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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.

5       The purpose of this Act is to exempt any homestead  
6 development for the department of Hawaiian home lands from the  
7 general excise tax and use tax.

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

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



1        (b) The exemption eligibility shall be approved by the  
2        department of Hawaiian home lands and shall apply to the gross  
3        proceeds or income derived by any qualified person or firm from  
4        a newly constructed or a moderately or substantially  
5        rehabilitated homestead development that is developed:

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

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

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

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

19       (c) All claims for exemption under this section shall be  
20       filed with and certified by the department of Hawaiian home  
21       lands and forwarded to the department of taxation by the



1 claimant. Any claim for exemption that is filed and approved,  
2 shall not be considered a subsidy.

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

8 (e) The director of taxation and the department of  
9 Hawaiian home lands shall adopt rules pursuant to chapter 91 for  
10 the purpose of this section.

11 (f) For purposes of this section:

12 "Homestead development" means development of residential,  
13 agricultural, or pastoral lots to be awarded as homestead leases  
14 pursuant to the Hawaiian Homes Commission Act of 1920, as  
15 amended, including but not limited to on- and off-site  
16 infrastructure requirements, and dwelling units upon those lots.

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

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



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

4       "Substantially rehabilitated" includes:

5       (1) The gutting and extensive reconstruction of a dwelling  
6       unit;

7       (2) Cosmetic improvements coupled with the curing of a  
8       substantial accumulation of deferred maintenance; and

9       (3) Renovation, alteration, or remodeling to convert or  
10       adapt structurally sound property to the design and  
11       condition required for a specific use, such as  
12       conversion of a hotel to housing for elders."

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

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



1 To the extent that any exemption, exclusion, or  
2 apportionment is necessary to comply with the preceding  
3 sentence, the director of taxation shall:

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

8 (2) Apportion the gross value of services or contracting  
9 sold to customers within the State by persons engaged  
10 in business both within and without the State to  
11 determine the value of that portion of the services or  
12 contracting that is subject to taxation under chapter  
13 237 for the purposes of section 237-21.

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

19 (c) The tax imposed by this chapter shall be paid only  
20 once upon or in respect of the same property, services, or  
21 contracting; provided that nothing in this chapter contained



1 shall be construed to exempt any property, services, or  
2 contracting, or the use thereof from taxation under any other  
3 law of the State.

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

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

18 (f) The tax imposed by this chapter shall not apply to any  
19 use or consumption of aircraft and vessels, the transfer of  
20 which aircraft or vessel to, or the acquisition of which by, the  
21 person so using or consuming the same, or the rental for the use



1 of the aircraft or vessel, has actually been or actually is  
2 taxed under chapter 237.

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

10 (h) The tax imposed by this chapter shall not apply to any  
11 use of vessels constructed under section 189-25 prior to July 1,  
12 1969.

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



1 to produce the necessary receipts or vouchers indicating the  
2 payment of the sales or use tax to another state or subdivision  
3 as a condition for the allowance of the credit.

4 (j) The tax imposed by this chapter shall not apply to any  
5 use of property, services, or contracting exempted by section  
6 237-26 or section 237-29.

7 (k) The tax imposed by this chapter shall not apply to any  
8 use of air pollution control facility exempted by section  
9 237-27.5.

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

13 SECTION 4. New statutory material is underscored.

14 SECTION 5. This Act shall take effect on July 1, 2050.





**Report Title:**

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

**Description:**

Exempts any homestead development for the Department of Hawaiian  
Home Lands from the general excise tax and use tax. Effective  
7/1/2050. (SD2)

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not legislation or evidence of legislative intent.*

