

COUNCIL OF THE COUNTY OF MAUI
AFFORDABLE HOUSING COMMITTEE

September 6, 2019

Committee
Report No. _____

Honorable Chair and Members
of the County Council
County of Maui
Wailuku, Maui, Hawaii

Chair and Members:

Your Affordable Housing Committee, having met on May 15, 2019, and June 5, 2019, makes reference to County Communication 19-80, from the Acting Director of Finance, transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 3.48, MAUI COUNTY CODE, RELATING TO LONG TERM DEDICATION FOR RESIDENTIAL WORKFORCE HOUSING RENTAL UNIT PROJECTS AND REPEALING THE EXEMPTION FOR LOW AND MODERATE INCOME HOUSING."

The purpose of the proposed bill is to revise policies and procedures for the dedication of lands used for residential workforce housing rental units to qualify a property owner for exemption from real property taxation.

At your Committee's May 15, 2019 meeting, the Department of the Corporation Counsel transmitted a revised proposed bill, incorporating the repeal of a superfluous Code section. Your Committee voted to recommend passage of the revised proposed bill. The Chair of your Committee subsequently discovered inconsistencies in the revised proposed bill and opted to not issue a committee report, pending further deliberations.

By correspondence dated May 30, 2019, at the request of the Chair of your Committee, the Department of the Corporation Counsel transmitted a further revised proposed bill, in which the definition of "owner" was modified.

At its meeting of June 5, 2019, your Committee noted the bill is intended to address the situation presented by developments that receive tax exemptions for long-term residential workforce housing while nonetheless renting units at fair market value. One example is Front Street Apartments in Lahaina. The Code's current exemption for low- and moderate-income housing provides no penalty for market-rate rentals.

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The bill would allow for the collection of back taxes plus a 10 percent penalty for breaching the long-term dedication restrictions for residential workforce housing rental units.

Your Committee noted the revised proposed bill would establish clear, strong policy to ensure real property tax exemptions are appropriately provided to developers who fulfill a long-term dedication to affordable housing.

Your Committee further revised the revised proposed bill to require the Director of Finance to provide an annual report to the Council on the status of all dedications under the ordinance.

Your Committee voted 7-0 to recommend passage of the revised proposed bill on first reading and filing of the communication. Committee Chair Kama, Vice-Chair Molina, and members Hokama, Lee, Rawlins-Fernandez, Sinenci, and Sugimura voted "aye."

Your Committee is in receipt of a revised proposed bill, entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 3.48, MAUI COUNTY CODE, RELATING TO LONG-TERM DEDICATION FOR RESIDENTIAL WORKFORCE HOUSING RENTAL UNIT PROJECTS," approved as to form and legality by the Department of the Corporation Counsel, incorporating your Committee's revisions and nonsubstantive revisions.

Your Affordable Housing Committee RECOMMENDS the following:

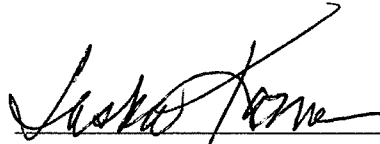
1. That Bill _____ (2019), as revised herein and attached hereto, entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 3.48, MAUI COUNTY CODE, RELATING TO LONG-TERM DEDICATION FOR RESIDENTIAL WORKFORCE HOUSING RENTAL UNIT PROJECTS," be PASSED ON FIRST READING and be ORDERED TO PRINT; and
2. That County Communication 19-80 be FILED.

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This report is submitted in accordance with Rule 8 of the Rules of the Council.



TASHA KAMA, Chair

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ORDINANCE NO. _____

BILL NO. _____ (2019)

A BILL FOR AN ORDINANCE AMENDING CHAPTER 3.48, MAUI COUNTY CODE, RELATING TO LONG-TERM DEDICATION FOR RESIDENTIAL WORKFORCE HOUSING RENTAL UNIT PROJECTS

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

SECTION 1. Chapter 3.48, Maui County Code, is amended by adding a new section to be appropriately designated and to read as follows:

“3.48.367 Land dedicated for use as residential workforce housing rental unit project. A. As used in this section, unless the context otherwise requires:

“Owner” means:

(1) the fee simple owner of property;

(2) a lessee of property whose lease term extends at least thirty years from the date of an application for an exemption;

or

(3) a lessee of property, with the fee simple owner’s written authorization.

“Residential workforce housing unit” has the same meaning as in section 2.96.020.

“Residential workforce housing rental unit project” means any project comprised of ten or more rental units where all of the units are residential workforce housing rental units subject to the restrictions in section 2.96.070.

B. An owner may apply to the director for a property tax exemption under this section. The director will prescribe the form of the application. The application must include a declaration that, if the exemption is granted, the property will be dedicated for use as a residential workforce housing rental unit project for thirty years.

C. The director of finance will forward an application submitted in accordance with subsection B to the director of housing and human concerns. If the director of housing and human concerns determines the property described in the application will be utilized for a residential workforce housing rental unit project, the director of finance will grant the exemption by approving the application.

D. If the exemption is granted, the owner must record the approved application with the bureau of conveyances of the State of Hawaii or the land court of the State of Hawaii, as appropriate.

E. If an exemption is granted under this section, it will be automatically renewed for successive one-year terms until the dedication period has expired or the exemption is canceled under subsection F.

F. Failure to comply with this section or the declaration included in the application will result in cancellation of the exemption retroactive to the beginning of the most recent renewal period. Any additional taxes and penalties, due and owing as a result of failure to comply with this section or the declaration included in the application, constitute a paramount lien upon the property as provided for by ordinance. Nothing in this subsection precludes the County from pursuing any remedy to enforce the dedication included with the application.

G. The owner may request to be relieved from compliance with the requirements of this section or the declaration included in the application for one designated period not to exceed thirty-six months. The director will approve the request if the owner shows the relief will more likely than not increase the property's viability as a residential workforce housing rental unit project. The dedication period will be extended by the length of the designated period and the owner must record the approved request and extension of the dedication period with the bureau of conveyances of the State of Hawaii or the land court of the State of Hawaii, as appropriate.

H. An application for an exemption under this section must be filed with the director by September first of any calendar year, and the exemption will be granted or denied by December fifteenth. If granted, the exemption will be effective on January first of the next calendar year.

I. If an application for an exemption under this section or a request for relief under subsection G is denied, the owner may appeal by the same procedure that is used to appeal from an assessment under section 3.48.595.

J. The director must report to the council on the status of all dedications at least annually.

SECTION 2. Section 3.48.545, Maui County Code, is repealed.

[“3.48.545 Low and moderate income housing. A. For the purposes of this section, "nonprofit or limited distribution mortgagor" means a mortgagor who qualified for and obtains mortgage insurance under Sections 202, 221(d) (3) or 236 of the National Housing Act as a nonprofit or limited distribution mortgagor.

B. Real property used for a housing project which is owned and operated by a nonprofit or limited distribution mortgagor or which is owned and operated by a person, corporation, or

association regulated by federal and state laws or by a political subdivision of the state or agency thereof as to rents, charges, profits, dividends, development costs and methods of operation shall be exempt from property taxes.

C. Exemptions claimed under Section 53-38 of the Hawaii Revised Statutes shall disqualify the same property from receiving an exemption under this section.

D. The director of finance shall promulgate rules and regulations necessary to administer this section.”]

SECTION 3. Section 3.48.550, Maui County Code, is repealed.

[“3.48.550 Claim for exemption. A. Notwithstanding any provision in this chapter to the contrary, any real property exempt from property taxes under Section 3.48.545 shall be exempt from property taxes from the date the property is qualified for the exemption; provided, that a claim for exemption is filed with the director within sixty days of the qualification. As used in this section, the date of the qualification shall be the date when the mortgage made by a nonprofit or limited distribution mortgagor and insured under sections 202, 221(d)(3) or 236 of the National Housing Act is filed for recording with the registrar of the bureau of conveyances or the assistant registrar of the land court of the state, whichever is applicable.

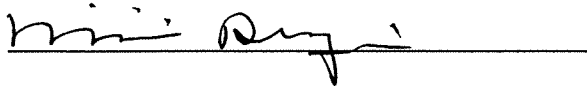
B. After the initial year of the qualification, the claim for exemption shall be filed in the manner provided by applicable law or rule or regulation.

C. In the event property taxes have been paid to the County in advance for real property subsequently becoming qualified for the exemption, the director of finance shall refund to the nonprofit or limited distribution mortgagor owning the property that portion of the taxes attributable to and paid for the period after the qualification.”]

SECTION 4. 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 5. This ordinance is effective for the tax year beginning January 1, 2020.

APPROVED AS TO FORM AND
LEGALITY:

A handwritten signature in black ink, appearing to read "Mini Ryz", is written over a solid horizontal line.

Department of the Corporation
Counsel
County of Maui
2019-1425
AH-18 2019-08-27 Ord