NATIONAL ASSOCIATION OF
REAL ESTATE INVESTMENT TRUSTS®

WRITTEN TESTIMONY OF

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NATIONAL ASSOCIATION OF REAL ESTATE INVESTMENT TRUSTS, INC.
IN OPPOSITION TO H.B. 82

BEFORE THE HAWAII HOUSE OF REPRESENTATIVES
COMMITTEE ON CONSUMER PROTECTION AND COMMERCE

HONORABLE ANGUS L.K. MCKELVEY, CHAIR
HONORABLE JUSTIN H. WOODSON, VICE CHAIR

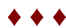
and

COMMITTEE ON JUDICIARY

HONORABLE KARL RHOADS, CHAIR
HONORABLE JOY A. SAN BUENAVENTURA, VICE CHAIR

HEARING ON H.B. 82

FEBRUARY 4, 2015



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The National Association of Real Estate Investment Trusts submits this testimony in opposition to H.B. 82. NAREIT is the world-wide representative voice of real estate investment trusts (REITs) and publicly traded real estate companies in the United States.

H.B. 82 would eliminate what is known as the dividends paid deduction (or DPD) for all real estate investment trusts in Hawaii. Eliminating the DPD would be contrary to the federal income tax rules applying to widely-held REITs in every income-based tax system like Hawaii except for New Hampshire. It is worth noting that although both Hawaii and New Hampshire have roughly equivalent contributions to the nation economy, REIT investment in Hawaii is about four times that of New Hampshire.

While those who support the legislation state that that investment money can be easily replaced, it is worth noting that as of December 2013, and based on filings with the Securities and Exchange Commission, approximately twenty widely-held REITs have invested about six billion dollars in commercial real estate in Hawaii that results in the employment of many Hawaii residents. The Hawaii real estate owned by REITs generates millions of dollars in property taxes and excise taxes. These taxes are on top of the individual income taxes currently generated by REIT dividends paid to Hawaii residents from income earned wherever the distributing REIT resides or does business. In addition, the sales generated by the tenants that conduct business on the premises owned and operated by REITs generate jobs and taxes as well. Replacing a $6 billion investment is not as easy as it looks.

Background of REITs. Congress created REITs in 1960 specifically to enable small investors to invest in professionally managed, income-producing real estate. REITs are corporations that combine capital of many investors to benefit from a diverse portfolio that may include apartments, hotels, healthcare facilities, shopping centers, senior housing, offices, storage facilities and warehouses. Federal law requires REITs to distribute all their taxable income to their shareholders. The billions of dollars distributed are taxable where the REIT shareholders reside. Hawaii residents invest in REITs that own properties in Hawaii and REITs that own no properties in Hawaii but own properties in other states. The income earned by Hawaii residents in Hawaii is taxed here even if the REIT invested in owns properties elsewhere. The workers who have jobs because of REITs pay income taxes in Hawaii, and the State receives the general excise taxes that these incomes generated through the purchase of goods and services.

Benefits to Hawaii. REITs, such as General Growth Properties, owner of the Ala Moana Shopping Center, and Taubman Centers Inc. the developer of the International Marketplace, have access to public capital markets to raise the large funds needed for such large development projects. The renovation and expansion of Ala Moana enjoys a commitment of over $500 million while the International Marketplace project shows a commitment to invest over $400 million on the part of Taubman. This redevelopment will result in about one thousand construction jobs and 2,500 permanent jobs and all the taxes that activity will produce. These jobs are put in jeopardy by the tax proposed in H.B. 82.

Hawaii investors also benefit from REITs. To date, Hawaii residents have invested approximately $175 million in just 12 SEC-registered, non-listed REITs (one of which went public in 2013). The State is collecting taxes on the millions of dollars distributed by these companies, even though the vast majority of their properties are located outside of Hawaii. Since 1994, Hawaii residents have invested approximately $220 million in 17 SEC-registered REITs, some of which have been sold or undergone initial public offerings.

Except for New Hampshire, every other state that imposes a corporate-level income tax allows the DPD for widely-held REITs. It is hard to imagine Hawaii's position would be improved by partnering with New Hampshire as opposed to being seen as being aligned with the rest of the nation. If Hawaii repeals the DPD, Hawaii would not be viewed as an attractive place for REIT investments. As can be seen from the record, as opposed to the speculation on the part of the supporters of the bill, the REIT investments have resulted in tremendous value and in jobs, all of which produces income for government and residents. Can Hawaii be assured that much of this investment will not be lost if the DPD is repealed? Logic says much of the investment would be lost.

Accordingly, NAREIT urges you not to enact H.B. 82. Thank you again for the opportunity to submit this testimony.