

BUDGET, FINANCE, AND ECONOMIC DEVELOPMENT COMMITTEE
Amendment Summary Form

Legislation: Commercial Vacancy Tax bill.

Proposer: Councilmember Tamara Paltin. *Tamara M. Paltin*

Description: Amend the bill to remove references to agricultural and residential properties and clarify legislative intent related to commercial properties.

Motion: Move to substitute the attached revised proposed bill, entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 3.48, MAUI COUNTY CODE, TO ESTABLISH A COMMERCIAL VACANCY TAX," for the proposed bill listed on the agenda.

Effect: The revised proposed bill removes clauses related to residential and agricultural properties and clarifies legislative intent related to commercial properties.

Reasons: Issues with residential vacancies can be addressed through Real Property Tax rates and tiers, and issues with vacancies on agricultural properties can be addressed through other avenues regarding fallow lands and fire hazards. The most pressing need is to address the blight caused by vacant commercial properties.

Attachment: Revised proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 3.48, MAUI COUNTY CODE, TO ESTABLISH A COMMERCIAL VACANCY TAX."

ORDINANCE NO. _____

BILL NO. _____ (2021)

A BILL FOR AN ORDINANCE AMENDING CHAPTER 3.48, MAUI COUNTY
CODE, TO ESTABLISH A COMMERCIAL 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 commercial property for beneficial uses consistent with their zoning designation. The purpose of this Ordinance is to minimize blight by establishing a Commercial Vacancy Tax.

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

“3.48.305 Classification of real property. A. Except as otherwise provided in subsection B, real property must be classified, upon consideration of its highest and best use, into the following general classes:

1. Owner-occupied.
2. Non-owner-occupied.
3. Apartment.
4. Hotel and resort.
5. Time share.
6. Short-term rental.
7. Agricultural.
8. Conservation.
9. Commercial.
10. Industrial.
11. Commercialized residential.
12. Long-term rental.
13. Vacant.

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. For the purposes of this chapter, a parcel of real property with a building is “vacant” if commercial activity is permitted by the applicable zoning, or as a legal nonconforming use, and the majority of units that could be used for commercial activity are in use fewer than fifty days in a tax year.”

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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