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# A BILL FOR AN ACT

RELATING TO TAX EXEMPTION.

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

1       SECTION 1. The legislature finds that lands utilized by  
2 the department of Hawaiian home lands to provide homesteads for  
3 native Hawaiians are offered at affordable rates when compared  
4 to similar developments available in Hawaii. The purpose of  
5 this Act is to exempt any homestead development for the  
6 department of Hawaiian home lands from general excise taxes.

7       SECTION 2. Chapter 237, Hawaii Revised Statutes, is  
8 amended by adding a new section to be appropriately designated  
9 and to read as follows:

10       "§237-       Exemptions for any homestead development for the  
11 department of Hawaiian home lands. (a) There shall be exempted  
12 from the measure of the taxes imposed by this chapter, any gross  
13 income arising from the planning, design, financing, or  
14 construction of any homestead development for the department of  
15 Hawaiian home lands as provided in this section.

16       (b) The exemption eligibility shall be approved by the  
17 department of Hawaiian home lands and shall apply to the gross



1 income derived by any qualified person or firm from a newly  
2 constructed or a moderately or substantially rehabilitated  
3 homestead development that is developed:

4 (1) For the department of Hawaiian home lands;

5 (2) Under a government assistance program approved by the  
6 department of Hawaiian home lands;

7 (3) Under the sponsorship of a nonprofit organization  
8 providing home rehabilitation or new homes for  
9 qualified families in need of decent, low-cost housing  
10 on Hawaiian home lands; or

11 (4) To provide affordable rental housing on Hawaiian home  
12 lands where at least fifty per cent of the available  
13 units are for households with incomes at or below  
14 eighty per cent of the area median family income as  
15 determined by the United States Department of Housing  
16 and Urban Development.

17 (c) All claims for exemption under this section shall be  
18 filed with and certified by the department of Hawaiian home  
19 lands and forwarded to the department of taxation by the  
20 claimant. Any claim for exemption that is filed and approved,  
21 shall not be considered a subsidy.



1       (d) The department of Hawaiian home lands may establish,  
2 revise, charge, and collect a reasonable service fee, as  
3 necessary, in connection with its approvals and certifications  
4 of the exemption under this section. The fees shall be  
5 deposited into the department of Hawaiian home lands  
6 administration account.

7       (e) For purposes of this section:  
8       "Homestead development" means development of residential,  
9 agricultural, or pastoral lots to be awarded as homestead leases  
10 pursuant to the Hawaiian Homes Commission Act of 1920, as  
11 amended, including but not limited to on- and off-site  
12 infrastructure requirements, and dwelling units upon those lots.

13       "Moderately rehabilitated" means rehabilitation to upgrade  
14 a dwelling unit to a decent, safe, and sanitary condition.

15       "Moderately rehabilitated" includes the repair or replacement of  
16 major building systems or components in danger of failure.

17       "Substantially rehabilitated" means the improvement of a  
18 property to a decent, safe, and sanitary condition that requires  
19 more than routine or minor repairs or improvements.

20       "Substantially rehabilitated" includes:



- 1       (1) The gutting and extensive reconstruction of a dwelling  
2           unit;
- 3       (2) Cosmetic improvements coupled with the curing of a  
4           substantial accumulation of deferred maintenance; and
- 5       (3) Renovation, alteration, or remodeling to convert or  
6           adapt structurally sound property to the design and  
7           condition required for a specific use, such as  
8           conversion of a hotel to housing for elders."

9       SECTION 3. Section 238-3, Hawaii Revised Statutes, is  
10   amended to read as follows:

11       **"§238-3 Application of tax, etc.** (a) The tax imposed by  
12   this chapter shall not apply to any property, services, or  
13   contracting or to any use of the property, services, or  
14   contracting that cannot legally be so taxed under the  
15   Constitution or laws of the United States, but only so long as,  
16   and only to the extent to which the State is without power to  
17   impose the tax.

18       To the extent that any exemption, exclusion, or  
19   apportionment is necessary to comply with the preceding  
20   sentence, the director of taxation shall:



1       (1) Exempt or exclude from the tax under this chapter,  
2           property, services, or contracting or the use of  
3           property, services, or contracting exempted under  
4           chapter 237; or

5       (2) Apportion the gross value of services or contracting  
6           sold to customers within the State by persons engaged  
7           in business both within and without the State to  
8           determine the value of that portion of the services or  
9           contracting that is subject to taxation under chapter  
10          237 for the purposes of section 237-21.

11       (b) The tax imposed by this chapter shall not apply to any  
12       use of property, services, or contracting the transfer of which  
13       property, services, or contracting to, or the acquisition of  
14       which by, the person so using the same, has actually been or  
15       actually is taxed under chapter 237.

16       (c) The tax imposed by this chapter shall be paid only  
17       once upon or in respect of the same property, services, or  
18       contracting; provided that nothing in this chapter contained  
19       shall be construed to exempt any property, services, or  
20       contracting, or the use thereof from taxation under any other  
21       law of the State.



1           (d) The tax imposed by this chapter shall be in addition  
2 to any other taxes imposed by any other laws of the State,  
3 except as otherwise specifically provided herein; provided that  
4 if it be finally held by any court of competent jurisdiction,  
5 that the tax imposed by this chapter may not legally be imposed  
6 in addition to any other tax or taxes imposed by any other law  
7 or laws with respect to the same property, services, or  
8 contracting, or the use thereof, then this chapter shall be  
9 deemed not to apply to the property, services, or contracting,  
10 or the use thereof under such specific circumstances, but such  
11 other laws shall be given full effect with respect to the  
12 property, services, or contracting, or use.

13           (e) The tax imposed by this chapter shall not apply to any  
14 use of property exempted by section 238-4.

15           (f) The tax imposed by this chapter shall not apply to any  
16 use or consumption of aircraft and vessels, the transfer of  
17 which aircraft or vessel to, or the acquisition of which by, the  
18 person so using or consuming the same, or the rental for the use  
19 of the aircraft or vessel, has actually been or actually is  
20 taxed under chapter 237.



1           (g) The tax imposed by this chapter shall not apply to any  
2   intoxicating liquor as defined in chapter 244D and cigarettes  
3   and tobacco products as defined in chapter 245, imported into  
4   the State and sold to any person or common carrier in interstate  
5   commerce, whether ocean-going or air, for consumption out-of-  
6   state by the person, crew, or passengers on the shipper's  
7   vessels or airplanes.

8           (h) The tax imposed by this chapter shall not apply to any  
9   use of vessels constructed under section 189-25 prior to July 1,  
10  1969.

11          (i) Each taxpayer liable for the tax imposed by this  
12  chapter on property, services, or contracting shall be entitled  
13  to full credit for the combined amount or amounts of legally  
14  imposed sales or use taxes paid by the taxpayer with respect to  
15  the same transaction and property, services, or contracting to  
16  another state and any subdivision thereof, but the credit shall  
17  not exceed the amount of the use tax imposed under this chapter  
18  on account of the transaction and property, services, or  
19  contracting. The director of taxation may require the taxpayer  
20  to produce the necessary receipts or vouchers indicating the



1 payment of the sales or use tax to another state or subdivision  
2 as a condition for the allowance of the credit.

3 (j) The tax imposed by this chapter shall not apply to any  
4 use of property, services, or contracting exempted by section  
5 237-26 or section 237-29.

6 (k) The tax imposed by this chapter shall not apply to any  
7 use of air pollution control facility exempted by section  
8 237-27.5.

9 (l) The tax imposed by this chapter shall not apply to any  
10 homestead development project by the department of Hawaiian home  
11 lands under section 237- ."

12 SECTION 4. The department of Hawaiian home lands and the  
13 department of taxation shall adopt rules pursuant to chapter 91,  
14 Hawaii Revised Statutes, to implement the tax exemption for any  
15 homestead development for the department of Hawaiian home lands.

16 SECTION 5. New statutory material is underscored.

17 SECTION 6. This Act shall take effect upon its approval.





**Report Title:**

Department of Hawaiian Home Lands; Homestead Development;  
General Excise Tax Exemption

**Description:**

Exempts any homestead development for the Department of Hawaiian  
Home Lands from general excise taxes. (SD1)

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