

September 9, 2021

MEMO TO: BFED-78 File

F R O M: Tamara Paltin, Councilmember *DMR*

SUBJECT: **TRANSMITTAL OF LEGISLATIVE PROPOSAL RELATED TO A VACANCY TAX** (BFED-78)

The attached legislative proposal pertains to Item 78 on the Committee's agenda.

paf:lcm:21-141a

Attachment

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OFFICE OF THE  
COUNTY COUNCIL

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

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

A BILL FOR AN ORDINANCE AMENDING CHAPTER 3.48, MAUI COUNTY  
CODE, TO ESTABLISH A VACANCY TAX

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

SECTION 1. The Council finds it is important for the County's economic and social well-being to encourage property owners to use their property for beneficial uses consistent with their zoning designation, such as long-term residential or agricultural uses. The purpose of this Ordinance is to establish a vacancy tax, consistent with the following principles: (A.) Property that could easily be, but is not, used for long-residential use should be classified as "short-term rental," which is a class anticipated to have a higher real property tax rate than the rate that would otherwise apply to the property. (B.) Property that could easily be, but is not, used for agricultural use should not be classified as "agricultural," which is a class anticipated to have a lower real property tax rate than the rate that would otherwise apply to the property.

SECTION 2. Subsection B of Section 3.48.305, Maui County Code, is amended to read as follows:

"B. In assigning land to one of the general classes, the director must give major consideration to: the districting established by the land use commission in accordance with chapter 205, Hawaii Revised Statutes; the districting established by the County in its general plan and comprehensive zoning ordinance; use

classifications established in the Hawaii state plan; and other factors that influence highest and best use; except that:

1. Real property that is used as the owner's principal residence and has been granted either a home exemption in accordance with sections 3.48.410 and 3.48.450 or an exemption in accordance with sections 3.48.410 and 3.48.475 must be classified as "owner-occupied" without regard to its highest and best use.

2. Real property improved with a dwelling, as defined in the comprehensive zoning ordinance, that would not be classified as "owner-occupied," "hotel and resort," "time share," "short-term rental," "commercial," "industrial," or "commercialized residential" must be classified as "non-owner-occupied."

3. Multi-dwelling-unit improvements containing five or more dwellings that would not be classified "short-term rental" must be classified "apartment."

4. Real property that serves as the owner's principal residence and has been granted a bed and breakfast home permit, a short-term rental home permit, or a conditional permit allowing a transient vacation rental use in accordance with the comprehensive zoning ordinance, must be classified "commercialized residential" without regard to its highest and best use, and cannot qualify for a home exemption.

5. Real property that is subject to a time share plan as defined in section 514E-1, Hawaii Revised Statutes, as amended, must be classified as "time share."

6. Unless classified as "time share," "hotel and resort," or "commercialized residential," lodging or dwelling units, as defined in the comprehensive zoning ordinance, occupied by transient tenants for periods of less than six consecutive months, including real property that does not serve as the owner's principal residence and has been granted a short-term rental home permit or a conditional permit allowing transient vacation rental use in accordance with the comprehensive zoning ordinance, must be classified as "short-term rental" without regard to its highest and best use, and cannot qualify for a home exemption.

7. Unless classified as "time share" or "commercialized residential," properties occupied by transient tenants for periods of less than six consecutive months, have eight or more lodging or dwelling units as defined in the comprehensive zoning ordinance, and employ more than twenty full-time persons, must be classified as "hotel and resort."

8. Lodging or dwelling units as defined in the comprehensive zoning ordinance occupied by long-term tenants for periods of twelve consecutive months or more to the same tenant and have been granted a long-term rental exemption in accordance with sections 3.48.410, 3.48.425, and 3.48.466 must be classified

as “long-term rental,” unless the property also qualifies for a homeowner exemption pursuant to section 3.48.450, in which case the property must be classified “homeowner.” The real property owner must report any change in actual use of a property with a long-term rental exemption within thirty days of that change. The director may investigate any real property and, if the director determines that the actual use differs from a long-term rental, the director may reclassify and reassess the real property.

9.

A. For the purposes of this chapter, a parcel of real property is “vacant” if the parcel is any of the following:

i. A parcel of land, whether developed or undeveloped, on which dwelling units are permitted that the director determines is in residential use less than fifty days in a tax year.

ii. A condominium, duplex, or townhouse unit under separate ownership that the director determines is in residential use less than fifty days in a tax year.

iii. A parcel of land where the director determines ground floor commercial activities are allowed by the applicable zoning or are a legal nonconforming use and the ground floor space that could be lawfully occupied by commercial activities is in use less than fifty days in a tax year.

iv. A parcel of land in the agricultural zoning district on which the principal uses in section 19.30A.050 are in use less than fifty days in a tax year.

B. The director must classify a vacant parcel as “short-term rental home” if the director determines that the property could reasonably be used for long-residential use with minimal effort by the property owner.

C. The director must not classify a vacant parcel as “agricultural” if the director determines the property could reasonably be used for agricultural use with minimal effort by the property owner.”

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 upon its approval.

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