
A BILL FOR AN ACT

RELATING TO TAXATION.

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

1 SECTION 1. The legislature finds that the transfer of
2 ownership of a business entity is comparable to the sale of an
3 interest in real property held by the entity. The legislature
4 believes that all transfers of possession or use of real
5 property should be subject to the same conveyance tax
6 obligations.

7 The purpose of this Act is to impose the conveyance tax on
8 transfers of entity ownership when the transfer of entity
9 ownership is essentially equivalent to the sale of an interest
10 in real property.

11 SECTION 2. Chapter 247, Hawaii Revised Statutes, is
12 amended by adding two new sections to be appropriately
13 designated and to read as follows:

14 "§247-A Transfer of a controlling interest; applicability.

15 (a) Notwithstanding any provision to the contrary, the tax
16 imposed by section 247-1 shall apply to the transfer or
17 acquisition, or a series of transfers or acquisitions, including



1 those combined with otherwise exempt transfers, by any person or
2 entity acting alone or in concert, within any twelve-month
3 period, that result in:

4 (1) The transfer of a controlling interest in an entity
5 with an interest in real property located in this
6 State for valuable consideration; and

7 (2) The transfer of control or ownership of the real
8 property located in this State;

9 provided that this section shall not apply to any transfer or
10 acquisition that consists of the mere change in identity or form
11 of ownership of an entity where there is no change in the
12 beneficial ownership, including transfers to an entity wholly
13 owned, directly or indirectly, by the same common ownership as
14 the transferor.

15 (b) For the purpose of determining whether, pursuant to
16 the exercise of an option, a controlling interest was
17 transferred or acquired within a twelve-month period, the date
18 that the option agreement was executed shall be the date on
19 which the transfer or acquisition of the controlling interest is
20 deemed to occur. For all other purposes under this chapter, the



1 date upon which the option is exercised shall be the date of the
2 transfer or acquisition of the controlling interest.

3 (c) For the purposes of this section with regard to
4 persons acting in concert:

5 (1) All acquisitions of persons acting in concert shall be
6 aggregated for the purpose of determining whether a
7 transfer or acquisition of a controlling interest has
8 taken place;

9 (2) Persons shall be considered as acting in concert when
10 they have a relationship with each other such that one
11 person influences or controls the actions of another
12 through common ownership;

13 (3) Persons shall be considered to be acting in concert
14 only when the unity with which the purchasers
15 negotiate and consummate the transfer of ownership
16 interests supports a finding that the persons are
17 acting as a single entity; and

18 (4) If acquisitions are completely independent and each
19 purchaser purchases without regard to the identity of
20 the other purchasers, then the acquisitions shall be
21 considered separate acquisitions.



1 (d) As used in this section, "controlling interest" means:

2 (1) In the case of a corporation, either fifty per cent or
3 more of the total combined voting power of all classes
4 of stock of the corporation entitled to vote, or fifty
5 per cent or more of the capital, profits, or
6 beneficial interest in the voting stock of the
7 corporation; and

8 (2) In the case of a partnership, association, trust, or
9 other entity, fifty per cent or more of the capital,
10 profits, or beneficial interest in the partnership,
11 association, trust, or other entity.

12 (e) The director shall adopt rules pursuant to chapter 91
13 to implement this section, including rules for determining
14 whether persons are acting in concert for the purpose of
15 transferring or acquiring a controlling interest.

16 **§247-B Taxation at the lowest rate.** The tax imposed by
17 section 247-1 shall apply to the following at the lowest rate
18 provided in section 247-2(1), regardless of the value of the
19 real property:

20 (1) Any document or instrument conveying real property, or
21 any interest therein, from an entity that is a party



- 1 to a merger or consolidation under chapter 414, 414D,
2 415A, 421, 421C, 425, 425E, or 428 to the surviving or
3 new entity;
- 4 (2) Any document or instrument conveying real property, or
5 any interest therein, from a dissolving limited
6 partnership to its corporate general partner that
7 owns, directly or indirectly, at least a ninety per
8 cent interest in the partnership, determined by
9 applying section 318 (with respect to constructive
10 ownership of stock) of the Internal Revenue Code of
11 1986, as amended, to the constructive ownership of
12 interests in the partnership; .
- 13 (3) Any document or instrument conveying real property to
14 any nonprofit or for-profit organization that has been
15 certified by the Hawaii housing finance and
16 development corporation for low-income housing
17 development; and
- 18 (4) Any document or instrument conveying real property, or
19 any interest therein, to or from a wholly-owned
20 corporation or limited liability company."



1 SECTION 3. Section 247-1, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"§247-1 Imposition of tax.** There is hereby imposed and
4 shall be levied, collected, and paid, a tax as hereinafter
5 provided, on all transfers or conveyances of realty located in
6 the State or any interest therein, by way of deeds, leases,
7 subleases, assignments of lease, agreements of sale, assignments
8 of agreement of sale, instruments, writings, and any other
9 document, whereby any lands, interests in land, tenements, or
10 other realty sold shall be granted, assigned, transferred, or
11 otherwise conveyed to, or vested in, the purchaser or
12 purchasers, lessee or lessees, sublessee or sublessees, assignee
13 or assignees, or any other person or persons, by the person's or
14 their direction[-], including a transfer of a controlling
15 interest as that term is defined in section 247-A."

16 SECTION 4. Section 247-3, Hawaii Revised Statutes, is
17 amended to read as follows:

18 **"§247-3 Exemptions.** The tax imposed by section 247-1
19 shall not apply to:

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



- 1 (2) Any document or instrument that is given to secure a
2 debt or obligation;
- 3 (3) Any document or instrument that only confirms or
4 corrects a deed, lease, sublease, assignment,
5 transfer, or conveyance previously recorded or filed;
- 6 (4) Any document or instrument between husband and wife,
7 reciprocal beneficiaries, or parent and child, in
8 which only a nominal consideration is paid;
- 9 (5) Any document or instrument in which there is a
10 consideration of \$100 or less paid or to be paid;
- 11 (6) Any document or instrument conveying real property
12 that is executed pursuant to an agreement of sale, and
13 where applicable, any assignment of the agreement of
14 sale, or assignments thereof; provided that the taxes
15 under this chapter have been fully paid upon the
16 agreement of sale, and where applicable, upon such
17 assignment or assignments of agreements of sale;
- 18 (7) Any deed, lease, sublease, assignment of lease,
19 agreement of sale, assignment of agreement of sale,
20 instrument or writing in which the United States or
21 any agency or instrumentality thereof or the State or



1 any agency, instrumentality, or governmental or
2 political subdivision thereof are the only parties
3 thereto;

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

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

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

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



- 1 equal in value to that owner's interest before
2 partition;
- 3 (12) Any document or instrument between marital partners or
4 reciprocal beneficiaries who are parties to a divorce
5 action or termination of reciprocal beneficiary
6 relationship that is executed pursuant to an order of
7 the court in the divorce action or termination of
8 reciprocal beneficiary relationship;
- 9 (13) Any document or instrument conveying real property
10 from a testamentary trust to a beneficiary under the
11 trust; and
- 12 (14) Any document or instrument conveying real property
13 from a grantor to the grantor's revocable living
14 trust, or from a grantor's revocable living trust to
15 the grantor as beneficiary of the trust[~~7~~
- 16 ~~(15) Any document or instrument conveying real property, or~~
17 ~~any interest therein, from an entity that is a party~~
18 ~~to a merger or consolidation under chapter 414, 414D,~~
19 ~~415A, 421, 421C, 425, 425E, or 428 to the surviving or~~
20 ~~new entity;~~



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

10 ~~(17) Any document or instrument conveying real property to~~
11 ~~any nonprofit or for-profit organization that has been~~
12 ~~certified by the Hawaii housing finance and~~
13 ~~development corporation for low-income housing~~
14 ~~development]."~~

15 SECTION 5. In codifying the new sections added by section
16 2 of this Act, the revisor of statutes shall substitute
17 appropriate section numbers for the letters used in designating
18 the new sections in this Act.

19 SECTION 6. Statutory material to be repealed is bracketed
20 and stricken. New statutory material is underscored.

21 SECTION 7. This Act shall take effect on July 1, 2024.



H.B. NO. 1628

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INTRODUCED BY: *Lee A. Cu*

JAN 16 2024



H.B. NO. 1628

Report Title:

Conveyance Tax; Controlling Interest Transfer

Description:

Imposes conveyance tax on the transfer of a controlling interest of an entity with an interest in real property. Stipulates that the imposition of the conveyance tax on transfers of entity ownership shall not apply to any transfer of interest or acquisition between entities wholly owned by the same common ownership that results in no change in the beneficial ownership. Imposes the conveyance tax on certain transfers of real property at the lowest tax rate.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

