

April 8, 2021

MEMO TO: BFED-1 File

F R O M: Tamara Paltin
Councilmember

A handwritten signature in black ink that reads "Tamara D. Paltin". The signature is written in a cursive, flowing style.

SUBJECT: **TRANSMITTAL OF LEGISLATIVE PROPOSAL RELATING TO
VACANCY TAX** (BFED-1)

The attached legislative proposal pertains to Item BFED-1 on the Committee's agenda.

Attachment

ORDINANCE NO. _____

BILL NO. _____ (2020)

A BILL FOR AN ORDINANCE RELATING TO 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 long-term residential use. The purpose of this Ordinance is to establish a policy supporting a vacancy tax, consistent with the following principle: (A.) Property that could reasonably 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.

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. A unit and its appertaining common interest that are part of a planned development where transient vacation rentals are permitted, in accordance with chapter 19.32, must be classified in accordance with subsection 3.48.305(C)(2)(a). The planned development must form an entity that will annually report to the director on a form prescribed by the director, the actual use of each unit in the planned development along with any information deemed relevant by the director to determine the actual use of each unit. If the required annual report is not filed on or before December 1, the director may classify all units in the planned development in accordance with subsection 3.48.305(A) for the following assessment year. The entity must report any change in actual use of a unit in the planned development within thirty days of that change. The director may investigate any unit and, if the director determines that the actual use differs from the use reported, the director may reclassify and reassess the unit.

8. 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.”

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 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.

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.

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.

APPROVED AS TO FORM AND LEGALITY:

Department of the Corporation Counsel
County of Maui

paf:jgk:19-365b

BFED Committee

From: Angela R. Lucero
Sent: Thursday, April 8, 2021 8:13 PM
To: BFED Committee
Cc: Tamara A. Paltin; Christi A. Keliikoa
Subject: Vacancy Tax Bill Referral to BFED-1
Attachments: MEMOBFED1TPSigned.pdf; 20-223a (Revised).pdf

Hello wonderful BFED Committee Staff,

Thank you so much for working with our office. Please see attached bill and memo for referral to BFED-1.

Mahalo!!
Angela

Angela Lucero
Executive Assistant

Office of Councilmember Tamara Paltin
West Maui Residency
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