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PRESERVING HAWAI‘I

How the State Conveyance Tax Can Re-Invest Nonresident Wealth Into Our Island Communities

HAWAIʻI APPLESEED
CENTER FOR LAW & ECONOMIC JUSTICE

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Hawaiʻi Appleseed is committed to a more socially and economically just Hawaiʻi, where everyone has genuine opportunities to achieve economic security and fulfill their potential. We change systems to address inequity and foster greater opportunity by conducting data analysis and research to address income inequality, educating policymakers and the public, engaging in collaborative problem solving and coalition building, and advocating for policy and systems change.

The work of Hawaiʻi Appleseed is about people. The issues we work on—housing, food, wages, the state budget and taxation, and racial and indigenous equity—are important because they ensure people have access to shelter, sustenance, and the means to survive and thrive individually and collectively. Addressing these issues requires the knowledge and expertise of the people that have first-hand experience and live with the adverse consequences of our flawed systems.

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EXECUTIVE SUMMARY

Housing affordability has been a growing concern for Hawaiʻi's politicians since the 1970s. In a campaign speech, then-Lieutenant Governor Tom Gill warned that the legislation of that era would fail to ensure housing for Hawaiʻi's working class, and that Hawaiʻi would only further become a "paradise" destination to those who can pay for it.[1]

Today, as rents continue to rise, 78 percent of our extremely-low income residents—those earning less than 30 percent of the Area Median Income (AMI)—are either seniors or part of the workforce. That's less than $27,510 as an individual or $39,300 for a family of four.[2] Some 70 percent of these renters pay more than 30 percent of their income on rent.[3] Additionally, recent research finds that median rent increases of $100 a month were associated with a 9 percent increase in homelessness.[4] Low-Income Housing Tax Credit (LIHTC) projects are some of the only forms of rental housing that enact rent stabilization methods (rent increase limitations) based on AMI every year.

There is an urgent need for the government to make larger investments in funding affordable rental housing. Projected housing demand estimates that some 4,000–5,000 additional affordable rental units must be added to our housing supply each year for the next five years to meet residents' needs.[5]

A review of projects approved by the Hawaiʻi Housing and Finance Development Corporation (HHFDC) over the last five years shows ongoing and growing demand for funds from the Rental Housing Revolving Fund (RHRF). In all five of those years, the RHRF ran up against the $38 million allocation cap from the conveyance tax.[6] In 2022, HHFDC approved over $320 million of RHRF to 13 projects which will eventually produce 1,989 affordable units,[7] dependent on permitting and other approval processes.

To meet this increasing demand, we also need to increase our investments into the Dwelling Unit Revolving Fund (DURF), which is used by the state to develop the infrastructure it needs—sewer, electrical, roadways—to meet our housing demand.

DURF was established in 1970 by Act 105. Funds are meant to be used for "acquisition of real property; development and construction of residential, commercial and industrial properties; interim and permanent loans to developers; and all things necessary to carry out the purposes of the Housing Development Program."[8] DURF funds have largely been used for much needed infrastructure investments connected to individual housing developments. In addition, use of DURF funding requires units to be sold or rented at below market rates.

In 2019, the American Society of Civil Engineers rated Hawaiʻi's overall infrastructure a D+ in an infrastructure report card. The report noted that "the majority of Hawaiʻi's infrastructure has been operating beyond its useful life, and some components of systems are over 100 years old. … due to lack of funding, it has been difficult to effectively maintain and improve the existing infrastructure systems."[9] These systems are a vital component of keeping housing production aligned with increasing demand. Without proper investment in infrastructure, Hawaiʻi will not be able to meet its housing needs across the state.

Increasing conveyance tax rates, removing caps on the RHRF (and Land Conservation Fund, or LCF), and creating a dedicated DURF fund, can provide millions of dollars to addressing some of the most pressing barriers to providing affordable housing to residents today. Accordingly, Hawaiʻi should:

- Increase the conveyance tax;
- Remove the caps on special funds; and
- Add an additional allocation for the Dwelling Unit Revolving Fund.

THE CONVEYANCE TAX UNDER CURRENT LAW

Table 1. Current Hawaiʻi Conveyance Tax Rates[10]

Rate	<$600K	$600K–$1M	$1M–$2M	$2M–$4M	$4M–$6M	$6M–$10M	$10M+
Owner Occupied	0.10%	0.20%	0.30%	0.50%	0.70%	0.90%	1.00%
Non Owner Occupied	0.15%	0.25%	0.40%	0.60%	0.85%	1.10%	1.25%

The conveyance tax, also known as a deed tax, mortgage registry tax, or transfer tax, is a tax on the transfer of real property from one entity to another. The conveyance tax covers all real property, residential, commercial, agricultural and conservation properties.[11] This tax is calculated based on the sales price of property, and is the responsibility of the seller to pay.

Current conveyance tax rates as of 2023 are reflected in **Table 1**. Hawaiʻi has a progressive tax structure for conveyance tax, and two categories for rates: owner occupied and non-owner occupied. Owner occupancy is determined by county-level filings for home exemptions.

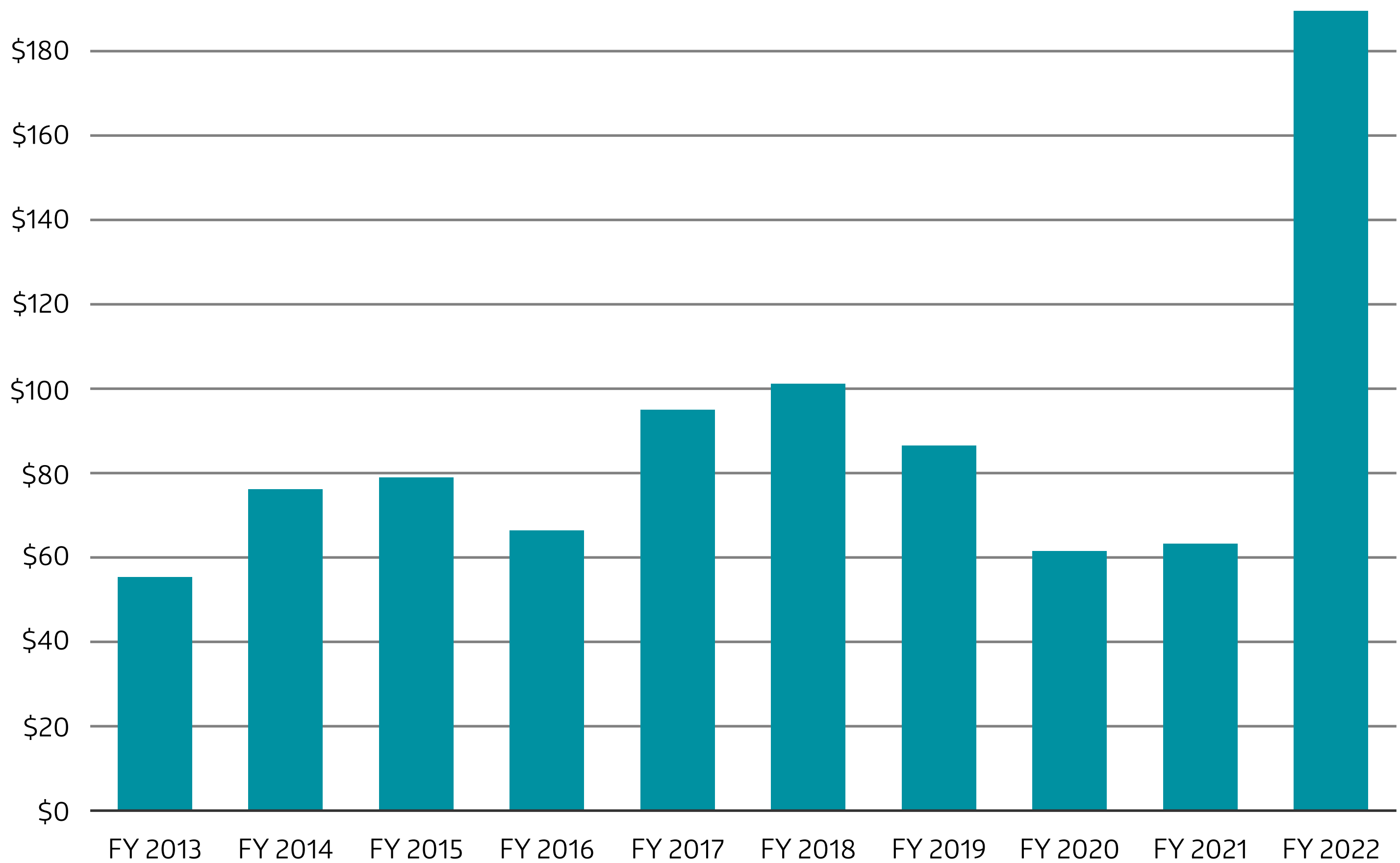
Hawaiʻi conveyance tax is collected by the state under Chapter 247 of the Hawaiʻi Revised Statutes, and is allocated into three funds: the state General Fund; and the RHRF and LCF (both of which are special funds).[12] Current disposition of conveyance tax revenue to these funds are:

- 50 percent or $38 million (whichever is less) to the RHRF;
- 10 percent or $5.1 million (whichever is less) to the LCF;[13] and
- The remainder going to the General Fund.

The conveyance tax is one of the only dedicated sources of funding for the creation of affordable housing and for land conservation, two things Hawaiʻi greatly needs. Since the 1970s, Hawaiʻi has had a consistent need for an additional 50,000–60,000 housing units to keep up with its demand. A 2019 study commissioned by the state identified a need for 50,000 additional housing units by 2025 to meet pent up demand.[14]

The RHRF is used as gap financing[15] for construction of affordable units for those making 0–60 percent of the AMI using the LIHTC; and for the Tier 2 Program, which funds construction of affordable workforce rental housing at 60–100 percent AMI (Tier 2 did not receive funding in 2023).[16] Projections estimate that more than 50 percent of the state's housing production needs to be targeted affordable rentals for low-income and for workforce families to meet demand where it is at.[17]

Figure 1. Conveyance Tax Revenue (in $ Millions), Fiscal Years 2013–2022[18]



The LCF is used by the state to acquire and manage lands that have natural, environmental, recreational or historic value, so they can be accessible to the people of Hawaiʻi. The LCF has been used to purchase land along Turtle Bay Makai to preserve the shoreline and shoreline access for the community, as well as in partnership with MAʻO Organic Farms to facilitate needed production of local produce for food security.[19]

The total sum of conveyance tax collected from 2013–2022 is reflected in **Figure 1**. In 2022, conveyance tax income for the state increased 200 percent, from $62.7 million in 2021 to $188.4 million in 2022. Despite this historical increase in funds, allocations to the RHRF and LCF were capped at $38 million (20 percent) and $5.1M (2 percent), respectively. Had the caps been removed, allocations to the RHRF and LCF would have been $94.2 million and $18.8 million, respectively.

Conveyance tax rates in Hawaiʻi are low in comparison to places with similar, high-value real estate markets. Furthermore, there is a deep necessity for Hawaiʻi to create more affordable rental housing for its residents, and the RHRF provides a dedicated source of funding for those units. There is also a need for Hawaiʻi to better equip itself for a dramatically changing climate, which will in-part require purchasing of shoreline lands for preservation, and increasing our food security through grants to local farmers for food production. Both of these needs can be met through purchases using funds allocated to the LCF. Adding DURF funding would contribute to housing-related infrastructure needs.

Conveyance Tax Rates in Other Jurisdictions[20]

Washington, D.C.	$0–$400K	$400K+
Rate	1.1%	1.45%

Los Angeles	$100K–$5M	$5–$10M	$10M+
Rate	0.45%	4%	5.5%

San Francisco	$100K–$250K	$250K–$1M	$1M–$5M	$5M–$10M	$10M–$25M	$25M+
Rate	0.5%	0.7%	0.75%	2.25%	5.5%	6%

Seattle	$0–$500K	$500K–$1,5M	$1.5M–$3M	$3M+
Rate	1.1%	1.28%	2.75%	3%

PROPOSED INCREASE & REMOVAL OF CAPS

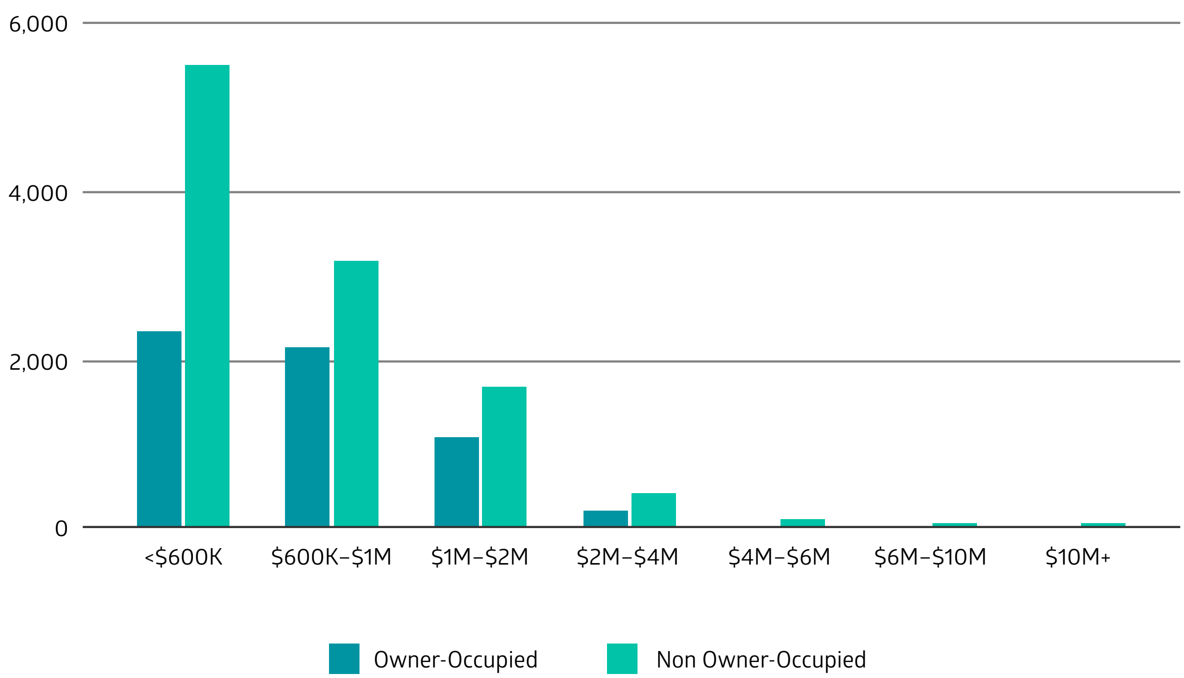
Recent proposed changes to the conveyance tax have focused on increasing tax rates on non-owner occupied and owner occupied units on a progressive scale. The focus has been on increasing tax rates for homes at the $2 million and above sales price. Research on sales over the past five years show it is at the $2 million and above price that purchases shift from owner occupancy to investment (non-owner occupied) properties.[21]

In addition to increasing the rates, proposals have included removal of the caps on RHRF and LCF to increase consistent funding to both funds. Last year, an additional dedicated fund to homeless services was proposed at 10 percent of collected revenue (SB678).

In 2021, the legislature passed a bill that would have increased rates on sales valued at $4 million and above. However, this bill was vetoed by then-Governor David Ige, due to a lack of language that exempted sales of properties for affordable housing.

Proposed increases to the conveyance tax from the 2023 legislative session are shown on page 8. Each bill from the 2023 legislative session would have increased revenue collected from the conveyance tax, and would have removed the cap on the RHRF. None were passed despite significant public support for conveyance tax rate increases, removal of caps, and additional dedicated funding to homeless services.

Figure 2. Hawai‘i Home Sales in 2021, Owner-Occupied and Non Owner-Occupied



Proposed Conveyance Tax Rates, 2023 Legislation

SB678: This bill would have increased rates across all categories, removed caps on the allocations to the RHRF and LCF, and added a dedicated fund for homeless services with 10 percent of the tax revenue.

Rate	<$600K	$600K–$1M	$1M–$2M	$2M–$4M	$4M–$6M	$6M–$10M	$10M+
Owner Occupied	0.5%	0.5%	0.5%	2%	4%	5%	6%
Non Owner Occupied	0.55%	0.55%	0.55%	2%	4%	5%	6%

SB362: This bill would have maintained rates for owner occupied sales; increased rates at the $2 million sales point for non owner-occupied properties; made exemptions for the sale of affordable housing units or development for affordable housing; and removed the cap for just the RHRF.

Rate	<$600K	$600K–$1M	$1M–$2M	$2M–$4M	$4M–$6M	$6M–$10M	$10M+
Owner Occupied	0.1%	0.2%	0.3%	0.5%	0.7%	0.9%	1%
Non Owner Occupied	0.15%	0.25%	0.4%	1.2%	1.75%	2.2%	2.5%

HB1211: This bill would have maintained rates until the $1.5 million sale point for owner-occupied units; added additional brackets and distinguished different rates for owner occupied and non-owner occupied sales; added a dedicated fund for homeless services (10 percent); and removed caps on allocations to the RHRF & LCF.

Rate	<$600K	$600K–$1M	$1M–$1.5M	$1.5M–$2M	$2M–$4M	$4M–$6M	$6M–$10M	$10M–$14M	$14M–$19M	$19M–$22M	$22M–$26M	$26M+
Owner Occupied	0.1%	0.2%	0.3%	0.5%	0.7%	1%	1.2%	1.5%	3%	5%	8%	10%
Rate	**<$600K**	**$600K–$1M**	**$1M–$1.5M**	**$1.5M–$2M**	**$2M–$4M**	**$4M–$6M**	**$6M–$10M**	**$10M–$14M**	**$14M–$19M**	**$19M–$24M**	**$24M+**	
Non Owner Occupied	0.15%	0.25%	0.4%	0.75%	1.5%	2%	3%	4%	7%	10%	12%	

Proposed Conveyance Tax Rates, 2024 Legislation

SB3053/HB2364: These companion bills would increase rates at the $4 million sales point for non-owner occupied properties and $6 million and above for purchases that are owner occupied. It would also add additional categories for higher sales prices; remove caps from special funds; and add an additional dedicated allocation for DURF.

Rate	<$600K	$600K–$1M	$1M–$1.5M	$2M–$4M	$4M–$6M	$6M–$10M	$10M–$14M	$14M–$18M	$18M–$22M	$22M–$26M	$26M+
Owner Occupied	0.1%	0.2%	0.3%	0.5%	0.7%	1.1%	1.4%	2%	3%	4%	6%
Non Owner Occupied	0.15%	0.25%	0.4%	1.0%	1.5%	2%	3%	4%	5%	6%	7%

Hawai'i Appleseed Recommendations: Remove caps from the RHRF and LCF and adjust rates (suggested rate changes highlighted in yellow).

Rate	<$600K	$600K–$1M	$1M–$1.5M	$2M–$4M	$4M–$6M	$6M–$10M	$10M–$14M	$14M–$18M	$18M–$22M	$22M–$26M	$26M+
Owner Occupied	0.1%	0.2%	0.3%	0.5%	2%	2.5%	3%	4%	5%	6%	7%
Non Owner Occupied	0.15%	0.25%	0.4%	1.0%	2%	2.5%	3%	4%	5%	6%	7%

Projected Revenue and Other Impacts

SB678 (2023)

Total Revenue	General Fund	RHRF	LCF	Homeless Services
$302,809,657	$90,842,897	$151,404,829	$30,280,966	$30,280,966

SB362 (2023)

Total Revenue	General Fund	RHRF	LCF
$128,198,747	$58,999,374	$64,099,374	$5,100,000

HB1211 (2023)

Total Revenue	General Fund	RHRF	LCF	Homeless Services
$363,335,727	$109,000,718	$181,667,864	$36,333,573	$36,333,573

Projections on all three 2023 bills show increases in revenue from the conveyance tax and increases to allocation for RHRF (as well as LCF and homeless service fund when applicable). Publicly available Multiple Listing Service (MLS) for Hawaiʻi real estate transactions data from the average of years 2016–2018 was used to create revenue projections for each year. **Note:** These are projections, and cannot be used to predict future sales in Hawaiʻi or future revenue.

2022 saw an unprecedented increase in property sales for Hawaiʻi, but federal interest rates have dramatically increased since then. The impact this has had on home sales in Hawaiʻi will be better known when analysis can be done on all sales in 2023. This analysis uses a 3-year average of pre-COVID sales data to create a "normalized" projection.

Projections for the proposed rate changes in SB678 indicate that a potential 300 percent increase in revenue from the conveyance tax could be collected. SB362 and HB1211 had significantly lower increases by comparison. Rates proposed in HB1211 further complicate the tax. While HB1211 proposes the highest rate for the highest value properties, there are relatively few homes sold at $19 million and above.

In 2018, $100 million in revenue was collected by the conveyance tax and $55 million went to the General Fund. If SB678 rates were implemented, the conveyance tax could have brought in $300 million in total revenue from 2022 sales. SB678 proposes allocating 70 percent to special funds, which would have meant $90 million for the general fund, $150 million for RHRF, $30 million for LCF, and $30 million for homeless services.

Utilizing the averaged 2016–2018 data, SB362 projections show an increase of around 50 percent, which would raise conveyance tax revenue from $100 million to $150 million. The removal of the RHRF cap would result in a $75 million allocation to the fund.

SB3053/HB2364 (2024)

Total Revenue	General Fund	RHRF	LCF	DURF
$272,506,515	$202,155,863	$38,000,000	$5,100,000	$27,250,651

Hawai‘i Appleseed Proposal (2024)

Total Revenue	General Fund	RHRF	LCF	DURF
$279,072,775	$83,721,833	$139,536,388	$27,907,278	$27,907,278

Assessing the proposed rate changes from 2024 legislation, projections for the proposed rate changes in SB3053/HB2364 indicate that revenue would be over $272 million. As written at time of introduction, this legislation would still cap the RHRF at $38 million and the LCF at $5.1 million. However, a new allocation to DURF would not be capped, and the fund would receive $31 million. Another $202 million would go to the General Fund.

Hawai‘i Appleseed proposes a more aggressive change in tax rates at the $4 million and above level. Homes sold at or above this sales point are overwhelmingly investment properties that do not maintain owner occupancy. Our proposal taxes both owner occupied and non-owner occupied units at the same rate, and starts the increases at 2 percent for $4 million+ sales before increasing each bracket above that by 1 percent starting at $10 million sales and above. Using the averaged 2016–2018 sales data, these proposed rates (if enacted at that time) could have brought in $279 million in total:

- $139 million for RHRF;
- $27 million each for DURF and LCF; and
- $83 million for the General Fund.

With high interest rates, the need for gap funding for affordable housing projects will continue to increase. A larger RHRF can meet the need for LIHTC and Tier 2 projects, both of which provide necessary, below-market rate rentals. This proposal would generate critically needed funding for affordable housing, associated infrastructure, and the preservation of conservation land.

Additionally, legislators should consider previous versions of proposed conveyance tax changes that advocated for the additional category of “commercial” property. This change would distinguish between residential and commercial properties and give each a different tax rate. This could address concerns about impacts to local businesses, as commercial property sales are typically over $4 million, and carry more risk than residential properties.

Legislators should also consider an exemption from the conveyance tax for purchases intended for affordable housing construction. This would ensure that any increase in the tax does not impact the acquisition of properties for much needed affordable housing units.

ENDNOTES

1. Arrasmith, Perry, "A Warning On Hawaii's Housing Crisis - From 1970," *Honolulu Civil Beat*, July 14, 2022, https://www.civilbeat.org/2022/07/a-warning-on-hawaiis-housing-crisis-from-1970

2. Taken from 2023 Honolulu County Income schedule by family size, utilizing Honolulu as it is the highest paid county in the state

3. National Low Income Housing Coalition, "Out of Reach Report," 2021, https://nlihc.org/housing-needs-by-state/hawaii

4. U.S. Government Accountability Office, "Homelessness: Better HUD Oversight of Data Collection Could Improve Estimates of Homeless Population," July 14, 2020, https://www.gao.gov/products/gao-20-433

5. SMS Research & Marketing Services, "Hawaii Housing Planning Study, 2019," December 2019, Hawaiʻi Housing Finance and Development Corporation, December 2019, https://dbedt.hawaii.gov/hhfdc/files/2020/01/FINAL-State_Hawaii-Housing-Planning-Study.pdf

6. HHFDC Awards List, 2018–2022, https://dbedt.hawaii.gov/hhfdc/developers/copy_of_copy_of_rhtf_html

7. HHFDC Awards List, 2022, https://dbedt.hawaii.gov/hhfdc/files/2023/01/2022-Awards-List-1-3-23.pdf

8. Hawaiʻi Housing Finance and Development Corporation, "Dwelling Unit Revolving Fund," Hawaiʻi State Department of Business & Economic Development, https://dbedt.hawaii.gov/hhfdc/dwelling-unit-revolving-fund-durf

9. American Society of Civil Engineers, "2019 Hawaii Infrastructure Report Card," 2019, https://infrastructurereportcard.org/wp-content/uploads/2021/07/ASCE-24199_Full-REPORT-2019-FINAL.pdf

10. Hawaiʻi Revised Statutes, Chapter 247

11. Ibid.

12. Ibid.

13. SMS Research & Marketing Services, 2019

14. Ibid.

15. Gap funding is additional financing required to bridge the financial gap between total development cost of an affordable housing project and available funds from other sources.

16. Hawaiʻi Housing Finance and Development Corporation, "Rental Housing Revolving Fund," Hawaiʻi State Department of Business & Economic Development, https://dbedt.hawaii.gov/hhfdc/developers/rhtf_html

17. SMS Research & Marketing Services, 2019, p. 38

18. Choy, Isaac, "Annual DOTAX Report 2021–2022," Hawaiʻi State Department of Taxation, p. 36, November 2022, https://files.hawaii.gov/tax/stats/stats/annual/22annrpt.pdf

19. Legacy Land Conservation Program, "Properties Conserved," Hawaiʻi State Department of Land & Natural Resources, https://dlnr.hawaii.gov/ecosystems/llcp/projects/#List

20. Hawaiʻi Appleseed Center for Law & Economic Justice review of national conveyance tax rates.

21. Hawaiʻi Appleseed Center for Law & Economic Justice analysis of home sales using "Hawaiʻi Information Service MLS and Real Estate Resource."