of REIT shareholders as a percentage of the population. That means that most of the estimated $1 billion in profits is created in Hawaiʻi on Hawaiʻi REIT property is going out of our state, and only a little is remaining here. And most of it is escaping Hawaiʻi income tax.

REITs can still operate and thrive in Hawaiʻi, even if required to pay income tax like everyone else. If the Hawaiʻi state corporate income tax exemption were eliminated, REITs would still receive generous federal tax exemptions, and they would continue to benefit from Hawaiʻi's extraordinarily low property tax rate. This bill would ensure that REITs start paying their fair share of Hawaiʻi income taxes to help support the communities in which they operate.

Thank you for your consideration of this testimony. Please pass this bill.

SB 2697, SD1, RELATING TO TAXATION OF REAL ESTATE INVESTMENT TRUSTS

JUNE 22, 2020 · HOUSE ECONOMIC DEVELOPMENT AND BUSINESS COMMITTEE · CHAIR REP. ANGUS L.K. MCKELVEY

POSITION: Support.

RATIONALE: Imua Alliance supports SB 2697, SD1, relating to taxation of real estate investment trusts, which disallows dividends paid deduction for real estate investment trusts, except for real estate investment trusts that provide affordable housing in the State, applies to taxable years beginning after 12/31/2020, and sunsets 12/31/2023.

Under state taxation law, REITs are currently afforded an exemption from paying corporate income taxes on dividends paid to shareholders. REIT shareholders, however, pay federal and state income taxes on their earnings from the REIT in which they have invested.

Unfortunately, since most shareholders of Hawai'i REITs don't live in the Aloha State, they pay income taxes in other locations (if such income is subject to taxation in the states in which they reside, which it often is not). Thus, income generated from Hawai'i properties is being taxed elsewhere, if at all, sending sorely needed revenue for public education, basic infrastructure, climate change mitigation and adaptation, human and social services, affordable housing, public health, and pandemic response outside of our shores during a time of economic crisis.

Eliminating REIT dividend deductions will uplift Hawai'i's people. Over 30 REITs operate in Hawai'i, perhaps the most prominent of which is Alexander and Baldwin. REIT properties in the islands include Ala Moana Center, International Marketplace, and the Hilton and Hyatt Hotels. Notably, CoreCivic, formerly the corruption-plagued private prison firm Corrections Corporation of America, is also a REIT, making this measure not just a matter of economic justice, but also a hallmark of our state's commitment to criminal justice reform.

Collectively, Hawai'i REITs own over $17 billion worth of real estate and produce $1.3 billion in dividend income exempt from the corporate income tax, amounting to $40-$60 million per year in lost tax revenue–a number that will only increase over time, as real estate values continue to soar.

SENATE BILL 2697, SD 1, RELATING TO TAXATION OF REAL ESTATE INVESTMENT TRUSTS

JUNE 22, 2020 · HOUSE ECONOMIC DEVELOPMENT AND BUSINESS COMMITTEE · CHAIR REP. ANGUS L.K. MCKELVEY

POSITION: Support.

RATIONALE: The Democratic Party of Hawai'i Education Caucus supports SB 2697, SD1, relating to taxation of real estate investment trusts, which disallows dividends paid deduction for real estate investment trusts, except for real estate investment trusts that provide affordable housing in the State, applies to taxable years beginning after 12/31/2020, and sunsets 12/31/2023.

Under state taxation law, REITs are currently afforded an exemption from paying corporate income taxes on dividends paid to shareholders. REIT shareholders, however, pay federal and state income taxes on their earnings from the REIT in which they have invested.

Unfortunately, since most shareholders of Hawai'i REITs don't live in the Aloha State, they pay income taxes in other locations (if such income is subject to taxation in the states in which they reside, which it often is not). Thus, income generated from Hawai'i properties is being taxed elsewhere, if at all, sending sorely needed revenue for public education, basic infrastructure, climate change mitigation and adaptation, human and social services, affordable housing, public health, and pandemic response outside of our shores during a time of economic crisis.

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Public Storage

June 21, 2020

Hearing Date: June 22, 2020
Time: 11:00 A.M.
Place: Conference Room 329

The Honorable Angus L.K. McKelvey, Chair
The Honorable Lisa Kitagawa, Vice Chair
House Committee on Economic Development & Business

Re: Added Testimony ***Opposing*** Repeal of the REIT Dividends Paid Deduction – SB 2697 SD1

Dear Chair McKelvey, Vice Chair Kitagawa, and Members of the Committee on Economic Development & Business:

Without repeating the specifics included in my prior testimony filed on March 11, 2020, I want to reiterate that Public Storage ***strongly opposes*** SB 2697 SD1, which would repeal the dividends paid deduction for real estate investment trusts ("REITs") operating in Hawaii.

Public Storage and other REITs have made significant contributions to the state and would hope to continue doing so. However, in the face of the economic downturn the COVID pandemic has inflicted, when many REIT tenants are struggling to pay their rents, this bill would impose significant new taxes on REITs. And, rather than raise revenue, the bill can be expected to cause Hawaii to lose funds and economic activity. It would put Hawaii at a competitive disadvantage for ongoing REIT investment compared to every state that imposes income taxes (but for New Hampshire).

The bill wouldn't close a loophole; it would cause ***double taxation***. While regular corporations are generally subject to state income tax, they are not ***required*** to distribute their income. REITs must distribute their income to their shareholders who are taxed on those dividends. Nareit analysis suggests that about 47% of Hawaii households own REIT stock directly or indirectly (compared to 43% nationwide). Hawaii shareholders are taxed on all of the income that REITs are required to distribute (not just income earned by the REITs in Hawaii). The dividends paid deduction allows REITs to maintain a single level of tax, consistent with other pass-through entities, such as partnerships and limited liability companies.

For the reasons outlined above and in our prior testimony, Hawaii should decline to enact this bill. We respectfully request that you **do *NOT* move forward SB 2697 SD1**.

Very truly yours,

A. Timothy Scott

A. Timothy Scott
Tax Counsel of Public Storage
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cc: Department of Taxation
Department of Business, Economic Development & Tourism

Douglas Emmett

June 21, 2020

Representative Angus McKelvey, Chair
Representative Lisa Kitagawa, Vice Chair
House Committee on Economic Development and Business

RE: SB 2697 SD1 Relating to Taxation of Real Estate Investment Trusts – In Opposition
Monday, June 22, 2020; 11:00 AM; Conference room 329

Aloha Chair McKelvey, Vice Chair Kitagawa and Members of the Committee:

On behalf of Douglas Emmett, Inc. ("Douglas Emmett"), we appreciate this opportunity to present testimony expressing concerns on SB 2697 SD1, which disallows a dividends-paid deduction ("DPD") for real estate investment trusts ("REITs").

Douglas Emmett has been investing in Oahu for over fifteen years. We currently own over 2,000 workforce rental apartment units and recently invested over $120 million to build approximately 500 rental apartments in Moanalua. The development employed hundreds of local construction workers and created desperately needed workforce housing.

Douglas Emmett is currently working to add approximately 500 more rental apartments in downtown Honolulu by converting one of our office properties into workforce housing. We anticipate investing between $80 million and $100 million in the Bishop Place project, which will employ a large number of kama'aina union construction workers. The first units should come online in 2020 with rents targeted to serve local families in the 80% to 120% Average Median Income range. Douglas Emmett also owns two other office properties in downtown Honolulu, and we employ over 275 local residents.

We are concerned that this bill's targeted double taxation on REIT shareholders will negatively impact REIT investment into Hawaii. The bill incentivizes REITs to invest in states that recognize the intent of Congress for REITs to be a single tax entity. If SB 2697 SD1 is enacted, Hawaii will likely lose one of the best sources of capital to build workforce housing and improve our communities. The bill will also have a negative economic impact on the construction trades, building suppliers, architects, and engineers.

As a stakeholder in Hawaii, Douglas Emmett believes SB 2697 SD1 will eliminate an important source of capital that generates substantial local economic activity and creates jobs. We believe that discouraging investment in the midst of a recession is against the best interest of the residents of Hawaii and will delay the recovery of the economy so we respectfully ask that you defer SB 2697 SD1.

Respectfully,

Kevin Crummy
Chief Investment Officer

Michele Aronson
Senior Vice President

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June 21, 2020

Representative Angus L.K. McKelvey, Chair
Representative Lisa Kitagawa, Vice Chair
House Committee on Economic Development and Business

Comments and Concerns in Strong Opposition to SB 2697, S.D.1, Relating to Real Estate Investment Trusts (REITs) (Disallows Dividends Paid Deduction [DPD] for REITs, except for REITs which utilize one hundred percent of its real property to provide affordable housing in the State; applies to taxable years beginning after 12.31.2020; sunsets 12.31.2023.)

Monday, June 22, 2020, 11:00 a.m., in Conference Room 329

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 utility companies. LURF's mission 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.

SB 2697, S.D.1. The purpose of this bill is to amend subsection (b) of Section 235-2.3, Hawaii Revised Statutes to disallow DPDs for REITs, except for REITs where one hundred per cent of the trust's real property is used to provide affordable housing in the State. Should SB 2697, S.D.1 be adopted, REITs which do not provide affordable housing in the State will be taxed on their net income in Hawaii, while their shareholders will continue to be taxed on dividend income received, resulting in a double tax.

LURF's Position. LURF acknowledges the intent of this and prior, similar iterations of this measure given what may be perceived to be the potential for tax avoidance and abuse by foreign/mainland corporations and wealthy individuals through real estate ownership arrangements structured through REITs, however, stated justifications for this bill have not, to date, been proved or supported by any credible facts or evidence. LURF believes the advantages and benefits of continuing the DPD are supported by presently available, credible information and quantifiable evidence, and in fact clearly outweigh any purported profits or increase in state revenue speculated to be received as a result of the proposed disallowance.

In LURF's opinion, the provision in this version of the bill to allow the DPD for REITs that utilize one hundred percent of its real property to provide affordable housing in the State does nothing to address or correct the underlying inequities of, and unsupported factual bases for the overall effort to disallow the DPD for REITs.

While Section 1 of this bill initially states that "it is the legislature's intent to conform the income tax law of the State as closely as may be with the Internal Revenue Code, unless there is good reason to the contrary," the measure thereafter goes on to denounce the intent of the federal REIT law, bemoaning that the application of the law in this State is anomalous because REITs which conduct business in Hawaii may pay dividends to shareholders who reside out of the state, thereby resulting in no Hawaii income tax being collected from either the REIT or those out-of- state shareholders.

These detractors ignore that REIT laws were established specifically to allow REIT income to be taxed at the investor level like partnerships, so long as certain requirements continue to be met. Therefore, in order to remain qualified for such tax status regardless of the state(s) in which they may generate income, REITs must all comply with many strict qualifications and requirements, including being widely-held; investing mainly in real estate; no flipping properties; distributing all of their income (no retention of profits), which offset what are assumed in this case to be unfair benefits.

If enacted, SB 2697, S.D.1 would NOT eliminate the burdensome requirements applicable to Hawaii REITs, but would leave those which do not use one hundred percent of their real property to provide affordable housing in Hawaii - and their shareholders - WITHOUT ANY benefits from their investments – even the tax benefits allowed to other non-REIT entities such as tax-exempt pension funds and endowments which earn rental income from real property. Such a result would be clearly inequitable.

Rather than seeking to decouple from the federal system based on what is apparently viewed as unfair consequences of the application of the REIT laws to Hawaii due to the lesser number of resident REIT shareholders as compared to other states, detractors should focus instead on the numerous benefits brought by REITs to this State which more than make up for the alleged disadvantages.

The State's Final Report on the Impact of REITs in Hawaii Has Failed to Validate the Alleged Purpose of and Need for this Proposed Legislation.

Given that an unwarranted change of a universal tax rule in place since 1960 could undoubtedly affect investments made by REITs in Hawaii, significantly reduce the availability of capital in this State, as well as result in other economic repercussions, the Legislature determined in 2015 that it was necessary and prudent to require support for this type of measure prior to considering its passage. Thus, Act 239, Session Laws of Hawaii 2015, was passed which required the State Department of Business, Economic Development & Tourism (DBEDT) and the State Department of Taxation (DOTAX) to study the impact of REITs in Hawaii, and to present material facts and evidence which could show that such proposed legislation is in fact needed, and whether the State's economy will not be negatively affected because of taking the action proposed.

An interim report was released in December 2015 (the "Interim Report"),[1] followed by a final report issued in September 2016 (the "Final Report"),[2] however, even the Final Report is based on assumptions and estimates; relies on inconclusive results of surveys admittedly taken with a small sample size and low response rate; and is fraught with uncertainties, inconsistencies and weighting errors, making it unfeasible and ill-advised to rely upon for presenting any conclusive calculations or impacts.

Inquiries which critically must be, yet have not been proficiently or accurately addressed in the Final Report, include the amount of income the State would in fact receive as a result of the proposed legislation,[3] especially given the likelihood that REIT investment in Hawaii will in turn decline (i.e., whether the proposed measure is fiscally reasonable and sound); and whether it would be possible to replace the billions of dollars in investments currently being made by REITs should they elect to do business elsewhere if this proposed legislation is passed.

Given the inadequacy, inaccuracy and unreliability of the tenuous findings contained in the Interim and Final Reports, as well as the complete failure of said Reports to come to any meaningful and valid conclusions required to be made pursuant to Act 239, it should be brought to this Committee's attention that another study on the economic impacts of REITs in Hawaii dated December 2015, was prepared by economic expert Paul H. Brewbaker, PhD., CBE for the National Association of Real Estate Investment Trusts (the "Brewbaker Study").[4] The Brewbaker Study concludes that the repeal of the dividend paid deduction (DPD) for REITs in Hawaii would likely result in a net revenue loss to the State due to a number and combination of negative consequences which would be experienced by the local economy.

In view of the inconsistency between findings contained in the Final Report and the Brewbaker Study, LURF believes it would be irresponsible for this Committee to consider, let alone support SB 2697, S.D.1 which may potentially stifle, if not reverse the current growth of the State's economy, in reliance solely upon the untenable findings of the Final Report and must respectfully urge this Committee to at the very least, conduct an independent investigation and analysis of all the available facts and information relating to the disallowance of the DPD, and the potential financial and economic consequences thereof, prior to making any decision on this bill.

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[1] Department of Business, Economic Development & Tourism Research and Economic Analysis Division. *Real Estate Investment Trusts in Hawaii: Preliminary Data and Analysis - Interim Report*. December 2015.

[2] Department of Business, Economic Development & Tourism Research and Economic Analysis Division. *Real Estate Investment Trusts in Hawaii: Analysis and Survey Results*. September 2016.

[3] LURF understands that even the State DOTAX does not know how much tax income the government might receive as a result of the proposed legislation.

[4] Paul H. Brewbaker, Ph.D., CBE. *Economic Impacts of Real Estate Investment Trusts in Hawaii*. December 2015.

In fact, in a more recent April 26, 2019 *Policy Memorandum Relating to Taxation of Real Estate Investment Trusts* (the "Memorandum"),[5] the DBEDT expressly states that:

> [T]he benefits of continuing with this federally established legislation are clear and quantifiable," and that REITs are an important investment vehicle for all types of investments in Hawaii.[6]

The Memorandum goes on to take the position that:

> [I]f the state income tax is imposed on a REIT there may be negative impacts to the state's economic health and the business climate, such as a reduction of general excise, property and state income taxes; decline of jobs; potential loss of future investments; and increased perception of Hawaii as a fiscally challenging state to do business.[7]

Given the inability of the Final Report and the Memorandum to conclusively support the validity of this measure, and based on the following reasons and considerations, LURF must oppose SB 2697, S.D.1.

1. The "Double-Tax" Resulting from this Proposed Measure is Contrary to the Underlying Intent of REITs.

REITs are corporations or business trusts which were created by Congress in 1960 to allow small investors, including average, everyday citizens, to invest in income-producing real estate. Pursuant to current federal and state income tax laws, REITs are allowed a DPD resulting in the dividend being taxed a single time, at the recipient level, and not to the paying entity. Most other corporations are subject to a double layer of taxation – on the income earned by the corporation and on the dividend income received by the recipient.

Proponents of this measure attempting to eliminate the DPD, however, appear to ignore that the deduction at issue comes at a price. REITs are granted the DPD for good reason - they are required under federal tax law to be widely held and to distribute at least 90% of their taxable income to shareholders,[8] and must also comply with other requirements imposed to ensure their focus on real estate. In short, REITs earn the DPD as they must

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[5] Department of Business, Economic Development & Tourism. *Policy Memorandum Relating to Taxation of Real Estate Investment Trusts*, from Mike McCartney, Director, to The Honorable Donovan Dela Cruz, Chair, Senate Ways and Means; and The Honorable Sylvia Luke, Chair, House Finance. April 26, 2019 (herein the "Memorandum").

[6] Memorandum at p. 2.

[7] *Id.*

[8] The State of Hawaii thus benefits from taxes it collects on dividend distributions made to Hawaii residents.

comply with asset, income, compliance and distribution requirements not imposed on other real estate companies.

According to the Brewbaker Study, repealing the DPD for REITs would subject Hawaii shareholders to double-taxation and may reduce future construction and investment by REITs locally, thereby resulting in revenue loss to the State.[9] Moreover, replacement investor groups may likely be tax-exempt institutions such as pension plans and foundations which would generate even less in taxes from their real estate investments.[10]

2. SB 2697, S.D.1 is Contrary to the Tax Treatment of REITs Pursuant to Current Federal Income Tax Rules and Laws of Other States with an Income-Based Tax System.

SB 2697, S.D.1 would enact serious policy change that would create disparity between current Hawaii, federal, and other states' laws with respect to the taxation of REIT income.

The laws of practically every state with an income-based tax system now allow REITs a deduction for dividends paid to shareholders. Hawaii, as well as other states which impose income taxes currently tax REIT income just once on the shareholder level (not on the entity level), based on the residence of the shareholder that receives the REIT dividends and not on the location of the REIT or its projects.

By now proposing to double-tax REITs that do business in Hawaii as well as their shareholders, SB 2697, S.D.1 would upset the uniformity of state taxation principles as applied between states. Other states which have similarly explored the possibility of such a double tax over the past years have rejected the disallowance of the DPD for widely held REITs.

3. Hawaii REITs Significantly Contribute to and Benefit the Local Economy.

Elimination of the DPD would result in a double-taxation of income for Hawaii REITs which would certainly mitigate, if not extinguish interest and incentive in investing in Hawaii-based REITs, which currently contribute significantly to Hawaii's economy.

Results from the Final Report indicate that even as of September 2016, approximately 42 REITs operating in Hawaii reportedly held assets in the amount of an estimated $7.8 billion at cost basis[11], which has resulted in substantial economic activity in local industries including construction, retail, resort, healthcare and personal services, as well as employment for many Hawaii residents, and considerable tax revenues for the state and city governments. Such tax revenues include State General Excise Tax (GET) on

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[9] Brewbaker Study at pp. 1, 32, 38.

[10] *Id.*

[11] Final Report at pages 3, 15-16.

rents and retail sale of goods, business income tax on profits made by tenants, income tax from employment of Hawaii residents, and millions of dollars in property taxes.

DBEDT's more recent position as taken with regard to virtually identical anti-REIT legislation proposed in this current Legislative Session is proffered in the Memorandum and makes clear the Department's policy that "maintaining stable economic growth for the State is paramount to the future of Hawaii,"[12] as well as its concern that the State's economy will suffer as a result of the disallowance of the DPD. As stated in the Memorandum:

> Given the current economic conditions, the unintended consequences of imposing a corporate tax on REITs are not worth the potential benefits. Hawaii needs to be a place that is able to attract investment capital in order to create quality jobs and a sustainable economy.[13]

Proponents of this bill should be mindful that significant economic growth experienced in this State over the past years is undoubtedly attributable in part to REIT investment in Hawaii. Outrigger Enterprises partnered with REIT American Assets Trust to successfully develop the Waikiki Beach Walk. General Growth' Properties' expansion and renovation of the Ala Moana Shopping Center, as well as its partnering with Honolulu-based, local companies (The MacNaughton Group, The Kobayashi Group and BlackSand Capital) to develop the Park Lane residential condominium project is another example. The capital invested in that project to construct additional retail space and luxury residences reportedly exceed $1 billion, and the development will have created an estimated 11,600 full- and part-time jobs and over $146 million of state revenue. Taubman Centers, Inc., another REIT, also partnered with CoastWood Capital Group, LLC to revitalize Waikiki through the redevelopment of the International Market Place at a reported cost of over $475 million.

REIT projects have helped to support Hawaii's construction industry immensely[14] by providing thousands of jobs, and continue to significantly contribute to the local economy through development of more affordable housing (more than 2,000 rental housing units for Hawaii's families, such as the Moanalua Hillside expansion of more affordable housing rentals), student housing near the University of Hawaii, health care facilities, offices, shopping centers (Ala Moana Center addition; Pearlridge Center renovations; Ka Makana Ali'i), and hotels. To now require REITs to dedicate one hundred percent of their real property to provide affordable housing in the State in order to qualify for the DPD is unreasonable, especially given their current efforts and contributions to the development of affordable housing in Hawaii, and their support of to the local construction industry.

[12] Memorandum, p. 1.

[13] Memorandum, p. 2.

[14] In the past five years, REIT-related construction activity alone is estimated to have generated $3 billion in Hawaii GDP.

Despite claims made by detractors, the multibillion-dollar investments and contributions to Hawaii's economy made by REITs may not be so easily generated through other means or resources. Attracting and obtaining in-state capital for large projects is very difficult. The State should also be concerned with the types of entities willing and able to invest in Hawaii and should be wary of private investors looking only to make quick gains when the market is booming. Because federal regulations preclude REITs from "flipping" properties, REITs are by law, long-term investors which help to stabilize commercial real estate prices, and which are also likely to become a part of the local community.

4. The Disallowance of the DPD Proposed by this Bill will Unfairly Affect REITs and the Small Investors Which Have Already Made Substantial Investments in Hawaii.

Disallowance of the DPD and resulting increased taxation of REITs is expected to reduce investment returns as well as dividend payments to shareholders, which will no doubt have a significant negative effect on future investment by REITs in Hawaii.

Proponents of this bill attempt to minimize the negative consequences of disallowing the DPD by claiming that very few Hawaii taxpayers invest in REITs with property in Hawaii, however, LURF understands that in 2014 over 9,000 Hawaii investors had investments in over 70 public, non-listed REITs and received almost $30 million in distributions, and that tens of thousands more directly or indirectly own shares in stock exchange-listed REITs. Many Hawaii residents are reportedly not even aware that they benefit from REITs either through mutual funds or their pension or retirement accounts.

Supporters of this measure also ignore the fact that tax law changes proposed by SB 2697, S.D.1 will unfairly impact those publicly traded REITs which have already made substantial investments in Hawaii and have contributed greatly to the State's economy in reliance on the DPD, which, as discussed above, is considered a fundamental principle of taxation applicable to REITs.

If passed, this measure would strongly discourage future investment by REITs in Hawaii, which would ultimately impact jobs, reduce tax revenue and result in significant consequences for the State's future economy.

Conclusion. LURF believes proponents of this bill and other anti-REIT measures have continued to fail to present any credible and material facts or circumstances required to prove that this proposed legislation is in fact necessary, or that the State's economy will significantly improve as a result of taking the action proposed. Available and undisputable information, facts and evidence supporting the benefits of continuing the DPD in fact clearly outweigh any perceived profits or increased revenue speculated to be received as a result of the proposed disallowance. The intent and application of SB 2697, S.D.1 therefore remain unreasonable, unwarranted, and exceedingly anti-business.

In addition to all of this, our State, the nation, and the rest of the world are at present reeling from the economic devastation caused by the COVID-19 pandemic. Given the currently dire fiscal, health and social environments, it would seem incomprehensible that this Legislature would choose to give any consideration, let alone support to an unjustifiable change of a universal tax rule in place since 1960, which could significantly reduce the availability of capital in Hawaii, as well as result in other significant, negative economic repercussions for this State. For these reasons, LURF must **strongly oppose SB 2697, S.D.1**, and respectfully requests that this bill be held in this Committee.

PARK
HOTELS & RESORTS

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WRITTEN TESTIMONY OF

Scott D. Winer
Senior Vice President, Tax
Park Hotels & Resorts Inc.

IN OPPOSITION TO SB 2697, SD 1

BEFORE THE COMMITTEE ON ECONOMIC DEVELOPMENT & BUSINESS

REP. ANGUS L.K. MCKELVEY, CHAIR

REP. LISA KITAGAWA, VICE CHAIR

HEARING ON SB 2697, SD 1

June 21, 2020

On behalf of Park Hotels & Resorts Inc. ("PARK"), thank you for this opportunity to provide our testimony on SB 2697, SD 1. PARK submits this testimony in **opposition** to SB 2697, SD 1.

SB 2697, SD 1 would, beginning in taxable years after Dec. 31, 2020, disallow real estate investment trusts ("REITs") from claiming a dividend paid deduction ("DPD") and thus require REITs to pay corporate income tax to the State of Hawai'i, for a three year period through December 31, 2023.

The preamble to the legislation states it would be more equitable to decouple from the federal DPD so that business entities doing business in Hawaii pay a fair tax burden commensurate with the substantial privileges and resources used in Hawaii and that REITs will continue to benefit from Hawaii's low property tax rates. As described in more detail below, PARK opposes SB 2697, SD 1 and does not believe it would be equitable to decouple from federal tax law for the following reasons:

- It would not add significant revenue to the State. The Hawaii Department of Taxation ("DoTax") has stated elimination of the DPD would raise only modest amounts of income taxes while likely resulting in less General Excise Tax ("GET").
- It would threaten the GET revenue associated with the statutorily required lodging REIT structure.
- Park has been a solid business partner to the state of Hawai'i – paying significant tax (including GET and property tax, as detailed below).

PARK is a publicly traded lodging REIT (NYSE:PK) that owns 60 premium branded hotels and resorts located in the United States. Included within PARK's portfolio of hotels are (i) the iconic Hilton Hawaiian Village Waikiki Beach Resort ("Hilton Hawaiian Village") located along Oahu's prestigious Waikiki Beach, and (ii) the Hilton Waikoloa Village located on the Kohala Coast of the Big Island of Hawai'i. PARK strives to be the preeminent lodging REIT, focused on consistently delivering superior, risk adjusted returns for shareholders that invest in the hotel sector. PARK, like most REITs, has a long-term investment focus and is committed to creating sustainable value at its properties.

As you know, Congress enacted the REIT legislation in 1960 to allow individual investors the ability to own and benefit from professionally managed, institutional quality, income-producing real estate. As with all REITs, PARK must meet multiple stringent, complex and costly requirements in order to maintain its status as a REIT, including organizational requirements, asset holding requirements, passive income generation requirements, and importantly REITs must distribute at least 90% of their taxable income annually. These stringent, complex and costly requirements do Not apply to non-REIT real estate owners and require REITs to continuously access the debt and equity capital markets to obtain capital for maintenance, improvements and growth projects. By meeting these stringent, costly and complex requirements REITs are allowed to claim a DPD essentially passing through their taxable income to shareholders.

As state above, one of the REIT requirements is the passive income generation requirement, which separates the federal tax rules for REITs and the rules applicable to non-REIT real estate owners. Federal tax law dictates that a REIT must earn most of its income from "rents", and income from operating a hotel is not "rents". Thus, federal law requires that a lodging REIT lease its hotels to a third party or one or more fully taxable subsidiaries. If leased to a taxable subsidiary (which is the structure used by public REITs), the taxable subsidiary is required to hire an independent operator, like Hilton, to manage the hotel. The rents paid by the taxable subsidiary to the REIT hotel owner and the management fees paid to the independent operator are both subject to Hawaii GET.

Thus, hotels operating within the REIT structure are subject to **triple GET taxation, as a result of federal tax law requirements**. In fact, approximately 85% of the additional GET PARK pays is a direct result of federal law requirements governing hotel REIT operations and is not paid by a typical non-REIT hotel owner.

As described below, Park's acquisition and ownership of the two Hawai'i hotels results in approximately **$11 million in additional GET being paid to the State of Hawaii annually**.

Further, as REITs are passive real estate companies, they cannot actively trade in real estate properties without being subject to a 100% tax on the gain. Thus, unlike non-REIT owners, as a passive real estate company, REITs are long term investors in their real estate. Park, as is widely known, acquired land adjacent to the Hilton Hawaiian Village Waikiki Beach Resort complex with the express intent of investing in an additional hotel tower. The construction of such a new hotel tower will likely cost hundreds of millions of dollars and create significant jobs and additional revenues for the State.

We believe **the DPD should not be disallowed for any period of time or eliminated**. Not only is SB 2697, SD 1 bad public policy, it would not add significant revenue to the State. DoTax has stated elimination of the DPD would raise only modest amounts of income taxes while likely resulting in less GET, both because of less investment by REITs and the likely planning that would reduce lodging REIT duplicate GET payments. The disallowance of the DPD would be inconsistent with federal tax treatment, without a good reason, and the existing rules of virtually all other states with an income-based tax system.

Further, hotels and resorts, including lodging REITs, operating in Hawaii are not subject to low property tax rates. The current Hawaii real property tax rates for hotels and resorts is $13.90 per thousand of value (1.39%) which is not low compared to other jurisdictions and unlike residential rates is not the lowest rate in the United States.

We believe that our investment and the investments by other REITs in Hawai'i are beneficial to the state and that disallowing the DPD would have the undesirable consequence of discouraging investment by REITs in Hawai'i. In fact, Park is currently in the planning phase related to the possible construction of a hotel tower adjacent to, and to be an addition to, the Hilton Hawaiian Village Waikiki Beach Resort complex. If SB 2697, SD 1 were to become law, it will force us to reconsider whether we will proceed with this and future capital investment projects in the State of Hawai'i.

We believe the proposed legislation will not increase tax revenue for the state as the cost of doing business in Hawai'i will diminish investment returns and result in less investment. Further, disallowance or elimination of the DPD could result in foundations or pension funds replacing REIT ownership of real property. Foundations and pension funds generally are passive owners that pay no federal or state income taxes and do not make the same capital investments as REITs. Further, if hotels in Hawai'i are converted to non-REIT ownership, including ownership by taxable subsidiaries of REITs, the additional GET revenue generated solely as a result of the REIT structure will disappear.

We believe the GET, which is a tax on gross receipts rather than a tax on net income, is a more reliable and steadier source of state revenues than corporate income tax and SB 2697, SD 1's enactment would threaten this extremely valuable source of revenues to the State.

PARK's two landmark, oceanfront resorts cater to residents from Hawai'i and the mainland, and international travelers. PARK's Hawai'ian resorts provide significant economic benefit to the State of Hawai'i. We have made extensive renovations in excess of ~$228 million at Hilton Hawaiian Village and Hilton Waikoloa Village, over the last 5 years.

PARK's pre-COVID-19 economic footprint benefits the State of Hawai'i in many ways, including:

JOBS: PARK's hotels directly employ more than 2,850 employees. The payroll and associated benefits for these direct employees is in excess of $203,000,000 annually.

CAPITAL MAINTENANCE: Over the next five years, PARK will likely spend $200 million at Hilton Hawaiian Village and Waikoloa Village on capital maintenance projects, exclusive of any expansion capital.

CAPITAL DEVELOPMENT / IMPROVEMENTS. Given the long-term nature of our investment, PARK is currently analyzing significant development opportunities that will require meaningful capital investment at both resorts. These capital investments which are at various stages of feasibility / underwriting would be **hundreds of millions** of dollars.

HAWAII TAXES GENERATED / PAID BY PARK:

- General Excise and Use Tax - Operations. The tax revenues generated from our operations totaled $27,981,455 in 2019.
- General Excise Tax – Rent / Management Agreement. As described above as a REIT, unlike non-REIT real estate owners, PARK must use a lease structure. As a result, we are required to pay General Excise Tax on the rent paid between our related companies. Effectively a double taxation of the same revenue. This additional GET paid by PARK was $9,349,896 in 2019 and the additional GET paid by PARK on the management fees paid to our independent operator was $1,564,830 in 2019.
- Property taxes. Property taxes at PARK's two resorts totaled $22,403,103 in 2019.

CHARITABLE ENDEAVORS BY PARK and ITS ASSOCIATES in HAWAII:

- PARK associates spend thousands of hours annually volunteering for local events and charities.
- PARK and its associates provide cash and in-kind charitable contributions more than $600,000 annually.

The COVID-19 pandemic, and the State of Hawaii's travel related restrictions, have had a significant negative financial impact on Park. Despite the fact that operations at both the Hilton Hawaiian Village and Hilton Waikoloa Village resorts are currently suspended (and have been suspended since early April 2020), and will remain suspended until the Governor allows hotel operations to recommence (currently we are hopeful that we can reopen both resorts on August 1st), Park remains committed to Hawaii and continues to bear a significant financial burden in Hawaii **with no revenue**. Even with having to furlough approximately 90% of the hotel associates at each location, Park's **monthly carrying costs to maintain the resorts approximates $10.3M per month**, which includes local property taxes for which no forgiveness has been provided by the local Hawaii governments.

We believe that Park has been a solid corporate citizen and partner to the state of Hawai'i – paying significant tax, supporting numerous jobs and benefitting the community at-large. PARK's REIT structure and hotel ownership benefits the State of Hawai'i and Kama'aina tremendously in a variety of economic and charitable ways.

If adopted, this controversial legislation would (i) put Hawai'i at a competitive disadvantage for REIT investment, (ii) penalize Hawai'ian citizens, including the Hawaii Employer-Union Health Benefits Trust Fund beneficiaries, that invest in REITs by reducing their investment returns, (iii) discourage REITs from investing in Hawai'i, (iv) require PARK to reassess the level of future capital invested in Hawai'i and our Hawai'ian assets including the potential construction of an additional hotel tower as part of the Hilton

Hawaiian Village Waikiki Beach Resort complex, and (v) require PARK, as a publicly-traded company, to address our form of ownership and operation in Hawai'i, which could lead to implementing one or more appropriate tax planning techniques or strategies to maintain shareholder value. Further, this legislation would have a chilling effect on the positive economic and charitable impact PARK provides through its REIT ownership and capital investment in Hawai'i.

We thank you again for this opportunity to provide testimony against SB 2697, SD 1 and sincerely hope you consider our **strong opposition** to this proposed legislation.

Respectfully submitted,

Scott Winer
Senior Vice President, Tax

TO: Representative Angus L.K. McKelvey, Chair
Representative Lisa Kitagawa, Vice Chair
Committee on Economic Development & Business

June 21, 2020

Support for SB 2697, SD1 RELATING TO TAXATION OF REAL ESTATE INVESTMENT TRUSTS

Faith Action for Community Equity (formerly FACE) is a 24-year-old grassroots, interfaith organization that includes 18 congregations and temples, a union, health center, housing association and 3 advocacy organizations on Oahu. Faith Action is driven by a deep spiritual commitment to improve the quality of life for our members and all people of Hawaii. We strive to address issues of social justice at all levels of government.

Our organization was not educated about REITs prior to last legislative session. However, when our members and others in the community heard of certain corporations not paying the same amount of income taxes as other corporations and knowing that our own members pay their income taxes, it upset us. The fact that over 99% of REITs shareholders live out of state and do not pay income taxes to Hawaii that could be used to pay for the aforementioned things we *need* for your constituents has created a groundswell of support for these bills. These are not "emotional arguments." These are realities. Faith Action sees this as an equity issue- plain and simple. Increased state revenue, or the lack thereof, affects ALL of us.

Hawaii needs these additional revenues now more than ever during this challenging COVID-19 pandemic. Paying their fair share of corporate income tax will not affect struggling REIT corporations because the tax is applied only to the profits paid out to stakeholders. If no profits are paid out to stakeholders then it would not create an additional burden to these corporations. Please pass this bill and help profits stay in Hawaii for the benefit of our local communities and economy, rather than being loss to out of state investors.

Thank you for this opportunity to testify.

Faith Action for Community Equity, P.O. Box 235950, Honolulu, HI 96823
www.faithactionhawaii.org
(808) 554-3833

ALEXANDER & BALDWIN
PARTNERS FOR HAWAI'I

SB 2697 SD1
RELATING TO TAXATION OF REAL ESTATE INVESTMENT TRUSTS

PAUL T. OSHIRO
DIRECTOR – GOVERNMENT AFFAIRS
ALEXANDER & BALDWIN, INC.

JUNE 22, 2020

Chair McKelvey and Members of the House Committee on Economic Development & Business:

I am Paul Oshiro, testifying on behalf of Alexander & Baldwin (A&B) on SB 2697 SD1, "A BILL FOR AN ACT RELATING TO TAXATION OF REAL ESTATE INVESTMENT TRUSTS." We respectfully oppose this bill.

While A&B has always been a Hawaii-based company, in 2012, A&B made a strategic decision to be 100% Hawaii-based and to migrate its mainland investments back to Hawaii. Since then, A&B has sold all of its mainland properties and has reinvested the proceeds in Hawaii—acquiring properties including the Kailua Town commercial center, Manoa Marketplace, Waianae Mall, Laulani Village (Ewa Beach), Puunene Shopping Center (Maui), and Hokulei Village (Kauai). In 2017, to better support our Hawaii-focused strategy and increase our ability to invest in Hawaii in an increasingly competitive environment, A&B made the decision to convert to a real estate investment trust (REIT). A REIT structure enables A&B to attract new investors to its stock, giving us capital to invest in our Hawaii-focused strategy, and puts us in a better position to compete with large, out-of-state investors, with greater sources of capital, for the acquisition of Hawaii properties, thus keeping them in locally-owned hands, with a management team that lives here and is committed to Hawaii. Furthermore, REITs are structured to be long-term holders of real estate, thus complementary to A&B's goal of being Partners for Hawaii, with a long-term commitment to our communities.

Real estate investment trusts were established by Congress in 1960 to enable all types of investors to invest in real estate. REITs generally own, operate, and finance income-producing commercial real estate such as shopping malls, hotels, self-storage facilities, theme parks, and apartment, office, and industrial buildings. Other REITs provide financing for income-producing real estate by purchasing or originating mortgages and mortgage-backed securities, which provides liquidity for the real estate market.

In Hawaii, REIT investments help communities grow through the development of workforce rental housing, medical facilities, shopping centers, and commercial buildings that enhance our quality of life. REITs own high-quality office, retail, and industrial space, which provide a favorable environment for numerous locally owned businesses to operate and grow. These REIT owned facilities also provide numerous employment opportunities and jobs for Hawaii's residents.

<u>BILL WILL RESULT IN DOUBLE TAXATION OF SHAREHOLDER DIVIDENDS</u>

The purpose of this bill is to disallow the dividend paid deduction for real estate investment trusts. At present, all states except for one (New Hampshire) allow REITs to pass through its federally mandated shareholder dividend distribution without the imposition of a corporate tax, as individual shareholders are responsible to pay the tax on these dividends. The disallowance of the dividend paid deduction will result in the double taxation of shareholders in Hawaii REITs for the dividends they earn from their investment.

This will essentially result in Hawaii REITs continuing to distribute, as mandated by Federal Law, at least 90% of their taxable income to shareholders. However, unlike the other states, the REIT will also pay Hawaii corporate income tax prior to making the dividend distribution to its shareholders, thus reducing the amount of dividends shareholders will receive. In addition, shareholders of Hawaii REIT properties will also continue to be responsible to pay income tax on the distributed dividends—a second tax on the same profits.

If REITs and their investors are double taxed in Hawaii, it is likely that investors may shift their investments to other states where a better return on their investments can be realized. This will result in REITs spending and investing less money in Hawaii to operate, maintain, and enhance their properties. Hawaii's economy will inevitably be negatively impacted should the dividend paid deduction be disallowed.

NEGATIVE IMPACT ON HAWAII'S ECONOMY

REITs provide a much-needed source of outside capital for Hawaii. Very few individual investors and a fairly small number of corporate players in Hawaii have capital market access equivalent to what is enabled by REITs. REIT's bring this externally raised capital to invest in, develop, and enhance properties here in Hawaii. In addition, REITs continually invest during both good and bad economic times, thus softening the impact of recessions and local economic downturns.

Today, only New Hampshire disallows the REIT dividend paid deduction. If this bill is enacted into law, Hawaii, along with REITs with properties in Hawaii, will be at a competitive disadvantage in attracting additional investors and capital to support continued investment, economic development, and growth in our state. REITs and REIT investors may move their capital to states other than Hawaii. When combined with the direct reduction in general excise and income taxes from diminished REIT related construction, fewer jobs, and the reduction in business and individual income taxes because of the direct and indirect impacts of lower REIT related activity, this bill poses a significant risk to the health of the state's overall economy, at a time when our economy can least withstand it.

TAX INCREASES DURING THE COVID-19 PANDEMIC

Hawaii REITs and their tenants, like most other businesses and entities, have been significantly negatively impacted during the COVID-19 pandemic. While essential for the health of our residents, the Stay At Home and accompanying emergency proclamations, ordering the closure of many businesses, weakened the health of our economy. Severe economic disruption and fallout has resulted, with recovery and resilience envisioned to be a very slow and difficult process.

The imposition of a new tax on companies that house our local businesses, provide affordable housing, are an integral part of our vital tourism infrastructure, create spaces for medical services and facilities for our residents, etc., during this fragile and uncertain time period, will only exacerbate and impede Hawaii's efforts towards economic recovery and resilience. Landlords will have even less resources to sustain their properties and their tenants until such time as Hawaii's economy can recover. The ability to retain investment dollars here in our state and to attract new investment capital to our state as Hawaii tries to stabilize and pivot towards a new normal will be negatively impacted by the tax changes proposed in this bill. In addition, the tax revenue anticipated from this bill, which is premised upon normalized levels of business activity and income, will fall far short of the Department of Taxation's revenue projections.

Based on the aforementioned, we respectfully request that this bill be held in Committee. Thank you for the opportunity to testify.

Prince Kuhio Plaza

June 22, 2020

Hearing Date: June 22, 2020
Time: 11:00 am
Place: State Capitol, Conference Room 329

Rep. Angus L.K. McKelvey, Chair
Rep. Lisa Kitagawa, Vice Chair
State Capitol
Committee on Economic Development and Business
415 South Beretania Street
Honolulu, Hawaii 96813

Re: Testimony in Opposition to Senate Bill No. 2697, SD1

Dear Chairman McKelvey, Vice-Chairman Kitagawa and Committee Members:

Thank you for the opportunity to provide additional written testimony on Senate No. 2697, SD1. We are Daniel Kea, General Manager of Prince Kuhio Plaza, the largest indoor center on the on the Island of Hawaii, and Jared Chupaila, Chief Executive Officer of Brookfield Properties' retail group. Our belief in the testimony opposing the Bill that we gave in March 2020 continues to resonate in the face of the challenges experienced during the last three months. We do not support this Bill that would disallow the dividends paid deduction, subject REIT investment in Hawaii to double taxation, and contradict the taxation of REITs nationwide. As we have previously testified, this legislative path is clearly inappropriate and will ultimately harm Hawaii. This harm seems even more self-evident as a result of the coronavirus pandemic. Hawaii needs to create incentives to invest not hindrances. Imposing barriers to invest creates a risk that Hawaii becomes not only a physical island archipelago but a socially isolated one that contradicts the welcoming culture that Hawaii is known for around the world.

Across its portfolio and in Hawaii, Brookfield Properties' REIT capital and investment are focused on producing stable, long term cash flows over a variety of economic conditions. Efficient REIT capital allows us to constantly reinvest in and enhance the customer experience as well as evolve to meet the needs of Hawaii.

As we look forward over the next 30 years, future expansion plans could be reconsidered if the attractiveness of investing in Hawaii relative to the rest of the United States is diminished. Proponents of the legislation say that REIT investment would not leave Hawaii, but both the Department of Business, Economic Development & Tourism ("DBEDT") and the Department of Taxation have noted that there is no surety that investment will not be reduced and that estimates of revenues will be realized. Passage of this bill will certainly make it more likely that Hawaii will hinder REIT investment and make it more difficult to recover jobs and economic activity lost as the result of the coronavirus pandemic. Deviation from a long held national legislative norm is not good policy.

PRINCE KUHIO PLAZA
111 E. Puainako Street Hilo, Hawaii 96720
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Please do not allow the perception of a revenue increase override the long-term economic benefits that REIT investment, under the existing tax regime, will bring to the state of Hawaii and its residents in this new economic climate. For the foregoing reasons, we respectfully oppose Senate Bill No. 2697, SD 1 and urge you to oppose it as well. Thank you for your consideration.

Sincerely,

Daniel Kea
General Manager

Jared Chupaila
Chief Executive Officer

SUNSTONE
HOTEL INVESTORS

June 21, 2020

Hearing Date: June 22, 2020
Time: 11:00 AM
Place: State Capitol Conference Room 329

Committee on Economic Development & Business
Rep. Angus L.K. McKelvey, Chair
Rep. Lisa Kitagawa, Vice Chair
State Capitol
415 South Beretania Street

Honorable Chair McKelvey & Committee Members,

Thank you for the opportunity to provide written testimony in opposition of SB 2697, relating to the taxation of Real Estate Investment Trusts in Hawaii. My name is Olivier Kolpin and I am and have been the Vice President of Tax at Sunstone Hotel Investors, Inc. ("Sunstone") since 2003. Sunstone is a publicly traded lodging real estate investment trust ("REIT") with 20 upper upscale, luxury and resort properties comprised of 10,610 rooms in 9 states (including Hawaii) and Washington DC.

Our presence in Hawaii began in 2014 with the purchase of the Marriott Wailea on the beautiful island of Maui. Soon after we made a significant capital investment of just over $130 million dollars to renovate and reposition the resort. Of that $130 million dollars in capital investment <u>76%, or just over $100 million dollars went directly to local contractors, consultants, vendors and small businesses</u>. As the hotel industry is capital intensive, we also will continue to make capital improvements to the property in the millions of dollars, most all of which will stay with Hawaiian businesses. Before the COVID 19 pandemic, through our manager we employed over 500 people in well-paying jobs to ensure our guests would have a wonderful time when visiting the Hawaiian Islands. To support and service these endeavors we typically maintain over $10 million in various accounts at local banks.

As we all know, in the last few months unemployment has spiked in Maui and the situation has become very difficult for many on the island. Through our manager we have created a program to distribute food in bulk to the hotel employees. We source fresh vegetables, fruits, legumes and dry goods from local Maui farmers and distribute them to our hotel employees to help ease their burden in managing their day-to-day in the current pandemic.

SB 2697 would subject hotel REIT's doing business in Hawaii to far more taxation than a regular hotel corporation doing business in the state. I bring your attention to Hawaii's General Excise Tax ("GET"). GET reaches most all transactions and has very few and limited exceptions. For example, our past and future capital investments mentioned above are all subject to GET. GET also reaches a transaction unique only to REITs that own lodging facilities. Per the federal Internal Revenue Code, REITs are required to generate a majority of their income through rents and other passive income. For hotel REITs this is accomplished by the REIT leasing the hotel property to a fully taxable subsidiary corporate entity, who in turn must hire an independent 3rd party to manage the hotel on its behalf. This arrangement is also subject to GET. In Sunstone's case, our annual GET payments have ranged between $1.5 and $2.1 million dollars. The GET applicable to the rent from the taxable subsidiary are dollars that a non-REIT hotel business does not have to pay.

Key to Sunstone's business philosophy is the ability to listen. We listen to our investors and take what they say seriously. We listen to our employees and take what they say seriously. We listen to our guests and take what they say seriously. Over the years the Legislature has made several attempts to decouple from the federal treatment of dividend paid deductions, the reasons for which to influence social policy in regard to homelessness and basic housing needs. SB 2697 argues that decoupling is based on equity. To level the playing field between "regular" corporations and REIT's. We strongly and respectfully disagree with this notion. SB 2697 states that REIT's "would continue to receive their generous federal tax exemptions...", however, we would still be required to distribute 90% of our earnings; something a regular corporation is *never* required to do. It is our opinion that the intended and unintended consequences of decoupling Hawaii's tax regime from the Internal Revenue Code would lead to less investment, less tax revenues and fewer jobs in Hawaii. For Sunstone in particular SB 2697 would make it more difficult to justify future investment in Hawaii.

In conclusion, we continue to strongly reiterate our opposition to SB 2697.

Sincerely,

Olivier Kolpin
VP Tax
Sunstone Hotel Investors, Inc.

Hawaiʻi Association of REALTORS®
808-733-7060
808-737-4977
1259 Aʻala Street, Suite 300
Honolulu, HI 96817

June 22, 2020

The Honorable Angus L.K. McKelvey, Chair
House Committee on Economic Development and Business
State Capitol, Room 329
Honolulu, HI 96813

RE: S.B 2697, SD1, Relating to Taxation of Real Estate Investment Trusts

HEARING: Monday, June 22, 2020, at 11:00 a.m.

Aloha Chair McKelvey, Vice Chair Kitagawa and Members of the Committee,

I am Ken Hiraki, Director of Government Affairs, testifying on behalf of the Hawaiʻi Association of REALTORS® ("HAR"), the voice of real estate in Hawaiʻi, and its over 10,000 members. HAR **strongly opposes Senate Bill 2697, SD1,** which disallows the dividend paid deduction on Real Estate Investment Trusts (REIT), except for REIT that provide affordable housing.

In 1960, the United States Congress created REITs to allow all individuals, and not just the wealthy, the opportunity to invest in large-scale diversified portfolios of income producing real estate.

REITs are tied to all aspects of the economy, and have a major economic impact on our state that encompasses a full range of real estate, including:

- Student Housing: Hale Mahana Student Housing
- Healthcare Facilities: Hilo Medical Center, Kapiolani and Pali Momi Medical Center
- Retail: Prince Kuhio Plaza, Whaler's Village and Ka Makana Aliʻi

REITs bring in investment to help build thriving communities where residents can live, work and play. REITs not only provide a boost to our economy through construction of these projects, but create real job opportunities. Under this measure, it proposes to remove the income tax deduction for dividends from a REIT, thereby creating a double taxation of income. HAR has concerns that this will become a disincentive to invest in Hawaiʻi, which would negatively impact the economy.

The COVID-19 pandemic has hurt our economy and with unemployment at an all-time high, we need efforts that encourage investment and jobs into our State. This proposal would be counterproductive to those efforts.

Additionally, this would also impact those that invest in REIT, such as retirees who use this as part of their retirement income.

Mahalo for the opportunity to testify.

SB-2697-SD-1
Submitted on: 6/21/2020 3:07:19 PM
Testimony for EDB on 6/22/2020 11:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
laurel brier	Kauai women's caucus	Support	No

Comments:

Support SB 2697 to keep more revenue in the the State. It is the fair thing to do.

SB-2697-SD-1
Submitted on: 6/19/2020 7:09:46 PM
Testimony for EDB on 6/22/2020 11:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
lynne matusow	Individual	Oppose	No

Comments:

Why don't you stop playing sunset games? If there is a sunset, there should be a sunrise, which doesn't exist. Just kill the bill now instead of giving it three years of life. I am a REIT shareholder who lives in the sttae of Hawaii and I resent your monkeying around with my income. The bill says some REIT shareholders live in Hawaii but a substantial majority do not. What are the numbers?

Just kill the bill now so we can go on with our lives.

lynne matusow

SB-2697-SD-1
Submitted on: 6/19/2020 7:28:50 PM
Testimony for EDB on 6/22/2020 11:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Nikos Leverenz	Individual	Support	No

Comments:

REIT's should pay taxes regardless of the larger macroeconomic situation. A prospective levy of $60 million on profits of $1 billion is reasonable, especially in comparison to deep anxieties felt by those families who have lost their primary sources of income in the midst of a moribund economy.

This crisis provides more than sufficient cause for this Legislature to look at fundamentally restructuring its tax system to make it less dependent upon sales taxes that are inherently regressive and prone to cyclical economic activity.

SB-2697-SD-1
Submitted on: 6/19/2020 9:31:47 PM
Testimony for EDB on 6/22/2020 11:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Tony Radmilovich	Individual	Support	No

Comments:

SB-2697-SD-1
Submitted on: 6/20/2020 7:04:45 AM
Testimony for EDB on 6/22/2020 11:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Ellen Godbey Carson	Individual	Support	No

Comments:

I am writing in SUPPORT of SB2697, with a request for an amendment. Now more than ever, Real Estate Investment Trusts (REITs) should pay taxes in Hawaii for their profits earned off Hawaii properties. The loophole in our laws that has failed to tax REITS in the past has led to a large erosion in our tax base, since REITs own major commercial properties in Hawaii that are escaping our corporate tax laws, while all other corporations pay corporate tax. That loophole should be closed. **This bill should be amended to dedicate a major portion of its tax revenues, to the creation of affordable housing in Hawaii.** With that amendment, I would be in full support of this bill.

SB-2697-SD-1
Submitted on: 6/20/2020 8:39:26 AM
Testimony for EDB on 6/22/2020 11:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Casey Takayama	Individual	Support	No

Comments:

REIT uses our state's resources (eg infrastructure like roads, sewers, etc) to make their profits but does not pay their income taxes for the upkeep.

SB-2697-SD-1
Submitted on: 6/20/2020 10:00:54 AM
Testimony for EDB on 6/22/2020 11:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Valerie Wayne	Individual	Comments	No

Comments:

This bill should be amended to separate the REIT tax revenue from the general fund and dedicate it to the creation of affordable housing in Hawaii. I suggest the Rental Housing Revolving Fund.

Up to last year, REITs earned an estimated $1 billion in profits annually in Hawaii. Applying Hawaii's corporate tax to REITs then would have resulted in an estimated $60 million in tax revenue to the State. Even these days, it will still be a significant amount. Those funds should be applied to reducing the enormous shortage of housing that is affordable to low- and middle-income residents. Some efforts are being made to build affordable housing, but much greater efforts must be made because the shortage is so great and the cost to develop housing is so high. Notably, this bill exempts REITs whose real property is used to provide affordable housing.

The application of REIT tax revenue to affordable housing is consistent with a study entitled, "The Housing Action Plan Final Report to the State Legislature," which was funded by the Legislature and issued in 2017. Among the financing ideas is the dedication of new tax revenue for affordable/workforce housing or infrastructure, with the funds kept separate from the general fund.

Given the large number of Hawai'i residents affected by the economic recession due to the pandemic, we need affordable housing more than ever. We need you to amend this bill to separate the REIT tax revenue from the general fund and dedicate it to affordable housing.

TO: HOUSE COMMITTEE ON ECONOMIC DEVELOPMENT AND BUSINESS
Representative Angus I.K. McKelvey, Chair
Representative Lisa Kitigawa, Vice Chair

FROM: Eldon L. Wegner, Ph.D.
Professor Emeritus in Sociology, UH-Manoa

SUBJECT: SB2697 SD 1 Relating to Taxation of Real Estate Investment Trusts

HEARING: Monday June 22, 2020, 11:00 am
Conference Room 329, Hawaii State Capitol

POSITION: Support SB 2697 SD1 with a suggested amendment. Currently, REITS allow individuals to avoid paying Hawaii state taxes on the profits from business transactions in the state of Hawaii. This bill would end this unfair practice by closing that loophole. However, we suggest an amendment that the additional revenue be channeled into affordable housing and programs to end homelessness.

RATIONALE:

I am offering my testimony as an individual. I am a Professor Emeritus in Sociology, UH-Manoa. I belong to Faith Action and Church of the Crossroads. This bill is a priority for both of these organizations in the current legislative session.

Real Estate Investment Trusts (REITs) are corporations that use a loophole to avoid the Hawaii corporate tax. **We should not give away potential state revenue to wealthy individuals and then make the claim that the state can't afford to solve our pressing housing problems.**

We need solutions to our affordable housing crisis now!

REITs own income-producing property in Hawaii, including Ala Moana Center, the Hilton Hawaiian Village Resort, as well as office buildings and many other shopping centers and hotels. Together, they own property with an estimated total value of $18 billion that earns an estimated $1 billion in profits annually. If Hawaii's corporate tax were applied to REITs, an estimated $60 million in tax revenue would be generated.

Meanwhile, Hawaii faces an enormous shortage of housing that is affordable to low- and middle-income individuals and families. New housing is being built, but most of it is priced for the high-income strata. Some efforts are being made to build affordable housing for low- and middle-income levels, but much greater efforts must be made because the need is so great and the cost of housing is so high.

Various ideas to fund affordable housing are contained in an action plan for workforce/affordable housing that was funded by the Legislature and issued in 2017. Those ideas include dedicating new tax revenue for affordable/workforce housing or infrastructure, with the funds kept separate from the general fund. (Housing Action Plan Final Report to the State Legislature, 2017, p. xii)

The revenue generated by repealing the tax exemption for REITS could easily be dedicated to funding affordable housing and programs for the houseless. The bill should be amended to separate the new tax revenue from the general fund and direct it to the creation of affordable housing in Hawaii.

Thanks you for the opportunity for me to submit testimony.

Sincerely,
Eldon L. Wegner, Ph.D.

SB-2697-SD-1
Submitted on: 6/20/2020 11:16:51 AM
Testimony for EDB on 6/22/2020 11:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Elizabeth Nelson	Individual	Support	No

Comments:

Aloha. I want to thank the legislature for passing this bill last year after several years of not being passed. Unfortunately the governor chose to veto it.

I still feel this is a righteous bill. The people of Hawaii pay their taxes for the good of the State. I feel corporations who do business here, utilize the infrastructure and benefits here need to pay their fair share also.

Especially now in our economic situation, any additional revenue is welcome. Please see your way to pass this bill once again this year.

Thank you, Liz Nelson Temple Valley

SB-2697-SD-1
Submitted on: 6/20/2020 8:21:09 PM
Testimony for EDB on 6/22/2020 11:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
L.M. Holmes	Individual	Support	No

Comments:

SB-2697-SD-1
Submitted on: 6/21/2020 6:42:13 AM
Testimony for EDB on 6/22/2020 11:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Margaret ANN Renick	Individual	Support	No

Comments:

I strongly urge the amendment of this bill to direct REIT taxes to affordable housing. The writing is on the wall. We desperately need affordable housing. Let's not let our beautiful islands, and espeically Honolulu, turn into another San Francisco. Aloha and Thank You.

SB-2697-SD-1
Submitted on: 6/21/2020 7:52:39 AM
Testimony for EDB on 6/22/2020 11:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Steven Costa	Individual	Support	No

Comments:

SB-2697-SD-1
Submitted on: 6/21/2020 8:56:39 AM
Testimony for EDB on 6/22/2020 11:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Barbara Polk	Individual	Support	No

Comments:

Aloha Chair McKelvey and Vice-Chair Kitagawa,

Thank you for hearing SB2697. With the State desparate for money, it would be almost criminal to continue to allow businesses to become REITs in order to avoid taxes, as many, even large, businesses in Hawaii have done. Please remove the Sunset date. The REIT exception has provided a large loop-hole in our tax structure and it is time that loop-hole was closed for good.

Please pas SB2697, preferably amending it to remove the sunset date.

SB-2697-SD-1
Submitted on: 6/21/2020 10:09:45 AM
Testimony for EDB on 6/22/2020 11:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Michael deYcaza	Individual	Support	No

Comments:

End corporate welfare for REITs.

SB-2697-SD-1
Submitted on: 6/21/2020 10:13:56 AM
Testimony for EDB on 6/22/2020 11:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Ashleigh Loa	Individual	Support	No

Comments:

SB-2697-SD-1
Submitted on: 6/21/2020 10:26:10 AM
Testimony for EDB on 6/22/2020 11:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
cheryl B.	Individual	Comments	No

Comments:

Fair taxing would be an admirable goal, don‘t you think. Considering our current state of affairs in Hawai`i, many of us are working towards equitable chances for all. Please consider the following:

- Real Estate Investment Trusts (REITs) own approximately $17 billion worth of Hawaii real estate and earn about $1 billion in profits every year.
- Hawaii REITs should be taxed, as is every other individual and corporation doing business in Hawaii.
- If REITs paid regular corporate taxes on their profits, that would mean $60 million in potential tax revenue every year.
- While Hawai‘i has more land value tied up in REITs than any other state in the nation, relatively few Hawai‘i residents own shares in REITs—we rank 40th in the nation for the number of REIT shareholders as a percentage of the population.
- Not only is income produced on Hawai‘i property leaving the state, but the income that is getting funneled out of the state is not getting taxed here either.
- The income generated by Hawaii REITs should be taxed so they help support the communities in which they operate.
- REITs can operate and thrive in Hawaii while still paying their share of the taxes needed build a strong Hawaii for everyone.

SB-2697-SD-1
Submitted on: 6/21/2020 10:57:33 AM
Testimony for EDB on 6/22/2020 11:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Seena Clowser	Individual	Support	No

Comments:

SB-2697-SD-1
Submitted on: 6/21/2020 10:58:22 AM
Testimony for EDB on 6/22/2020 11:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Darlene Rodrigues	Individual	Support	No

Comments:

I am writing to strongly support this bill. It is important that income generated within Hawaiʻi stays within the state. As more shortfalls are occurring elsewhere, there is a solution that will help the people of Hawaiʻi in the long run. If there is a push to generate income through our individual purchases online, then whey shouldnʻt we collect taxes on other types of income generated within the state? If I pay taxes on purchases made through Amazon, shouldnʻt "purchases" via leases on properties on island also pay their taxes?

SB-2697-SD-1
Submitted on: 6/21/2020 12:34:24 PM
Testimony for EDB on 6/22/2020 11:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Laverne Moore	Individual	Support	No

Comments:

TESTIMONY BEFORE THE HOUSE COMMITTEE ON ECONOMIC DEVELOPMENT & BUSINESS

RE: SB 2697, SD1 - RELATING TO TAXATION OF REAL ESTATE

INVESTMENT TRUSTS

MONDAY, JUNE 22, 2020

LAVERNE MOORE

Chair McKelvey and Members of the Committee:

My name is Laverne Moore, a Special Education Teacher of Economics & U.S. History at McKinley High School and a past HSTA Honolulu Chapter President, I **strongly support SB 2697, SD1.**

Serving as HSTA Honolulu Chapter President, I have had the opportunity of visiting Honolulu's 74 public schools and a key economic need for teachers is affordable housing. Providing affordable housing is a means of attracting and retaining qualified teachers in Hawaii.

Secondly, as a teacher at McKinley High School since 2001, I have seen the decline in our school population due to a lack of affordable housing and the impact of development which is above the financial means of our families in Hawaii.

On a personal note, excellent teachers were forced to move back to the mainland along with my student families who moved out of state, out of district to live with families, slept in garages, porches or in yards, or became homeless and lived at a nearby park.

REITs are making large profits in Hawaii and paying nothing here. Other Hawaii corporations and residents are losers. This bill will help the state in fairly taxing all corporations doing business in Hawaii (and profiting from using our resources and privileges) and enable collection of accurate data on which to make future sound policy.

I ask for your support to provide legislation that holds corporations to be socially responsible for doing business in Hawaii.

June 21, 2020

Re: SB 2697 SD1

Angus L. K. McKelvey, Chair
Committee on Economic Development and Business
The House of Representatives
State of Hawai‘i

Dear Representative McKelvey and Members of the Committee,

I am a retired United Church of Christ clergyperson who has lived in Hawai‘i for over 40 years. I am writing in support of SB 2697 SD! relating to the taxation of REITs.

I have a primary argument to make in support of the bill: Profits generated from Real Estate Investment Trusts on property held in Hawai‘i should be taxed by the State of Hawai‘i and the taxes generated should be directed to the State of Hawai‘i.

Please vote affirmatively for S. B. 2697 SD1. The bottom line is that fairness dictates that profits from investment property in Hawai‘i should by taxed by the State of Hawai‘i to benefit the people of Hawai‘i.

Yours truly,

The Rev. D. Neal MacPherson

SB-2697-SD-1
Submitted on: 6/21/2020 3:47:26 PM
Testimony for EDB on 6/22/2020 11:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Rev. Samuel L Domingo	Faith Action for Community Equity	Support	No

Comments:

Dear Chairman McKelvey, Vice Chairwoman Kitagawa, and other members of the Committee:

Aloha! Please pass SB 2697 SD1 and close the loophole that exempts REITs from paying state corporate income tax.

REITs already get a generous federal tax break and benefit from Hawaii’s low property tax. They can operate and thrive in Hawaiʻi while paying state income tax, as every other Hawaiʻi corporation does.

REITs operating in Hawaiʻi need to do their part in supporting our community by paying their fair share of state taxes.

Mahalo for this opportunity to provide testimony in support of SB 2697 SD1.

SB-2697-SD-1
Submitted on: 6/21/2020 4:07:23 PM
Testimony for EDB on 6/22/2020 11:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
noel kent	Individual	Support	No

Comments:

Dear legislators: This should have been enacted years ago. The REITs already make money from low property taxes so why are we subsidiing their overseas shareholders by not taking the REITS themselves. All sources of money need to be tapped at this time and we desperately need the $60 million or so this tax will generate. Mahalo Noel Kent

SB-2697-SD-1
Submitted on: 6/21/2020 4:55:58 PM
Testimony for EDB on 6/22/2020 11:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Galen Fox	Individual	Support	No

Comments:

This **testimony** is submitted **on behalf of** affordable housing developer **PETER SAVIO**.

He says he is "not good with computers and can not get into system with my testimony."

SAVIO:

All I have to say is the REIT bill should pass and they should be taxed just like everyone else.

Why are affordable housing REITs going to be exempt from bill and continue to be tax free.

I am an affordable housing developer and have done thousands of Affordable units with no government funding. I have gone as low as thirty percent of median income. Most of my units are under 100% of median income

If the mainland company is tax free just because they are a REIT why is not all hawaii affordable developement companies also tax free.

Should not matter if we are a REIT or just an LLC or corporation.

Why do we give mainland companies this privilege but deny it to local companies.

If you must give it to REITs and local companies restrict it to units at 80% of median income or less.

REITs don’t need the tax benefits They should be taxed like everyone.

Make all affordable housing developers tax free on units that are sold or rented at 80% of median income or less.

SB-2697-SD-1
Submitted on: 6/21/2020 5:01:07 PM
Testimony for EDB on 6/22/2020 11:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
C Conrad	Individual	Support	No

Comments:

Aloha,

Please pass SB 2697 SD1 so the REITs pay state corporate income tax. It seems unfair that they are able to make money off our local economy and have no responsibility for investing in our community through paying taxes. This is no different than the colonialism that has historically taken out the resources of one place to give them to others far away.

Hawaii has low property tax rate and the REITs already get a generous federal tax break The REITs will continue to operate and thrive in Hawaiʻi. We must ask that they pay state income tax, as every other Hawaiʻi corporation does.

Mahalo for taking the time to read my statement.

Another definition of profit is the taking of more than one gives. Make the REITs aloha Hawaii. Remember to put People before Profits.

A hui hou,

C Conrad

SB-2697-SD-1
Submitted on: 6/21/2020 5:37:19 PM
Testimony for EDB on 6/22/2020 11:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Klaus Radtke	Individual	Support	No

Comments:

The REIT bill (SB2697SD1), while not perfect, will finally, finally, require that all real estate investment trusts pay Hawaii corporate income taxes just like other Hawaii corporations.

It is High Noon that such a bill becomes law and that all Real Estate investments trusts truly pay their corporate income taxes in our State. This is especially critical now as Hawaii is facing a huge revenue shortfall largely due to Covid-19 along with an accelerating housing and homeless crisis.

Klaus Radtke, Ph.D.

Environmental Scientist

Past president Nauru Tower

NAIOP
COMMERCIAL REAL ESTATE
DEVELOPMENT ASSOCIATION
HAWAII CHAPTER

June 22, 2020

Representative Angus L. K. McKelvey, Chair
Representative Lisa Kitagawa, Vice Chair
Members of the House Committee on Economic
Development & Business
Thirtieth Legislature, Regular Session of 2020

RE: **SB 2697, SD1 – RELATING TO TAXATION OF REAL ESTATE INVESTMENT TRUSTS**
Hearing Date – June 22, 2020 at 11:00 a.m.

Aloha Chair McKelvey, Vice Chair Kitagawa and members of the committee,

Thank you for allowing NAIOP Hawaii to submit testimony in **OPPOSITION** to SB 2697, SD1 – Relating to Taxation of Real Estate Investment Trusts. NAIOP Hawaii is the Hawaii chapter of the nation's leading organization for office, industrial, retail, residential and mixed-use real estate. NAIOP Hawaii has over 200 members in the State including local developers, owners, investors, asset managers, lenders and other professionals.

Over the past few years, REIT investment has resulted in several billion dollars of construction activity, creating thousands of local jobs, both construction and permanent, and helping our community maintain a strong economy.

REITs have continued to contribute to our community by investing in affordable housing, retail, healthcare, office buildings and other commercial projects that will serve our community and local families for decades to come.

SB 2697, SD1 would disallow the dividends paid deduction for REITs. Hawaii is already among the most heavily taxed states in the entire country which stifles economic growth, and SB 2697, SD1 would make Hawaii one of only two states to disallow the dividends paid deduction. This change would create additional barriers to do business in our state and would negatively impact the level of interest in future investment in Hawaii and put jobs and revenues at risk.

Simply put, the bill will not provide the tax benefit assumed, but would increase even further the cost of doing business in this state. Accordingly, we respectfully urge you to defer SB 2697, SD1.

Mahalo for your consideration,

Catherine Camp, President
NAIOP Hawaii

SB-2697-SD-1
Submitted on: 6/21/2020 9:54:07 PM
Testimony for EDB on 6/22/2020 11:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Clara K Morikawa	Individual	Support	No

Comments:

I support Bill SB2697 SD1 which will make all corporations doing business in Hawaii to pay their share of income taxes. It is unfair for real estate investment trusts to be exempt from this tax as they do use our state's resources. I do not see why their building of affordable housing should make them exempt from paying this corporate tax. They will then offer only the minimum number of affordable units, just enough to qualify for the exemption.

Respectfully submitted, Clara K Morikawa

SB-2697-SD-1
Submitted on: 6/21/2020 10:43:15 PM
Testimony for EDB on 6/22/2020 11:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Winifred Ching	Faith Action	Support	No

Comments:

Senators: I suppose this bill. I believe REITS should pay their fair share. Money made in Hawaii should stay in Hawaii rather than to shareholders mostly who live outside of Hawaii.

Winnie Ching

SB-2697-SD-1
Submitted on: 6/21/2020 11:03:18 PM
Testimony for EDB on 6/22/2020 11:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Patricia Shields	Individual	Support	No

Comments:

Senators Keith-Agaran Keohokalole, Moriwaki, Chang, Kanuha, Kidani, Kim, Riviere, Shimabukuro:

I hereby submit testimony in support of SB2697 SD1 that real estate investment trusts be decoupled from the federal income tax treatment.

We, in Hawaii, have had an serious shortage of affordable housing while non-locals have invested in luxury condos, and live elseewhere, and have not paid their fair share of taxes to help the locals have the affordable housing we need. Our infrastructure is in critical need of repair and the building of these luxury units are taxing our already overburdened system. I ask that this bill be passed to help the State of Hawaii's people get its fair share of monetary compensation to, hopefully, discourage people from buying up property that could be rightly used for those of us who work (multiple jobs) and live here.

Mahalo for your time and consideration.

SB-2697-SD-1
Submitted on: 6/22/2020 6:56:39 AM
Testimony for EDB on 6/22/2020 11:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Mary Lacques	Individual	Support	No

Comments:

I am in strong support of SB2697, especially in light of the fact that relatively few Hawaiʻi residents own shares in REITs-we rank 40th in the nation for the number of REIT shareholders as a percentage of the population.

SB-2697-SD-1
Submitted on: 6/22/2020 7:07:07 AM
Testimony for EDB on 6/22/2020 11:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Raelyn Reyno Yeomans	Individual	Support	No

Comments:

I am a resident of Kailua and am providing testimony in strong support of SB 2697 SD1. We must stop allowing crucial tax income from leaving our state! Why should we allow corporations to circumvent paying income taxes on the dollars that is earned in our state? Here in Kailua, A&B has turned Kailua into a tourist playground for their own enrichment but is not required to pay state income taxes. This loophole must be closed! Now, more than ever, the people of our state need this money to stay here!

Please pass SB 2697 SD1 and close the loophole that exempts REITs from paying state corporate income tax.

REITs already get a generous federal tax break and benefit from Hawaii's low property tax. They can operate and thrive in Hawaiʻi while paying state income tax, as every other Hawaiʻi corporation does.

REITs operating in Hawaiʻi need to do their part in supporting our community by paying their fair share of state taxes.

Mahalo for this opportunity to provide testimony in support of SB 2697 SD1.

LiUNA!

HAWAII LABORERS UNION (LIUNA) LOCAL 368
1617 Palama Street
Honolulu, Hawaii 96817

House Committee on Economic Development and Business
Hawaii State Capitol, 329
Friday, June 22, 2020
11:00 a.m.

<u>RE: OPPOSE: Senate Bill 2697</u>

Aloha Chair McKelvey, Vice-chair Kitagawa and Members of the Committee:

The Hawaii Laborers' Union; Local 368 stands ***<u>opposed</u>*** to SB2697.

The Laborer's Union is comprised of over 5000 working and retired men and women across the State of Hawaii.

We oppose SB2697 because of its potential to harm Hawaii's construction industry and, ultimately, the state's economy, if enacted into law. It is our position there is no valid rationale that makes economic sense for this bill to become law and upend how Real Estate Investment Trusts (REITs) operate in Hawaii.

REITs have proven to be valuable contributors to the health of Hawaii's construction industry and its thousands of skilled contractors and laborers statewide. REITs have established a proven track record in Hawaii of making major capital investments in large-scale projects that benefit the community over the long term.

REITs do not flip properties to make a quick buck. In contrast, REITs can be counted on to make long-term commitments to ensure quality and craftsmanship in the projects and facilities they own, build or manage in Hawaii. This includes places that are valued by residents and local businesses, and are key to our quality of life, such as Ala Moana Center, Pearlridge, Ka Makana Alii, Manoa Marketplace, the new Hale Pawaa medical facility and several affordable housing projects.

REITs also have a history of investing in Hawaii during economic downturns, a fact that has kept many construction workers employed when other projects were drying up or put on hold around the state. There are indicators that Hawaii could be heading toward another economic downturn. If that is the case, the state can continue to count on REITs investing in Hawaii projects .

LiUNA Local 368
1617 Palama Street
Honolulu, HI 96817
Phone: (808) 841-5877
Fax: (808) 847-7829
www.local368.org

While this was true at the opening of the 2020 Legislative Session, it holds even more true at mid-session now that we are experiencing the severe economic impacts of COVID-19 and the negative effects it can have on not just our local, but global economy.

Reports now say that we are in a global depression. We should not forget, that a key economic indicator as to whether we are on the path to recovery is the health of our construction industry. When it comes to economic recessions, construction almost ALWAYS leads the way in recovery. Therefore, we feel that promoting a Bill that could serve to negatively impact the industry would be unwise during a crisis that negatively impacts our local economy.

This is absolutely not the time to consider any measures that could potentially slow Hawaii's construction economy. This is a time to consider the fact that every private construction dollar invested in construction by REITs is a dollar that the State does not need to allocate from its own funds to keep the construction industry afloat (one of the last surviving industries in our State). Every private dollar invested by REITs construction, is a dollar that that the State does not need to borrow money for to keep one of the last surviving industries afloat. And every private dollar invested by REITs generates new tax dollars that did not exist before, helping our State to recover from this economic depression brought on by COVID-19.

Furthermore, each dollar spent helps to keep our nearly 5,000 members either working or retires pensions funded. In approximate numbers, that potentially keeps a member and their **families** (approximately 20,000 – 25,000 members) of State and government services such as Unemployment, SNAP, and Medicaid. Many of which DID NOT NEED these services during the shut down. This is a burden that was not realized by the State during the COVID-19 shut down.

These numbers listed above, although approximate, are for one construction union alone the Hawaii Laborers' Union. There are at least 20 other construction unions across the State that depend heavily on both private and public construction dollars to keep their members working and their families housed, fed, and medically insured, and their retirees provided for with their pensions.

Therefore, on behalf of the over 5000 hardworking and retired members of The Hawaii Laborers' Union; Local 368 we respectfully request that SB2697 be held.

Thank you for the opportunity to testify on this matter.

SB-2697-SD-1
Submitted on: 6/22/2020 9:43:35 AM
Testimony for EDB on 6/22/2020 11:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Bernard Nunies	Individual	Support	No

Comments:

This bill -- SB2697 SD1-- makes all real estate investment trusts pay Hawaii corporate income taxes just like other Hawaii corporations. Currenlty REITs use our state's resources (eg infrastructure like roads, sewers, etc) to make their profits but don't pay their income taxes for the upkeep.

I STRONGLY SUPPORT SB2697 SD1 as it makes all corporations doing business in Hawaii pay their fair share. As a community we have to stop giving value and tax free income to companies that do very little to solve our 80%-of-median-income-and-below housing crisis.

SB-2697-SD-1
Submitted on: 6/22/2020 9:54:02 AM
Testimony for EDB on 6/22/2020 11:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Daniela Minerbi	Individual	Support	No

Comments:

Passing this Bill is one of the three most important actions can be taken to help Hawaii.

Dear Chairman McKelvey, Vice Chairwoman Kitagawa, and other members of the Committee:

Aloha! Please pass SB 2697 SD1 and close the loophole that exempts REITs from paying state corporate income tax.

Daniela Minerbi

REITs already get a generous federal tax break and benefit from Hawaii’s low property tax. They can operate and thrive in Hawai‘i while paying state income tax, as every other Hawai‘i corporation does.

REITs operating in Hawai‘i need to do their part in supporting our community by paying their fair share of state taxes.

Mahalo for this opportunity to provide testimony in support of SB 2697 SD1.

SB-2697-SD-1
Submitted on: 6/22/2020 9:55:59 AM
Testimony for EDB on 6/22/2020 11:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Carla Allison	Faith Action & First Unitarian Church of Honolulu	Support	No

Comments:

Dear Chairman McKelvey, Vice Chairwoman Kitagawa, and other members of the Committee:

Please pass SB 2697 SD1 and close the loophole that exempts REITs from paying state corporate income tax. REITs already get a generous federal tax break and benefit from Hawaii's low property tax. They can operate and thrive in Hawaiʻi while paying state income tax, as every other Hawaiʻi corporation does. REITs operating in Hawaiʻi need to do their part in supporting our community by paying their fair share of state taxes. Mahalo for this opportunity to provide testimony in support of SB 2697 SD1.

SB-2697-SD-1
Submitted on: 6/22/2020 10:22:57 AM
Testimony for EDB on 6/22/2020 11:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Evelyn Aczon Hao	Faith Action for Community Equity	Support	No

Comments:

Testimony in Support of SB2697 SD1

Aloha, Chair McKelvey and members of the House Finance Committee

I am Evelyn Hao, President of Faith Action for Community Equity, an organization of multiple faith traditions and community action groups.

Faith Action, our family, friends, and communities support this bill which removes a loophole in current law that exempts Real Estate Investment Trusts from paying Hawaii taxes. (In stark contrast, non-REIT companies pay their fair share of state taxes.)

REITs shareholders do pay income taxes in the states where they live. However, unfortunately for Hawaii, 99% of shareholders of Hawaii REITs are *not* Hawaii residents, so those taxes do not stay in Hawaii.

Examples of local REITs that pay no Hawaii taxes are Ala Moana Shopping Center, Pearlride Shopping Center, Hilton Hawaiian Village, Hilton Waikoloa, International Marketplace, and even a kamaaina corporation Alexander and Baldwin.

There are now about 75 REITs in Hawaii which buy Hawaii land and property--and the number is growing. Why? According to NAREIT itself, in its report “REITs Across America,” Hawaii has the highest REIT asset value per capita than any other state. It also happens to have the 14th highest value per REIT-owned property and the 12th highest rate of REIT asset value growth from 2014-2017, well ahead of larger states like Colorado, Illinois, and Texas. Hawaii’s REIT asset value growth rate is over 10 percent higher than the national average.

REITs and non-REIT companies will continue to buy and invest in Hawaii properties regardless of the taxes because Hawaii’s properties are unique and uniquely valuable!

Last year, the REITS lobby, including NAREIT (the national REIT advocate), spent a huge budget spreading fear of last year’s REITs legislation. Despite that noise, our legislators heard the people’s voices and passed the bill resoundingly. But, unfortunately, the Governor vetoed it.

This year, we hope the ultimate outcome will be different and that this REIT bill will become law.

This bill will insure that money *made* in Hawaii will *stay* in Hawaii. The estimated $60 million tax revenue per year can be used for affordable housing, long term kupuna care, infrastructure, child care/early education, and other vital needs.

Please pass SB2697/SD1.