



GOV. MSG. NO. 1279

EXECUTIVE CHAMBERS  
HONOLULU

DAVID Y. IGE  
GOVERNOR

July 6, 2021

The Honorable Ronald D. Kouchi,  
President and Members of the Senate  
Thirty First State Legislature  
State Capitol, Room 409  
Honolulu, Hawai'i 96813

The Honorable Scott K. Saiki,  
Speaker and Members of the  
House of Representatives  
Thirty First State Legislature  
State Capitol, Room 431  
Honolulu, Hawai'i 96813

Dear President Kouchi, Speaker Saiki, and Members of the Legislature:

I am transmitting herewith HB58 HD1 SD1 CD1, without my approval and with the statement of objections relating to the measure.

HB58 HD1 SD1 CD1

RELATING TO STATE FUNDS.

Sincerely,

DAVID Y. IGE  
Governor, State of Hawai'i

EXECUTIVE CHAMBERS

HONOLULU

July 6, 2021

STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 58

Honorable Members  
Thirty-First Legislature  
State of Hawai'i

Pursuant to Section 16 of Article III of the Constitution of the State of Hawai'i, I am returning herewith, without my approval, House Bill No. 58, entitled "A Bill for an Act Relating to State Funds."

The purposes of this bill are to temporarily suspend certain general excise and use tax exemptions for the period January 1, 2022, through December 31, 2023, and to increase, effective on January 1, 2022, the conveyance taxes for the sale of non-commercial properties valued at \$4,000,000 or greater. The intent was to generate more revenues for state services.

This bill is objectionable because the increase in conveyance tax rates for non-commercial properties will have significant unintended consequences on the development of affordable rental housing and other transactions. The bill did not define commercial properties and adopts the definition applicable in each county, which is problematic and could have negative inadvertent consequences for family-owned businesses, agriculture, industrial, public service, preservation and conservation projects.

Projects with community benefit that will be adversely affected by this increase in conveyance tax include, for example: Castle and Cooke's plan to gift 16 acres of land valued at \$16 million for the relocation of Wahiawa General Hospital; a pending proposal preserve 380 units of existing affordable rental apartments in Chinatown; a plan to purchase 87 acres of former Dole plantation lands in Waialua for affordable housing; and a pending proposal to preserve and renovate 143 affordable rental apartments in Waipahu.

STATEMENT OF OBJECTIONS  
HOUSE BILL NO. 58  
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Further, the generation of more revenues for state services in the manner proposed by this bill is no longer necessary. Hawaii's fiscal situation has improved dramatically from the time that the fiscal biennium 2021-2023 Executive Biennium Budget and Financial Plan was presented to the Legislature in December 2020. Since then, the Council on Revenues met three times and increased its general fund revenue projections for fiscal years 2020-2021 through 2026-2027 by a total of \$6.1 billion over this seven-year period. In addition, the Coronavirus Response and Relief Supplemental Appropriations Act of 2020 and the American Rescue Plan Act of 2021 provide substantial federal funding to address a range of pandemic-related state costs, including almost \$600 million for the Department of Education and \$1.64 billion of general-purpose funding to mitigate state revenue losses and increased COVID-related expenses. Circumstances have changed so much that there is no longer the pressing need for the extraordinary revenue actions proposed in this bill.

For the foregoing reasons, I am returning House Bill No. 58 without my approval.

Respectfully,



DAVID Y. IGE  
Governor of Hawai'i

ORIGINAL  
**VETO**  
H.B. NO.

HOUSE OF REPRESENTATIVES  
THIRTY-FIRST LEGISLATURE, 2021  
STATE OF HAWAII

58  
H.D. 1  
S.D. 1  
C.D. 1

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# A BILL FOR AN ACT

RELATING TO STATE FUNDS.

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

1 SECTION 1. Chapter 237, Hawaii Revised Statutes, is  
2 amended by adding two new sections to be appropriately  
3 designated and to read as follows:

4 "§237- Temporary suspension of exemption of certain  
5 amounts; levy of tax. (a) Notwithstanding any other law to the  
6 contrary, the exemption of the following amounts from taxation  
7 under this chapter shall be suspended from January 1, 2022,  
8 through December 31, 2023:

- 9 (1) Reimbursements received by federal cost-plus  
10 contractors for the costs of purchased materials,  
11 plant, and equipment as described under section  
12 237-13(3)(C);
- 13 (2) Gross receipts of home service providers acting as  
14 service carriers providing mobile telecommunications  
15 services to other home service providers as described  
16 under section 237-13(6)(D);



- 1        (3) Amounts deducted from the gross income of real  
2        property lessees because of receipt from sublessees as  
3        described under section 237-16.5;
- 4        (4) Amounts received by sugarcane producers as described  
5        under section 237-24(14);
- 6        (5) Amounts received by exchanges and exchange members as  
7        described under section 237-24.5;
- 8        (6) Gross proceeds from the sale of the following:
- 9        (A) Intoxicating liquor, as described under section  
10       237-25(a)(1), to the United States (including any  
11       agency or instrumentality of the United States  
12       that is wholly owned or otherwise so constituted  
13       as to be immune from the levy of a tax under  
14       chapter 238 or 244D, but not including national  
15       banks) or any organization to which the sale is  
16       permitted by the proviso of "Class 3" of section  
17       281-31 that is located on any Army, Navy, or Air  
18       Force reservation;
- 19       (B) Tobacco products and cigarettes, as described  
20       under section 237-25(a)(2), to the United States  
21       (including any agency or instrumentality thereof



1           that is wholly owned or otherwise so constituted  
2           as to be immune from the levy of tax under  
3           chapter 238 or 245, but not including national  
4           banks); and

5           (C) Other tangible personal property, as described  
6           under section 237-25(a)(3), to the United States  
7           (including any agency, instrumentality, or  
8           federal credit union thereof, but not including  
9           national banks) and any state-chartered credit  
10           union;

11           (7) Gross proceeds received from the construction,  
12           reconstruction, erection, operation, use, maintenance,  
13           or furnishing of air pollution control facilities, as  
14           described under section 237-27.5, that do not have  
15           valid certificates of exemption on July 1, 2021; and

16           (8) Amounts received by telecommunications common carriers  
17           from call center operators for interstate or foreign  
18           telecommunications services as described under section  
19           237-29.8.

20           (b) Except as otherwise provided under subsection (e),  
21           (f), or (g), there is levied, assessed, and collected annually



1 against a taxpayer receiving or deriving previously exempt gross  
2 income or gross proceeds of sale from January 1, 2022, to  
3 December 31, 2023, a tax at the rate of four per cent on that  
4 previously exempt gross income or gross proceeds of sale.

5 (c) The taxpayer against whom the tax is levied and  
6 assessed under this section shall be responsible for payment of  
7 the tax to the director of taxation.

8 (d) Notwithstanding section 237-8.6, no county surcharge  
9 shall be levied, assessed, or collected on any previously exempt  
10 gross income or gross proceeds of sale that is subject to  
11 taxation under subsection (b).

12 (e) This section shall not apply to gross income or gross  
13 proceeds from binding written contracts entered into prior to  
14 July 1, 2021, that do not permit the passing on of increased  
15 rates of taxes.

16 (f) This section shall not apply to gross income or gross  
17 proceeds from stevedoring services and related services, as  
18 defined in section 382-1, furnished to a company by its wholly  
19 owned subsidiary.

20 (g) The tax imposed under subsection (b) shall not apply  
21 to any gross income or gross proceeds of sale that cannot



1 legally be so taxed under the Constitution or laws of the United  
2 States, but only so long as, and only to the extent, to which  
3 the State is without power to impose the tax.

4 To the extent that any exemption, exclusion, or  
5 apportionment is necessary to comply with the preceding  
6 sentence, the director of taxation shall:

7 (1) Exempt or exclude the gross income or gross proceeds  
8 of sale from the tax under subsection (b); or

9 (2) Apportion the gross income or gross proceeds of sale  
10 derived within the State by persons engaged in  
11 business both within and without the State to  
12 determine the gross income or gross proceeds of sale  
13 that is subject to taxation under this chapter for the  
14 purposes of section 237-21.

15 (h) This chapter shall apply to the payment, collection,  
16 enforcement, and appeal of the tax levied under this section.

17 (i) The director of taxation may establish additional  
18 requirements, procedures, and forms pursuant to rules adopted  
19 under chapter 91 to effectuate this section.

20 (j) As used in this section, "previously exempt gross  
21 income or gross proceeds of sale" means the amount of the gross



1 income or gross proceeds of sale the exemption for which is  
2 suspended under subsection (a).

3 §237- Information reporting. Beginning January 1,  
4 2022, the director of taxation shall require information  
5 reporting on all exclusions or exemptions of all amounts,  
6 persons, or transactions from this chapter, except for the  
7 following:

- 8 (1) Amounts received that are exempt under section
- 9 237-24(1) through (7); and
- 10 (2) Any other amounts, persons, or transactions as
- 11 determined by the director to be in the best interest
- 12 of tax administration and made by official
- 13 pronouncement."

14 SECTION 2. Chapter 238, Hawaii Revised Statutes, is  
15 amended by adding two new sections to be appropriately  
16 designated and to read as follows:

17 "§238- Temporary suspension of exemption of certain  
18 amounts; levy of tax. (a) Notwithstanding any other law to the  
19 contrary, the exemption of the following from taxation under  
20 this chapter shall be suspended from January 1, 2022, through  
21 December 31, 2023:



- 1       (1) The use or sale of intoxicating liquor and cigarettes  
2       and tobacco products imported into the State and sold  
3       to any person or common carrier in interstate  
4       commerce, whether ocean-going or air, for consumption  
5       out of State by the person, crew, or passengers on the  
6       shipper's vessels or airplanes, as described under  
7       section 238-3(g);
- 8       (2) The use of any vessel constructed under section 189-25  
9       prior to July 1, 1969, as described under section  
10       238-3(h); and
- 11       (3) The use of any air pollution control facility subject  
12       to section 237-27.5 as described under section  
13       238-3(k).
- 14       (b) Except as otherwise provided under subsection (e) or  
15       (f), there is levied, assessed, and collected annually against a  
16       taxpayer who imports or purchases previously exempt property,  
17       services, or contracting for use in this State that becomes  
18       subject to the State's taxing jurisdiction from January 1, 2022,  
19       to December 31, 2023, a tax at the rate of four per cent on the  
20       value of that previously exempt property, services, or  
21       contracting.



1       (c) The taxpayer against whom the tax is levied and  
2 assessed under this section shall be responsible for payment of  
3 the tax to the director of taxation.

4       (d) Notwithstanding section 238-2.6, no county surcharge  
5 shall be levied, assessed, or collected on the value of any  
6 previously exempt property, services, or contracting that is  
7 subject to taxation under subsection (b).

8       (e) This section shall not apply to any property,  
9 services, or contracting imported or purchased under binding  
10 written contracts entered into prior to July 1, 2021, that do  
11 not permit the passing on of increased rates of taxes.

12       (f) The tax imposed under subsection (b) shall not apply  
13 to any property, services, or contracting or to any use of the  
14 property, services, or contracting that cannot legally be so  
15 taxed under the Constitution or laws of the United States, but  
16 only so long as, and only to the extent to which, the State is  
17 without power to impose the tax.

18       To the extent that any exemption, exclusion, or  
19 apportionment is necessary to comply with the preceding  
20 sentence, the director of taxation shall:



1       (1) Exempt or exclude the property, services, or  
2               contracting or the use of the property, services, or  
3               contracting, from the tax under subsection (b); or

4       (2) Apportion the gross value of services or contracting  
5               sold to customers within the State by persons engaged  
6               in business both within and without the State to  
7               determine the value of that portion of the services or  
8               contracting that is subject to taxation under chapter  
9               237 for the purposes of section 237-21.

10       (g) This chapter shall apply to the payment, collection,  
11 enforcement, and appeal of the tax levied under this section.

12       (h) The director of taxation may establish additional  
13 requirements, procedures, and forms pursuant to rules adopted  
14 under chapter 91 to effectuate this section.

15       (i) As used in this section, "previously exempt property,  
16 services, or contracting" means property, services, or  
17 contracting, the exemption for which is suspended under  
18 subsection (a).

19       **\$238- Information reporting.** Beginning January 1,  
20 2022, the director of taxation shall require information  
21 reporting on all exclusions or exemptions of all amounts,



1 persons, or transactions from this chapter, except for any  
2 amounts, persons, or transactions as determined by the director  
3 to be in the best interest of tax administration and made by  
4 official pronouncement."

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

7 "**§247-2 Basis and rate of tax.** The tax imposed by section  
8 247-1 shall be based on the actual and full consideration  
9 (whether cash or otherwise, including any promise, act,  
10 forbearance, property interest, value, gain, advantage, benefit,  
11 or profit), paid or to be paid for all transfers or conveyance  
12 of realty or any interest therein, that shall include any liens  
13 or encumbrances thereon at the time of sale, lease, sublease,  
14 assignment, transfer, or conveyance, and shall be at the  
15 following rates:

16 (1) Except as provided in [~~paragraph (2)+~~] paragraphs (2)  
17 and (3):

18 (A) [~~Ten cents per \$100 for~~] For properties with a  
19 value of less than \$600,000[+]: ten cents per  
20 \$100;



- 1 (B) [~~Twenty cents per \$100 for~~] For properties with a
- 2 value of at least \$600,000, but less than
- 3 \$1,000,000[+] : twenty cents per \$100;
- 4 (C) [~~Thirty cents per \$100 for~~] For properties with a
- 5 value of at least \$1,000,000, but less than
- 6 \$2,000,000[+] : thirty cents per \$100;
- 7 (D) [~~Fifty cents per \$100 for~~] For properties with a
- 8 value of at least \$2,000,000, but less than
- 9 \$4,000,000[+] : fifty cents per \$100;
- 10 (E) [~~Seventy cents per \$100 for~~] For properties with
- 11 a value of at least \$4,000,000, but less than
- 12 \$6,000,000[+] : \$1.40 per \$100;
- 13 (F) [~~Ninety cents per \$100 for~~] For properties with a
- 14 value of at least \$6,000,000, but less than
- 15 \$10,000,000[+and] : \$2.70 per \$100; and
- 16 (G) [~~One dollar per \$100 for~~] For properties with a
- 17 value of \$10,000,000 or greater[+and] : \$4.00 per
- 18 \$100;
- 19 (2) For the sale of a condominium or single family
- 20 residence for which the purchaser is ineligible for a
- 21 county homeowner's exemption on property tax:



- 1 (A) [~~Fifteen cents per \$100 for~~] For properties with  
2 a value of less than \$600,000[+]: fifteen cents  
3 per \$100;
- 4 (B) [~~Twenty five cents per \$100 for~~] For properties  
5 with a value of at least \$600,000, but less than  
6 \$1,000,000[+]: twenty-five cents per \$100;
- 7 (C) [~~Forty cents per \$100 for~~] For properties with a  
8 value of at least \$1,000,000, but less than  
9 \$2,000,000[+]: forty cents per \$100;
- 10 (D) [~~Sixty cents per \$100 for~~] For properties with a  
11 value of at least \$2,000,000, but less than  
12 \$4,000,000[+]: sixty cents per \$100;
- 13 (E) [~~Eighty five cents per \$100 for~~] For properties  
14 with a value of at least \$4,000,000, but less  
15 than \$6,000,000[+]: \$1.70 per \$100;
- 16 (F) [~~One dollar and ten cents per \$100 for~~] For  
17 properties with a value of at least \$6,000,000,  
18 but less than \$10,000,000[~~+~~and]: \$3.30 per \$100;  
19 and



- 1           (G) ~~[One dollar and twenty five cents per \$100 for]~~
- 2           For properties with a value of \$10,000,000 or
- 3           greater[-]: \$5.00 per \$100; and
- 4        (3) For the sale of commercial properties:
- 5           (A) Ten cents per \$100 for properties with a value of
- 6           less than \$600,000;
- 7           (B) Twenty cents per \$100 for properties with a value
- 8           of at least \$600,000, but less than \$1,000,000;
- 9           (C) Thirty cents per \$100 for properties with a value
- 10          of at least \$1,000,000, but less than \$2,000,000;
- 11          (D) Fifty cents per \$100 for properties with a value
- 12          of at least \$2,000,000, but less than \$4,000,000;
- 13          (E) Seventy cents per \$100 for properties with a
- 14          value of at least \$4,000,000, but less than
- 15          \$6,000,000;
- 16          (F) Ninety cents per \$100 for properties with a value
- 17          of at least \$6,000,000, but less than
- 18          \$10,000,000; and
- 19          (G) One dollar per \$100 for properties with a value
- 20          of \$10,000,000 or greater,



1 of such actual and full consideration; provided that in the case  
2 of a lease or sublease, this chapter shall apply only to a lease  
3 or sublease whose full unexpired term is for a period of five  
4 years or more, and in those cases, including [~~where~~  
5 ~~appropriate~~], where appropriate, those cases where the lease  
6 has been extended or amended, the tax in this chapter shall be  
7 based on the cash value of the lease rentals discounted to  
8 present day value and capitalized at the rate of six per cent,  
9 plus the actual and full consideration paid or to be paid for  
10 any and all improvements, if any, that shall include on-site as  
11 well as off-site improvements, applicable to the leased  
12 premises; and provided further that the tax imposed for each  
13 transaction shall be [~~not~~] no less than \$1.

14 For the purposes of this section, "commercial properties"  
15 means property classified as "commercial" for county real  
16 property tax purposes."

17 SECTION 4. Statutory material to be repealed is bracketed  
18 and stricken. New statutory material is underscored.

19 SECTION 5. This Act shall take effect on January 1, 2022.





HB No. 58, HD 1, SD 1, CD 1

THE HOUSE OF REPRESENTATIVES OF THE STATE OF HAWAII

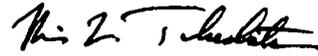
Date: April 27, 2021

Honolulu, Hawaii

We hereby certify that the above-referenced Bill on this day passed Final Reading in the House of Representatives of the Thirty-First Legislature of the State of Hawaii, Regular Session of 2021.



Scott K. Saiki  
Speaker  
House of Representatives



Brian L. Takeshita  
Chief Clerk  
House of Representatives

**THE SENATE OF THE STATE OF HAWAI‘I**

Date: April 27, 2021  
Honolulu, Hawaii 96813

We hereby certify that the foregoing Bill this day passed Final Reading in the Senate of the Thirty-First Legislature of the State of Hawai‘i, Regular Session of 2021.

  
President of the Senate

  
Clerk of the Senate