
A BILL FOR AN ACT

RELATING TO REAL PROPERTY TAX.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The Hawaii Revised Statutes is amended by
2 adding a new chapter to be appropriately designated and to read
3 as follows:

4 "CHAPTER

5 **REAL PROPERTY TAX ASSESSMENTS**

6 § -1 **Definitions.** As used in this chapter:

7 "Any person over the age of fifty-five years of age" means
8 and includes a married couple, one member of which is over the
9 age of fifty-five years.

10 "Full cash value" means the county assessor's valuation of
11 real property situated in that county, as shown on the 2005 tax
12 bill or, thereafter, the appraised value of real property when
13 purchased, newly constructed, or a change in ownership has
14 occurred after the 2005 assessment. Full cash value includes
15 real property not already assessed up to the 2005 full cash
16 value that is reassessed to reflect that valuation.

17 "Newly constructed" may be defined by the counties, but
18 does not include the following:



- 1 (1) The construction or addition of any active solar
2 energy system;
- 3 (2) The construction or installation of any fire sprinkler
4 system, other fire extinguishing system, fire
5 detection system, or fire-related egress improvement,
6 as defined by the counties, that is constructed or
7 installed after the effective date of this Act;
- 8 (3) The construction, installation, or modification on or
9 after the effective date of this Act of any portion or
10 structural component of a single- or multiple-family
11 dwelling that is eligible for a county homeowner's
12 exemption if the construction, installation, or
13 modification is for the purpose of making the dwelling
14 more accessible to a severely disabled person; or
- 15 (4) The construction, installation, removal, or
16 modification on or after the effective date of this
17 Act of any portion or structural component of an
18 existing building or structure if the construction,
19 installation, removal, or modification is for the
20 purpose of making the building more accessible to, or
21 more usable by, a disabled person;



1 "Newly constructed" does not mean or include real property
2 that is reconstructed after a disaster, as declared by the
3 governor, where the fair market value of the real property, as
4 reconstructed, is comparable to its fair market value prior to
5 the disaster.

6 "Qualified contaminated property" means residential or
7 nonresidential real property that is:

- 8 (1) In the case of residential real property, rendered
9 uninhabitable, and in the case of nonresidential real
10 property, rendered unusable, as the result of either
11 environmental problems, in the nature of and
12 including, but not limited to, the presence of toxic
13 or hazardous materials, or the remediation of those
14 environmental problems, except where the existence of
15 the environmental problems was known to the owner, or
16 to a related individual or entity, at the time the
17 real property was acquired or constructed;
- 18 (2) Located on a site that has been designated as a toxic
19 or environmental hazard or as an environmental cleanup
20 site by a state or federal agency;
- 21 (3) Real property that contains a structure or structures
22 thereon prior to the completion of environmental



1 cleanup activities, and that structure or structures
2 are substantially damaged or destroyed as a result of
3 those environmental cleanup activities; and

4 (4) Stipulated by a governmental agency, with respect to
5 the environmental problems or environmental cleanup of
6 the real property, not to have been rendered
7 uninhabitable or unusable, as applicable, by any act
8 or omission in which an owner of that real property
9 participated or acquiesced.

10 "Replacement dwelling" means a building, structure, or
11 other shelter constituting a place of abode, whether real or
12 personal property, and any land on which it may be situated.

13 "Substantially damaged or destroyed property" means
14 property that sustains physical damage amounting to more than
15 fifty per cent of its value immediately before the disaster.
16 Damage includes a diminution in the value of property as a
17 result of restricted access caused by the disaster;

18 "Uninhabitable" means residential real property that, as a
19 result of health hazards caused by or associated with the
20 environmental problems, is unfit for human habitation, and
21 nonresidential real property is "unusable" if that property, as
22 a result of health hazards caused by or associated with the



1 environmental problems, is unhealthy and unsuitable for
2 occupancy.

3 § -2 **Real property tax ceiling amount.** (a) The
4 maximum amount of any ad valorem tax on real property shall not
5 exceed one per cent of the full cash value of the property as
6 prescribed under this chapter. The real property tax shall be
7 administered and collected by the counties. The counties may
8 adopt rules pursuant to chapter 91 or enact ordinances to
9 administer this chapter.

10 § -3 **Exemptions.** (a) Any person over the age of fifty
11 five years of age who resides on property that is eligible for a
12 county homeowner's exemption may transfer the base year value of
13 the property entitled to exemption to any replacement dwelling
14 of equal or lesser value located within the same county and
15 purchased or newly constructed by that person as the person's
16 principal residence within two years of the sale of the original
17 property. For purposes of this section, a two-dwelling unit
18 shall be considered two separate single-family dwellings. This
19 subsection shall apply to any replacement dwelling that was
20 purchased or newly constructed on or after the effective date of
21 this Act.



1 § -4 **Base year.** (a) The counties may extend the
2 provisions relating to transfer of base year value to situations
3 in which the replacement dwellings are located in a county and
4 the original properties are located in another county within
5 this State. This subsection shall apply to any replacement
6 dwelling that was purchased or newly constructed on or after the
7 date the county adopted applicable provisions relating to
8 transfer of base year value.

9 (b) The counties may extend the provisions relating to the
10 transfer of base year values from original properties to
11 replacement dwellings of homeowners over the age of fifty-five
12 years to severely disabled homeowners, but only with respect to
13 those replacement dwellings purchased or newly constructed on or
14 after the effective date of this Act.

15 (c) The full cash value base may reflect, from year to
16 year, the inflationary rate not to exceed two per cent for any
17 given year or reduction as shown in the consumer price index or
18 comparable data for the area under taxing jurisdiction, or the
19 full cash value base may be reduced to reflect substantial
20 damage, destruction, or other factors causing a decline in
21 value.



1 **§ -5 Acquisition of property.** For the purposes of this
2 chapter, the acquisition of real property as a replacement for
3 comparable property is not a change in ownership if the person
4 acquiring the real property has been displaced from the property
5 replaced by eminent domain proceedings, by acquisition by a
6 public entity, or governmental action that has resulted in a
7 judgment of inverse condemnation. The real property acquired
8 shall be deemed comparable to the property replaced if it is
9 similar in size, utility, and function or if it conforms to
10 state regulations defined by the law governing the relocation of
11 persons displaced by governmental actions. This subsection
12 shall affect only those assessments of that property that occur
13 after the effective date of this Act.

14 **§ -6 Damaged or destroyed property.** (a)
15 Notwithstanding any other provision of this chapter to the
16 contrary, the counties shall provide that the base year value of
17 property that is substantially damaged or destroyed by a
18 disaster, as declared by the governor, may be transferred to
19 comparable property within the same county that is acquired or
20 newly constructed as a replacement for the substantially damaged
21 or destroyed property.



1 (b) In addition to the transfer of base year value of
2 property within the same county, the counties may adopt rules
3 allowing the transfer of the base year value of property that is
4 located within another county that is substantially damaged or
5 destroyed by a disaster, as declared by the governor, to
6 comparable replacement property of equal or lesser value that is
7 located within the adopting county and is acquired or newly
8 constructed within three years of the substantial damage or
9 destruction of the original property as a replacement for that
10 property. The scope and amount of the benefit provided to a
11 property owner by the transfer of base year value of property
12 pursuant to this subsection shall not exceed the scope and
13 amount of the benefit provided to a property owner by the
14 transfer of base year value of property.

15 (c) This section shall apply to any comparable replacement
16 property that is acquired or newly constructed as a replacement
17 for property substantially damaged or destroyed by a disaster,
18 as declared by the governor, and to the determination of base
19 year values for the 2005-2006 fiscal year and fiscal years
20 thereafter.

21 (e) Replacement property is comparable to the property
22 substantially damaged or destroyed if it is similar in size,



1 utility, and function to the property that it replaces and if
2 the fair market value of the acquired property is comparable to
3 the fair market value of the replaced property prior to the
4 disaster.

5 **§ -7 Transfer of property between family members.** (a)

6 For the purposes of this chapter, property that has been
7 purchased or has undergone a change in ownership does not
8 include the purchase or transfer of real property between
9 spouses, including but not limited to the following:

- 10 (1) Transfers to a trustee for the beneficial use of a
11 spouse, or the surviving spouse of a deceased
12 transferor, or by a trustee of such a trust to the
13 spouse of the trustor;
- 14 (2) Transfers to a spouse that take effect upon the death
15 of a spouse;
- 16 (3) Transfers to a spouse or former spouse in connection
17 with a property settlement agreement or decree of
18 dissolution of a marriage or legal separation;
- 19 (4) The creation, transfer, or termination, solely between
20 spouses, of any co-owner's interest; or
- 21 (5) The distribution of a legal entity's property to a
22 spouse or former spouse in exchange for the interest



1 of the spouse in the legal entity in connection with a
2 property settlement agreement or a decree of
3 dissolution of a marriage or legal separation.

4 (b) Property that has been purchased or undergone a change
5 in ownership does not include the purchase or transfer of a
6 principal residence of the transferor in the case of a purchase
7 or transfer between parents and their children and the purchase
8 or transfer of the first \$1,000,000 of the full cash value of
9 all other real property between parents and their children.
10 This subsection shall apply to both voluntary transfers and
11 transfers resulting from a court order or judicial decree.

12 (c) Subject to subsection (d) and commencing with
13 purchases or transfers that occur on or after the effective date
14 of this Act, the exclusion established by subsection (b) also
15 applies to a purchase or transfer of real property between
16 grandparents and their grandchild or grandchildren, as defined
17 by the counties, that otherwise qualifies under subsection (b),
18 if all of the parents of that grandchild or those grandchildren,
19 who qualify as the children of the grandparents, are deceased as
20 of the date of the purchase or transfer.

21 (d) A purchase or transfer of a principal residence shall
22 not be excluded pursuant to subsection (c) if the transferee



1 grandchild or grandchildren also received a principal residence,
2 or interest therein, through another purchase or transfer that
3 was excludable pursuant to subsection (b). The full cash value
4 of any real property, other than a principal residence, that was
5 transferred to the grandchild or grandchildren pursuant to a
6 purchase or transfer that was excludable pursuant to subsection
7 (b), and the full cash value of a principal residence that fails
8 to qualify for exclusion as a result of the preceding sentence,
9 shall be included in applying, for purposes of subsection (c),
10 the \$1,000,000 full cash value limit specified in subsection
11 (b).

12 **§ -8 Contaminated property.** (a) Notwithstanding any
13 other law to the contrary, the counties shall provide, with
14 respect to a qualified contaminated property, that either, but
15 not both, of the following shall apply:

16 (1) The base year value of the qualified contaminated
17 property, as adjusted, may be transferred to a
18 replacement property that is acquired or newly
19 constructed as a replacement for the qualified
20 contaminated property, if the replacement real
21 property has a fair market value that is equal to or
22 less than the fair market value of the qualified



1 contaminated property if that property were not
2 contaminated and, except as otherwise provided by this
3 chapter, is located within the same county. The base
4 year value of the qualified contaminated property may
5 be transferred to a replacement real property located
6 within another county if the county council of that
7 other county, after consultation with the affected
8 local agencies within that county, has adopted a
9 resolution authorizing an inter-county transfer of
10 base year value as so described. This section applies
11 only to replacement property that is acquired or newly
12 constructed within five years after ownership in the
13 qualified contaminated property is sold or otherwise
14 transferred; and

- 15 (2) In the case in which the remediation of the
16 environmental problems on the qualified contaminated
17 property requires the destruction of, or results in
18 substantial damage to, a structure located on that
19 property, the repair of a substantially damaged
20 structure, or the construction of a structure
21 replacing a destroyed structure on the qualified
22 contaminated property, performed after the remediation



1 of the environmental problems on that property is not
2 new construction; provided that the repaired or
3 replacement structure is similar in size, utility, and
4 function to the original structure.

5 (b) It is rebuttably presumed that an owner of real
6 property participated or acquiesced in an act or omission that
7 rendered the real property uninhabitable or unusable, as
8 applicable, if that owner is related to any individual or entity
9 that committed that act or omission and is:

- 10 (1) A spouse, parent, child, grandparent, grandchild, or
11 sibling of that individual;
- 12 (2) A corporate parent, subsidiary, or affiliate of that
13 entity;
- 14 (3) An owner of, or has control of, that entity; or
15 (4) Owned or controlled by that entity.

16 If this presumption is not overcome, the owner shall not
17 receive the relief provided for in this chapter. The
18 presumption may be overcome by presentation of satisfactory
19 evidence to the assessor, who shall not be bound by the findings
20 of the county in determining whether the presumption has been
21 overcome.



1 § -9 **Amendments.** Unless specifically provided
2 otherwise, amendments to this chapter shall be effective for
3 changes in ownership that occur, and new construction that is
4 completed, after the effective date of this Act. Unless
5 specifically provided otherwise, amendments to this chapter
6 shall be effective for changes in ownership that occur, and new
7 construction that is completed, on or after the effective date
8 of the amendment."

9 SECTION 2. Chapter 246, Hawaii Revised Statutes, is
10 repealed.

11 SECTION 3. This Act shall take effect upon its approval
12 and upon ratification of a constitutional amendment requiring
13 the legislature to establish a one per cent ceiling on real
14 property tax assessments.

15

INTRODUCED BY: Hele Carroll

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HB 3212

Report Title:

Real Property Tax

Description:

Establishes a one per cent ceiling on county real property tax assessments.

