RICHARD T. BISSEN, JR.
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DEPARTMENT OF FINANCE
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October 27, 2023

APPROVED FOR TRANSMITTAL

10-27-23
Mayor Date

Honorable Richard T. Bissen, Jr.
Mayor, County of Maui
200 South High Street
Wailuku, Hawaii 96793

For Transmittal to:

Honorable Yuki Lei K. Sugimura, Chair
Budget, Finance, and Economic Development Committee
Maui County Council
200 South High Street
Wailuku, Hawaii 96793

Dear Councilmember Sugimura:

SUBJECT: REAL PROPERTY TAX EXEMPTION FOR PROPERTIES IMPACTED BY NATURAL DISASTERS OR WILDFIRES (BFED-35)

This transmission is in response to your letter dated October 24, 2023, requesting a review of Bill 91 (2023), Bill 95 (2023), and Bill 102 (2023), and comments or suggested revisions.

To assist with the review, consider the statistics below.

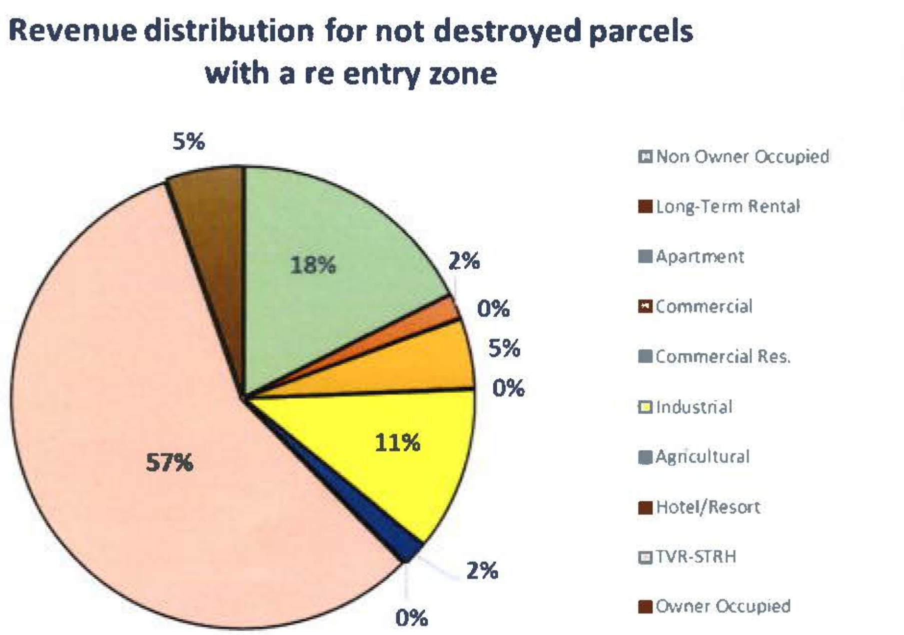
3,812 Parcels Assigned a Re Entry Zone				
Owner Mailing Address				
	Hawaii	Foreign	Out of state	Lahaina
Destroyed	1,668	33	455	1,332
Not Destroyed	1,233	40	486	887

20365

3,812 Parcels Assigned a Re Entry Zone

Tax Relief Program	Number not Destroyed	Number Completely Destroyed
Home Exemption	605	905
Historic Residential	1	2
Disabled Veteran	6	11
Long-term Rental	65	135
Church	9	15
Non Profit Hospital	0	1
Low Inccome Housing	1	3
Non Profit	1	10
Credit Union	2	0
Circuit Breaker	4	24
Agriculture	10	0
No Tax Relief	1,023	979
Total Number of Parcels	1,727	2,085

Taxes on parcels assigned a re entry zone (most of TMK's starting with 45 and 46) total about $10 million. This is after the waiver was granted to properties deemed completely destroyed.



Comments on Bill 91 which adds a new section 3.48.452:

1. Who and what determines if a property is uninhabitable? Is it all buildings or some? Is it access, utilities, structural and or environmental? Is vacant land uninhabitable? This criterion would need to be defined.
2. Section B 1 reads, "The property is recorded as uninhabitable in the County tax records in the tax year requested for exemption." The county tax records do not include data which lists property as uninhabitable.
3. Section B 2 reads, "The applicant is the property owner as of the date of the natural disaster." It may be impossible or difficult for the owner to be an applicant. Because this is real property related, the condition could be removed.
4. Regarding section B 3, the division does not need documents verifying ownership as the RPAD determines and lists ownership for assessment purposes. This criterion could be removed.
5. Regarding applications, the division has records of properties with improvements that have been completely destroyed. These owners would not need to apply. If uninhabitable is a determination made by the County of Maui, applications could be avoided if the data is shared with the RPAD prior to February 1, 2024 for the March 15, 2024 assessment notices for January 1, 2024. Processing thousands of applications would be difficult for the RPAD. Taxpayers would have the option to appeal if they felt they qualified and were denied. This process would allow time for the division to do more research and would give the applicant an avenue to protest the assessment and provide additional information.
6. If applications are required in section B 3, note that per MCC 3.48.410, exemption applications must be filed on or before December 31 to be considered for the tax year. If applications filed between 1/1/24 and 6/30/24 were processed for the current tax year, they would be reassessments or adjustments which would trigger a new appeal period and adjustments to the budgeted certified real property tax calculation. Corporation Counsel should be consulted regarding what other sections of the code need to be updated or met as the code generally prohibits adjustments except for very specific reasons. MCC 3.48.010 L, 3.48.215 and 3.48.165 address adjustments. Typically, applications filed between 1/1/24 and 6/30/24 would be considered for the January 1, 2025 assessment.
7. Taxes are calculated on 7/1/2024 using noticed assessed values from March 15, 2024. Consequently, having an application period after this date affects several different sections of the code. Corporation Counsel would be consulted on the implications.

Comments on Bill 95 which adds a new section 3.48.551

1. Section A reads, "… exempt from real property taxation from July 1, 2023…" July 1, 2023 would need to be changed to July 1, 2024 for an exemption. If it is desired to adjust taxes retroactively, the process should be verified with Corporation Counsel as adjusting taxes during the current fiscal year would typically be administered using a compromise process as in MCC 3.48.010 L instead of an exemption.

2. Section A refers to residential real property. What is residential real property? For example, does it include TVR's, vacant land zoned residential or apartments?
3. Section B also appears to adjust taxes retroactively, "...is exempt from real property taxation from July 1, 2023..." Corporation counsel should be consulted regarding what other sections of the code need to be updated or met as the code generally prohibits adjustments except for very specific reasons. For example, refer to MCC 3.48.010 L, 3.48.215 and 3.48.165.
4. Section B refers to submitting an insurance claim. The RPAD suggests that this language be removed. The RPAD can verify if structures are partially damaged via inspections, data collected as part of the damage assessment and owner declarations if an owner does not have insurance.
5. Section B appears to refer to Kula and Olinda. This section only exempts properties classified as owner-occupied. Section A exempts all residential properties regardless of damage and real property tax classification. Is this intentional?
6. Section C appears to only include properties classified as TVR-STRH and commercialized residential. Was it intended to leave out apartment, non-owner-occupied, timeshare and owner-occupied?
7. Under section C, how will the RPAD determine if a person has been displaced by the wildfires?
8. Section C wording "...uses the property for a partial...month, ..." appears to indicate that there is no minimum stay required. The RPAD would need more details to implement this exemption. If a displaced family stayed in four different properties during a month, would all four properties be exempt for that month? If a TVR lets a displaced person stay at their dwelling for 1 night each month, will they pay zero tax for the year?
9. It appears that section C will be more beneficial than the long-term rental exemption as owners will get a larger benefit for renting for a shorter period.
10. The exemption detailed in section C would be applied for by 12/31/2023, 12/31/2024 and 12/31/2025 because the stay length would change each year. The RPAD would rely upon the taxpayer for proof by way of a self-declaration due to a lack of official verification means.
11. The wording for the exemption calculation in section D needs to be adjusted as exemptions are reductions in value, not taxes. "...monthly taxation amount..." should be replaced with "...one twelfth of net taxable value ..."
12. Like with section C, the RPAD will not be able to verify if a person has been displaced by the August 2023 wildfires.

Comments on Bill 102 which adds a new section 3.48.465

1. Because section A is referring to taxes, January 1, 2024 should be changed to July 1, 2024.
2. Section A exempts real property that is uninhabitable or unsafe to conduct business. Who will make the determination that real property is uninhabitable or unsafe? How will uninhabitable be defined?
3. Section B states that the exemption will be disallowed if a property is sold. It is unclear if sold means conveyed for consideration or all conveyances. Almost all sales are for some consideration, even familial conveyances. There are cases when owners sell their properties

to their trusts. Given the uncertainty property owners face with financing and building, some "sales" may be necessary to keep properties in the family. The unintended consequences of this criteria should be considered. Is this criterion necessary?

4. Section B states that upon sale, the new landowner will be responsible for paying taxes from the date of sale. Exemptions are annual. They can be disallowed and reassessed for the entire year or dis allowed for the future assessment year. The exemption cannot be prorated to a date (exemptions are calendar year and taxes are fiscal year).

The above request for review was received on October 25, 2023 with a response requested by October 27, 2023. Given the complicated nature of these three bills, the time allotted was not adequate for a comprehensive review and more comments may be forthcoming. Should you have any questions, please feel free to contact me at extension no. 7474 or Deputy Director Steve Tesoro at extension no. 7475.

Sincerely,

SCOTT K. TERUYA
Director of Finance

BFED Committee

From:	Michelle Santos <Michelle.Santos@co.maui.hi.us>
Sent:	Friday, October 27, 2023 2:04 PM
To:	BFED Committee
Cc:	Cynthia Sasada; Didi Hamai; Josiah Nishita; Kekuhaupio Akana; Leo Caires; Louise Batoon; Pili Nahooikaika; Scott Teruya; Steve Tesoro
Subject:	MT#10345 Real Property Tax Exemption for Properties Impacted by Natural Disasters Or Wildfires
Attachments:	MT#10345-BFED Committee.pdf

NOTE: PLEASE DO NOT FORWARD MY EMAIL TO ANYONE OUTSIDE OF THE COUNTY OF MAUI. YOU MAY CLICK ON THE ATTACHMENT ITSELF AND CREATE YOUR OWN EMAIL TO FORWARD THE DOCUMENT TO ANOTHER PERSON OUTSIDE OF THE COUNTY.

Michelle L. Santos

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