

**MICHAEL P. VICTORINO**  
Mayor

**SCOTT K. TERUYA**  
Director

**MAY-ANNE A. ALIBIN**  
Deputy Director



**DEPARTMENT OF FINANCE**  
COUNTY OF MAUI  
200 S. HIGH STREET  
WAILUKU, MAUI, HAWAII 96793  
[www.mauicounty.gov](http://www.mauicounty.gov)

August 03, 2021

Honorable Michael P. Victorino  
Mayor, County of Maui  
200 South High Street  
Wailuku, Hawaii 96793

APPROVED FOR TRANSMITTAL

  
Acting Mayor 8/3/21  
Date

For Transmittal to:

Honorable Keani N.W. Rawlins-Fernandez, Chair  
Budget, Finance, and Economic Development Committee  
Maui County Council  
200 South High Street  
Wailuku, Hawaii 96793

Dear Chair Rawlins-Fernandez:

**SUBJECT: REQUEST FOR REVIEW OF 'OIWI LAND BILLS**

Pursuant to your request dated July 9, 2021, relating to a review of an amendment to Maui County Code 3.48.554 – Exemption-Kuleana land. Below are the Department of Finance's (herein referred as "Department") comments and suggestions:

- D.1. and D.2. The words "majority of" should be removed. The Real Property Assessment Division (RPAD) would likely not be able to implement a criteria of this nature. Exemptions are typically given to any owner who qualifies.
- D.3. This section should be removed. The deceased owner of record at the RPAD would be the qualified owner and not the family member.
- D.4. This section can be removed as this scenario does not exist and it could create confusion.

- E.4. This section should be removed as it is not applicable. The applicant will be the person on the title, even if he/she is deceased.
- E.5. In order for this exemption to be implemented as intended, it is important that the definition of “Kuleana Act government grant land” be clearly defined so that lay persons and RPAD understand who qualifies. Is there any additional precise language that could be included within the definition? For example, would it be possible to include grant numbers, dates issued, defined recipients (native tenants versus plantation owners) or an index book reference?
- It appears that about 241 grants were given to those who are non-Hawaiians. Will these be eligible for the exemption as well? If not, the definition needs to be explained or amended to include specific language.
- RPAD suggests that the new section entitled retroactive application not be created. Instead, MCC 3.48.554 B can be amended to include an item (labeled as number 1) that reads:
  1. For a period of one year beginning January 1, 2022, applications for this section will be accepted retroactively for assessment years 2010 through 2021.
- There are 49 Kuleana exemptions receiving about \$165,000 annually in tax relief. It is estimated that Hawaiians received about 777 royal patent type grants on Maui, 98 on Molokai and 12 on Lanai for a total of about 887 grants. Non-Hawaiians received about 241 grants. The total number of grants for all islands is estimated to be less than 4,000. The number of Kuleana awards for all islands is estimated to be much higher at 8,421. For this reason, the RPAD expects the financial impact of this amendment to be equal to or less than the annual cost of the Kuleana exemption.
- There may be some retroactive applications. For example, when the program began in 2010, the County only had 7 applicants. The chart on the next page shows the possible expense as a result of the retroactive clause.

Assessment Year	Number of Exemptions	Exempt value	Estimated Tax Savings	Retroactive impact (21-year)	New parcels retroactive impact (50% of \$165,000)	Est. tax rate	Total projected impact
2010	7	1,273,800	\$7,592	\$157,408	\$82,500		
2011	15	2,856,300	\$17,024	\$147,976	\$82,500		
2012	28	12,298,700	\$73,300	\$91,700	\$82,500		
2013	42	12,460,200	\$74,263	\$90,737	\$82,500		
2014	45	19,459,600	\$115,979	\$49,021	\$82,500		
2015	48	21,186,100	\$126,269	\$0	\$82,500		
2016	49	23,510,300	\$140,121	\$0	\$82,500		
2017	47	21,043,900	\$125,422	\$0	\$82,500		
2018	49	22,103,800	\$131,739	\$0	\$82,500		
2019	48	27,315,800	\$162,802	\$0	\$82,500		
2020	50	27,877,900	\$166,152	\$0	\$82,500		
2021	49	27,669,800	\$165,000	\$0	\$82,500	\$ 5.96	
				\$536,842	\$990,000		\$1,526,842

- The proposed “Kuleana Act government grant land” exemption amendment appears to satisfy the concerns listed in the State of Hawaii Thirty-First Legislature, 2021 Senate Resolution number 39 S.D. 1. The administrators from the four counties have been working together on a similar language to address the concerns of S.R. No. 39 S.D. 1. If the County of Maui adopts the new exemption language, the other three counties will likely follow a similar legislation.

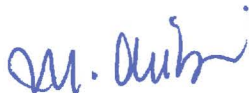
Additionally, relating to the review of an amendment to Maui County Code titled “For ‘Aina Kupuna Tax Relief”, the Department understands the purpose of the proposed ordinance. Currently, Maui County Code 3.48 has several tax relief programs. These programs include exemptions, dedications, and a tax credit titled “Circuit Breaker.” The Department staff are well trained on how to administer these programs and the infrastructure including software has been in place to implement these programs. Because the Department has successful programs in place, it will be more efficient to expand these programs to fulfill the purpose of the proposed ordinance for ‘Aina Kupuna. For example, Circuit Breaker could be expanded by providing a larger maximum credit to ‘Aina Kupuna applicants. The maximum credit could be a multiple of the current maximum credit of \$6,500 per year (2x \$13,000) if the applicant is a lineal descendant of an owner who acquired the property over 100 years ago and there is no break in the chain of title. Another example of a program would be a dedication like the dedication for historic homes. The qualifications could be based upon years of ownership, classification and value. The dedication could be a deferral that would be recaptured by the county if the dedication is not fulfilled. Because assessed value caps are difficult to administer, confusing and

Honorable Keani N.W. Rawlins-Fernandez, Chair  
Budget, Finance, and Economic Development Committee  
August 03, 2021  
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can create a lack uniformity, expanding the current programs in placed will prove to be more effective.

Should you have any questions, please feel free to contact me at extension 7474.

Sincerely,



SCOTT K. TERUYA  
Director of Finance



Attachment

SKT/maa



Council Chair  
Alice L. Lee  
Vice-Chair  
Keani N.W. Rawlins-Fernandez

Presiding Officer Pro Tempore  
Tasha Kama

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**COUNTY COUNCIL**  
COUNTY OF MAUI  
200 S. HIGH STREET  
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[www.MauiCounty.us](http://www.MauiCounty.us)

July 9, 2021

Director of Council Services  
Traci N. T. Fujita, Esq.

RECEIVED

21 JUL -9 P2:45

OFFICE OF THE MAYOR

RECEIVED  
COUNTY OF MAUI  
2021 JUL 12 AM 10:39  
DEPARTMENT OF FINANCE

Michael P. Victorino, Mayor  
County of Maui  
Wailuku, Hawaii 96793

**SUBJECT: REQUEST FOR REVIEW OF 'ŌIWI LAND BILLS**

Aloha e Mayor Victorino:

May I please request help from the Real Property Division in reviewing the two attached bills.

Mahalo,

Handwritten signature of Keani Rawlins-Fernandez in black ink.

KEANI RAWLINS-FERNANDEZ  
Economic Development and Budget  
Committee Chair

cc: Scott Teruya, Director of Finance

Approved:

Date: 7/9/21

## For 'Āina Kūpuna Tax Relief

1. Add a new article to Chapter 3.48 to read as follows:

### ARTICLE XIV. – 'Āina Kūpuna tax relief

#### **3.48.A – Purpose.**

The council finds that Maui county property values have increased rapidly in recent decades, largely due to growing global demand for and speculation in the county's real estate market. While escalating property values have led to higher property assessments and increased property tax revenues for the county, a number of long-time kama'āina families who have maintained their family lands for generations have now been impacted by an unprecedented property tax burden that increasingly exceeds their ability to pay, notwithstanding existing tax relief provisions. Such families have been or may be soon forced to sell all or part of their lands, develop or repurpose them for revenue generating uses inconsistent with their historical or cultural character, accrue significant debt, or face government foreclosure on the lands that they have cared for and been connected to for generations. This in turn may erode the cultural and historical heritage of Maui, irreparably impact the character and cultural integrity of its unique communities, and, if unaddressed, continuously threaten the economic security and well-being of the very families who have helped to establish and maintain Maui county as a highly desirable, culturally diverse, and socially enriched place to reside. The purpose of this article is to provide targeted relief to kama'āina owners of lands that have been maintained in their families for generations, and who now face burdensome property tax assessments that may undermine and ultimately sever their deeply-rooted connections to such 'Āina Kūpuna.

#### **3.48.B. – Eligibility**

A. Notwithstanding any provision to the contrary, subject to subsection B, 'Āina Kūpuna as defined in this section may be assessed based on the assessed value of the land as of the taxable year ending June 30, 1990, adjusted at a rate equal to the Hawai'i area consumer price index or 2%, whichever is lower, for each subsequent year.

B. This section shall not apply to

1. 'Āina Kūpuna that are used for commercial purposes, where gross revenues generated from such commercial purposes in any tax year exceed the value of the property taxes that would otherwise be assessed for such lands under this section;

2. Lands that lose their character as 'Āina Kūpuna, as defined in this section, within any part of the tax year preceding the application for the 'Āina Kūpuna tax assessment.

C. For the purposes of this section:

1. "Commercial purposes" means the production, 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.

2. "'Āina Kūpuna" means those portions of real property that are owned in whole or in part by a lineal descendant of the person(s) who held title to the property as of June 30, 1929 provided that 'Āina Kūpuna may be considered owned by a lineal descendant when such owner is a trust where the majority of trustees or beneficiaries are lineal descendants of the person(s) who held title to the property as of June 30, 1929; or a corporation, limited liability company, nonprofit organization, or similar entity where the majority of owners or board of directors are lineal descendants of the person(s) who held title to the property as of June 30, 1929.

#### **3.48.C. – Application and administration.**

The application for the 'Āina Kūpuna tax assessment shall be in a form prescribed by the director and shall include documents verifying ownership of the portion of real property concerned and satisfaction of the requirements of section 3.48.B, including with respect to the definition of 'Āina Kūpuna. The applicant shall be 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 require the applicant, at applicant's expense, to obtain a deed or court order to verify ownership of the property. For purposes of determining whether the lineal descendency requirement in section 3.48.B has been satisfied, genealogy verification by the Office of Hawaiian Affairs or by court order shall be deemed sufficient.



### For Kuleana Tax Exemption Amendments

1. Add a new section to amend Article IX, MCC § 3.48.554, to read as follows:

#### **3.48.554 – Exemption –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 exempt from paying real property taxes if:
1. The property is owned in whole or in part by a lineal descendant of the person(s) 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 be on forms prescribed by the director and shall include documents verifying ownership of the portion of real property concerned and satisfaction of the requirements of subsection A.
- C. The applicant shall be 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 require the applicant, at 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 sufficient.
- D. For the purposes of the ownership and lineal descendancy requirements of this section, an owner who is a lineal descendant of a person(s) who received original title to kuleana land or Kuleana Act government grant land may include:
1. A trust where the majority of trustees or beneficiaries are lineal descendants of the person(s) who received the original title to the kuleana land or Kuleana Act government grant land;
  2. A corporation, limited liability company, nonprofit organization, or similar entity where the majority of owners or board of directors are lineal descendants of the person(s) who received the original title to the kuleana land or Kuleana Act government grant land;
  3. A family member of any owner listed on the most recent title of the property who died intestate, and who is a lineal descendant of the person(s) who received the original title to the kuleana land or Kuleana Act government grant land, where no owner listed on the most recent title is living; or
  4. A family member of a person who is a lineal descendant of the person(s) who received the original title to the kuleana land or Kuleana Act government grant

land, and who may have a potential claim to the property, where the director determines that no property owner of record has been established.

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 agriculture[.] on kuleana lands.
3. "Kuleana land" means those lands granted to native tenants pursuant to 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. "Family member" means spouse, child or descendant of a child, sibling or descendant of a sibling, parent or ancestor of a parent, or sibling of the person's parent.
5. "Kuleana Act government grant land" means those lands set aside pursuant to 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.

2. Add a new section to Article IX, Chapter 3.48, to be appropriately numbered and to read as follows:

**3.48. – Retroactive application --Kuleana land and Kuleana Act government grant land exemption.**

- A. Subject to this section, notwithstanding any law to the contrary, for a period of one year(s), beginning January 1, 2022, an eligible taxpayer may apply for the retroactive application of the tax exemption described in section 3.48.554, for any tax year from the tax year ended June 30, 2011 through the tax year ended June 30, 2021.

- B. An application for the retroactive application of the tax exemption described in section 3.48.554 shall be on forms prescribed by the director and shall include sufficient evidence to demonstrate that the requirements of subsection A of that section, as written on January 1, 2022, were satisfied during the tax year for which the exemption is sought.
- C. The director shall refund any moneys owing to the taxpayer due to the retroactive application of the tax exemption described in section 3.48.554.
- D. For the purposes of this section, "eligible taxpayer" means a lineal descendant of the person(s) who received original title to the kuleana land or Kuleana Act government grant land, as described in section 3.48.554, for which the tax exemption is sought.