

# REQUEST FOR LEGAL SERVICES

**RECEIVED**

By Dept. of the Corporation Counsel at 8:51 am, Aug 10, 2021

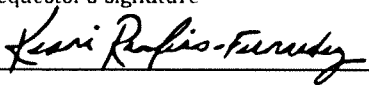
**Date:** August 9, 2021  
**From:** Keani N.W. Rawlins-Fernandez, Chair  
Budget, Finance, and Economic Development Committee

**TRANSMITTAL**  
**Memo to:** DEPARTMENT OF THE CORPORATION COUNSEL  
Attention: Kristina Toshikiyo, Esq.

**Subject:** KULEANA LAND TAX EXEMPTIONS (BFED-80)

**Background Data:** Please see attached bill. Please send response to bfed.comomitee@mauicounty.us.

**Work Requested:**  FOR APPROVAL AS TO FORM AND LEGALITY  
 OTHER:

Requestor's signature  Keani N.W. Rawlins-Fernandez	Contact Person <u>Lesley Milner</u> (Telephone Extension: 7886)
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ROUTINE (WITHIN 15 WORKING DAYS)       RUSH (WITHIN 5 WORKING DAYS)  
 PRIORITY (WITHIN 10 WORKING DAYS)       URGENT (WITHIN 3 WORKING DAYS)

SPECIFY DUE DATE (IF IMPOSED BY SPECIFIC CIRCUMSTANCES): August 12, 2021  
REASON: For posting for August 24, 2021 Council meeting.

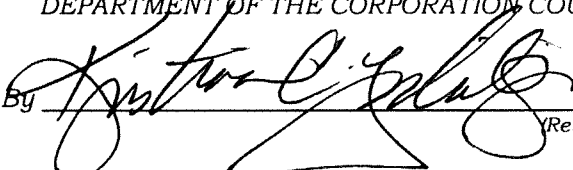
### FOR CORPORATION COUNSEL'S RESPONSE

ASSIGNED TO: KCT	ASSIGNMENT NO. 2021-0012	BY: maa
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TO REQUESTOR:  APPROVED  DISAPPROVED  OTHER (SEE COMMENTS BELOW)  
 RETURNING--PLEASE EXPAND AND PROVIDE DETAILS REGARDING ITEMS AS NOTED

COMMENTS (NOTE - THIS SECTION NOT TO BE USED FOR LEGAL ADVICE): Please also see email with comments. Thank you!

Date 8/10/2021

DEPARTMENT OF THE CORPORATION COUNSEL  
By   
(Rev. 7/03)

bfed:ltr:080acc01:ljam

Attachment

ORDINANCE NO. \_\_\_\_\_

BILL NO. \_\_\_\_\_ (2021)

A BILL FOR AN ORDINANCE AMENDING CHAPTER 3.48, MAUI COUNTY  
CODE, RELATING TO KULEANA TAX EXEMPTIONS

BE IT ORDAINED BY THE PEOPLE OF THE COUNTY OF MAUI:

SECTION 1. Section 3.48.554, Maui County Code, is amended to read as  
follows:

**“3.48.554 Exemption – [Kuleana land.]kuleana land and  
Kuleana Act government grant land.** A. Those portions of real  
property designated as kuleana land[,] or Kuleana Act government  
grant land [shall be] are exempt from paying real property taxes,  
delinquent taxes, and penalties if:

1. The property is owned in whole or in part by a  
lineal descendant of the [person(s)] person who received the  
original title to the kuleana land[;] or Kuleana Act government  
grant land.

2. The portion of property designated as kuleana  
land or Kuleana Act government grant land is not used for  
commercial purposes[; and].

3. An application for exemption is filed with, and  
approved by, the director.

B. An application for the exemption described in  
subsection A [shall] must be on forms prescribed by the director and  
[shall] must include documents verifying ownership of the portion of  
real property concerned and satisfaction of the requirements of  
subsection A. For a period of ten years beginning January 1, 2022,  
applications under this section will be accepted retroactively for  
assessment years 2010 through 2031.

C. The applicant [shall be] is responsible for the cost of  
obtaining evidence in support of an application. If the applicant is  
not identified as the owner of the property in the records of the  
director, the director [shall] must require the applicant, at the  
applicant’s expense, to obtain a deed or court order to verify  
ownership of the property. For purposes of determining whether the  
lineal descendancy requirement in subsection A.1 has been

satisfied, genealogy verification by the Office of Hawaiian Affairs or by court order [shall be deemed] is sufficient.

D. For the purposes of ownership and lineal descendancy requirements, an owner who is a lineal descendant of a person who received original title to kuleana land or Kuleana Act government grant land may include:

1. A trust where a trustee or a beneficiary is a lineal descendant of the person who received the original title to the kuleana land or Kuleana Act government grant land; or

2. A corporation, limited liability company, nonprofit organization, or similar entity where the owners or board of directors are lineal descendants of the person who received the original title to the kuleana land or Kuleana Act government grant land.

[D.] E. For the purposes of this section:

1. "Agriculture" means the production of plant and animal life for food and fiber, and for raw materials for processed products, and includes[, but is not limited to]: fruit, vegetable, and flower growing; forestry; aquaculture; beekeeping; grazing and dairying; and their accompanying services and facilities.

2. "Commercial purposes" means the processing, manufacturing, warehousing, distribution, or sale of goods, or the provision of services for consideration and profit, including the operation of transient vacation rental and bed and breakfast homes, but [shall exclude] excludes agriculture[.] on kuleana land or Kuleana Act government grant land.

3. "Kuleana land" means those lands granted to native tenants [pursuant to] in accordance with L. 1850, p. 202, entitled "An Act Confirming Certain Resolutions of the King and Privy Council, Passed on the 21st Day of December, A.D. 1849, Granting to the Common People Allodial Titles for Their Own Lands and House Lots, and Certain Other Privileges," as amended by L. 1851, p. 98, entitled "An Act to Amend An Act Granting to the Common People Allodial Titles for Their Own Lands and House Lots, and Certain Other Privileges" and as further amended by any subsequent legislation.

4. "Kuleana Act government grant land" means those lands set aside in accordance with section 4 of L. 1850, p. 202, entitled "An Act Confirming Certain Resolutions of the King and Privy Council, Passed on the 21st Day of December, A.D. 1849, Granting to the Common People Allodial Titles for Their Own Lands and House Lots, and Certain Other Privileges," as amended by L. 1851, p. 98, entitled "An Act to

Amend An Act Granting to the Common People Allodial Titles for Their Own Lands and House Lots, and Certain Other Privileges” and as further amended by any subsequent legislation, and title to which was purchased or otherwise obtained through a royal patent grant issued by the land commission or Minister of the Interior.”

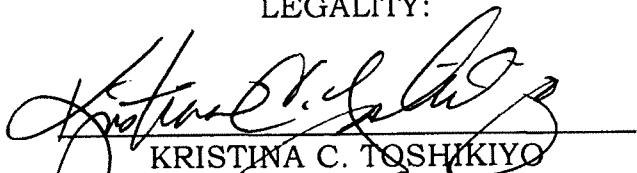
SECTION 2. Section 3.48.140, Maui County Code, is amended to read as follows:

**“3.48.140 Changes in assessment lists.** Except as specifically provided in this chapter, no changes in, additions to, or deductions from the real property tax assessments on the assessment lists prepared as provided in section 3.48.135 [shall] may be made, except to add [thereto] property or assessments [which] that may have been omitted [therefrom], or to deduct [therefrom] adjustments on account of duplicate assessments and clerical errors, such as transposition in figures, typographical errors, and errors in calculation. If kuleana land classification is granted, the portions of real property designated as kuleana land or Kuleana Act government grant land will be listed as exempt on the assessment lists, and all delinquent taxes and penalties must be removed from the portions of real property designated as kuleana land or Kuleana Act government grant land in accordance with section 3.48.554.”

SECTION 3. Material to be repealed is bracketed. New material is underscored. In printing this bill, the County Clerk need not include the brackets, the bracketed material, or the underscoring.

SECTION 4. This Ordinance takes effect on approval.

APPROVED AS TO FORM AND  
LEGALITY:

  
KRISTINA C. TOSHIKIYO  
Department of the Corporation Counsel  
County of Maui

bfed:misc:080abill02:ljam  
LF2021-012

BFED-80 2021-08-10 Ord Kuleana Tax Exemptions

ORDINANCE NO. \_\_\_\_\_

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SECTION 1. Section 3.48.554, Maui County Code, is amended to read as follows:

**“3.48.554 Exemption – [Kuleana land{.}]–kuleana land and Kuleana Act government grant land.** A. Those portions of real property designated as kuleana land[,] or Kuleana Act government grant land [shall be] are exempt from paying real property taxes, delinquent taxes, and penalties if:

1. The property is owned in whole or in part by a lineal descendant of the [person(s)] person who received the original title to the kuleana land[;] or Kuleana Act government grant land.;

2. The portion of property designated as kuleana land or Kuleana Act government grant land is not used for commercial purposes[; and].; ~~and~~

3. An application for exemption is filed with, and approved by, the director.

B. An application for the exemption described in subsection A [shall] must be on forms prescribed by the director and [shall] must include documents verifying ownership of the portion of real property concerned and satisfaction of the requirements of subsection A. For a period of ten years beginning January 1, 2022, applications under this section will be accepted retroactively for assessment years 2010 through 2031.

C. The applicant [shall be] is responsible for the cost of obtaining evidence in support of an application. If the applicant is not identified as the owner of the property in the records of the director, the director [shall] must require the applicant, at the applicant’s expense, to obtain a deed or court order to verify ownership of the property. For purposes of determining whether the lineal descendancy requirement in subsection A.1 has been

satisfied, genealogy verification by the Office of Hawaiian Affairs or by court order [shall be deemed] is sufficient.

D. For the purposes of ownership and lineal descendency requirements, an owner who is a lineal descendant of a person who received original title to kuleana land or Kuleana Act government grant land may include:

1. A trust where a trustee or a beneficiary is a lineal descendant of the person who received the original title to the kuleana land or Kuleana Act government grant land; or

2. A corporation, limited liability company, nonprofit organization, or similar entity where the owners or board of directors are lineal descendants of the person who received the original title to the kuleana land or Kuleana Act government grant land.

[D.] E. For the purposes of this section:

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2. “Commercial purposes” means the processing, manufacturing, warehousing, distribution, or sale of goods, or the provision of services for consideration and profit, including the operation of transient vacation rental and bed and breakfast homes, but [shall exclude] —excludes agriculture[.] on kuleana land or Kuleana Act government grant land.

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4. “Kuleana Act government grant land” means those lands set aside in accordance with section 4 of L. 1850, p. 202, entitled “An Act Confirming Certain Resolutions of the King and Privy Council, Passed on the 21st Day of December, A.D. 1849, Granting to the Common People Allodial Titles for Their Own Lands and House Lots, and Certain Other Privileges,” as amended by L. 1851, p. 98, entitled “An Act to

Amend An Act Granting to the Common People Allodial Titles for Their Own Lands and House Lots, and Certain Other Privileges” and as further amended by any subsequent legislation, and title to which was purchased or otherwise obtained through a Rroyal Ppatent Ggrant issued by the Lland Ecommission or Minister of the Interior.”

SECTION 2. Section 3.48.140, Maui County Code, is amended to read as followsas follows:

“3.48.140 Changes in assessment lists. “Except as specifically provided in this chapter, no changes in, additions to, or deductions from the real property tax assessments on the assessment lists prepared as provided in section 3.48.135 [shall] may be made, except to add [thereto] property or assessments [which] that may have been omitted [therefrom], or to deduct [therefrom] adjustments on account of duplicate assessments and clerical errors, such as transposition in figures, typographical errors, and errors in calculation. If kuleana land classification is granted, the portions of real property designated as kuleana land or Kuleana Act government grant land will be listed as exempt on the assessment lists, and all delinquent taxes and penalties must be removed from the portions of real property designated as kuleana land or Kuleana Act government grant land in accordance with section 3.48.554.”

SECTION 3. Material to be repealed is bracketed. New material is underscored. In printing this bill, the County Clerk need not include the brackets, the bracketed material, or the underscoring.

SECTION 4. This Ordinance takes effect on approval.

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LEGALITY:

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KRISTINA C. TOSHIKIYO

Department of the Corporation Counsel  
County of Maui

bfed:misc:080abil102:lpcm

LF2021-012

BFED-80 2021-08-10 Ord Kuleana Tax Exemptions



## **BFED Committee**

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**From:** Melody Andrion <Melody.Andrion@co.maui.hi.us>  
**Sent:** Monday, August 16, 2021 9:28 AM  
**To:** BFED Committee  
**Cc:** Lesley J. Milner  
**Subject:** RUSH Approved BFED-80 Kuleana Land Tax Exemptions  
**Attachments:** BFED-80 2021-08-16 Closing Kuleana Land Tax Exemptions.pdf; BFED-80 2021-08-10 Ord Kuleana Tax Exemptions.docx

See attached closing of RFLS received on 08/10/2021 approved by Kristina Toshikiyo, along with the word version showing track changes per Lesley's request. Thanks!

\*For posting for August 24, 2021 Council meeting.

**NOTICE:** The information in this transmittal (including attachments, if any) is privileged and confidential and is intended only for the recipient(s) listed above. Any review, use, disclosure, distribution or copying of this transmittal is prohibited except by or on behalf of, the intended recipient. If you have received this transmittal in error, please notify me immediately by reply email and destroy all copies of the transmittal. Thank you.