

MICHAEL P. VICTORINO
Mayor

SCOTT K. TERUYA
Director

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Deputy Director



DEPARTMENT OF FINANCE
COUNTY OF MAUI
200 SOUTH HIGH STREET
WAILUKU, MAUI, HAWAII 96793

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August 28, 2020

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

APPROVED FOR TRANSMITTAL

Michael P. Victorino 8/28/20
Mayor Date

RECEIVED
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COUNTY CLERK

For Transmittal to:

Honorable Alice L. Lee, Chair
and Members of the Maui County Council
200 S. High St.
Wailuku, Hawaii 96793

SUBJECT: A PROPOSED BILL FOR AN ORDINANCE AMENDING CHAPTER 3.48, MAUI COUNTY CODE, RELATING TO VERY LOW INCOME, LOW INCOME, BELOW MODERATE INCOME AND MODERATE INCOME RENTAL UNIT PROJECTS

Dear Chair Lee and Members:

Transmitted herewith is a proposed bill entitled, "A BILL FOR AN ORDINANCE AMENDING CHAPTER 3.48, MAUI COUNTY CODE, RELATING TO VERY LOW INCOME, LOW INCOME, BELOW MODERATE INCOME AND MODERATE INCOME RENTAL UNIT PROJECTS."

The purpose of this proposed bill is to expand the exemption qualification criteria for government restricted low income rental projects by granting exemptions to the following low income rental projects:

1. Federally restricted low income rental projects;
2. State restricted low income rental projects; and
3. Portions of real property with government restricted low income rental units.

COUNTY COMMUNICATION NO. 20-455

*Honorable Alice L. Lee, Chair
and Members of the Maui County Council
August 28, 2020
Page 2*

Ordinance No. 5000 repealed Maui County Code (MCC) Chapters 3.48.545 and 3.48.550 and replaced with Chapter 3.48.367. This ordinance was adopted on September 20, 2019 and in effect for the tax year beginning January 1, 2020. Under the repealed MCC Chapters 3.48.545 and 3.48.550, there were 48 real properties that qualified for the exemptions; however, with the adoption of Ordinance No. 5000, these properties no longer qualify for the exemption because property owners are operating their affordable rentals through the State or Federal programs, as opposed to the County program referenced in MCC Chapter 3.48.367.

The intent of the proposed bill is to grant the exemption to the low income rental projects impacted by the adoption of Ordinance No. 5000. There will be no negative revenue impact to the County of Maui for fiscal year 2021-2022 and beyond. In the future, the number of applicants may increase due to the proposed language expanding the program to projects where a portion of the project has low income tenant restrictions. At this time, there are no known projects that meet this criteria. The Finance Department worked in collaboration with the Department of Housing to transmit the proposed bill and believe that the incentives and benefits by this exemption outweigh any future revenue reductions as affordable housing is in dire need.

In order for the applicants to apply and be granted the exemption for fiscal year 2021-2022, this proposed bill must be adopted prior to December 1, 2020. Therefore, I respectfully request for your prompt attention on this proposed bill.

Should you have any further questions, please feel free to contact me at ext. no. 7474.

Sincerely,


SCOTT K. TERUYA
Director of Finance

cc: Lori Tsuhako, Dept. of Housing & Human Concerns Director
Marcy Martin, Real Property Assessment Administrator

ORDINANCE NO. _____

BILL NO. _____ (2020)

A BILL FOR AN ORDINANCE AMENDING CHAPTER 3.48,
MAUI COUNTY CODE, RELATING TO REAL PROPERTY TAX EXEMPTIONS
FOR VERY LOW INCOME, LOW INCOME, BELOW MODERATE INCOME
AND MODERATE INCOME RENTAL UNIT PROJECTS

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

SECTION 1. The purpose of this ordinance is to amend Maui County Code, chapter 3.48, to add section 3.48.496 and repeal section 3.48.367 with the intent of expanding the qualification for government restricted low income rental properties. In 2019, ordinance 5000 replaced sections 3.48.545 and 3.48.550 with section 3.48.367. In 2020, real property had 48 exemptions under sections 3.48.545 and 3.48.550. Many of the currently exempt properties have contacted the county's real property tax office reporting that they will no longer qualify for the exemption as written in 3.48.367. The reason they would no longer qualify for the exemption is because they are operating their affordable rentals through state or federal programs as opposed to the county program referenced in 3.48.367. The proposed ordinance broadens the qualification so that all projects with government rental restrictions on tenants based upon low income requirements can qualify including projects which are not exclusively used for this purpose by offering partial exemptions.

SECTION 2. Section 3.48.367, Maui County Code, is repealed.

“[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 1 of any calendar year, and the exemption will be granted or denied by December 15. If granted, the exemption will be effective on January 1 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 3. Chapter 3.48, Maui County Code, is amended by adding a new section to be appropriately designated and to read as follows:

“3.48.496 Very low income, low income, below-moderate and moderate income housing exemption. A. As used in this section, unless the context otherwise requires:

“Affordable housing rental project” means real property used for housing which is subject to an enforceable federal, state, or county government regulatory agreement which restricts the property’s use to renting to tenants within the very low income, low income, below-moderate income and moderate income groups as defined in chapter 2.96 of this code.

B. Owners of affordable housing rental projects may apply to the director for a property tax exemption under this section. The director will prescribe the form of the application.

C. If any portion of the property, which might otherwise be exempted under this section, is used for commercial or other purposes not within the conditions necessary for exemption, that portion of the real property shall not be exempt but the remaining portion of the real property shall not be deprived of the exemption if the remaining portion is used exclusively for purposes within the conditions necessary for exemption. In the event of an exemption of

a portion of a building, the tax shall be assessed upon so much of the value of the building, including the land thereunder and the appurtenant premises, as the proportion of the floor space of the nonexempt portion bears to the total floor space of the building(s).

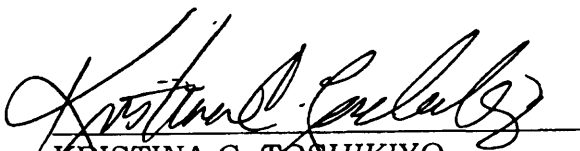
D. Notwithstanding any provision in this chapter to the contrary, real property exempt from property taxes under this section shall be exempt from property taxes from the date the property is qualified for the exemption; provided, that a claim for exemption is filed with the director within sixty days of the qualification. As used in this section, the date of the qualification shall be the date when the regulatory agreement which restricts the property's use to the exempt purpose is recorded with the registrar of the bureau of conveyances or the assistant registrar of the land court of the state, whichever is applicable.

F. After the initial year of qualification, the claim for exemption shall be filed annually on or before December 31 immediately preceding the tax year for which the exemption is claimed."

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, 2021.

APPROVED AS TO FORM
AND LEGALITY:



KRISTINA C. TOSHIKIYO
Department of the Corporation Counsel
County of Maui
2020-0907
2020-08-27 Ord Amd 3.48.496