

ACT 92

An Act Relating to Appeals by Counties From Assessments by State Tax Assessors on Real Property Within the Respective Counties and Amending Chapters 116 and 128 of the Revised Laws of Hawaii 1955, as Amended.

Be it Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 128-30, Revised Laws of Hawaii 1955, as amended, is hereby amended by adding a new paragraph at the end thereof to read as follows:

“The chairman of the board of supervisors or the mayor of any county may appeal any assessment of real property located within the respective county which, in his judgment, does not fairly represent the fair market value of the property assessed when compared with other property in the same county of similar character and value, and may likewise appeal from the allowance of an exemption of any property when such exemption is not authorized by law. Such appeal shall be taken to a board of review or the tax appeal court on or before March 20 of the assessment year. In any appeal taken by a county, the county shall be a party in interest with the same right of appeal from the decision of the board of review and tax appeal court as is allowed a taxpayer under the provisions of chapter 116.

Any taxpayer who has an interest in an appeal taken by the county may intervene.”

SECTION 2. Section 116-2.1, Revised Laws of Hawaii 1955, as

amended, is hereby amended by inserting immediately following the words "no taxpayer" the words "or county".

SECTION 3. Subsection 116-4(a), Revised Laws of Hawaii 1955, as amended, is hereby amended to read as follows:

"Sec. 116-4. Boards of review; duties, powers, procedure before. (a) The board of review for each division shall hear informally all disputes between the assessor and any taxpayer or county in all cases in which appeals have been duly taken and the fact that a notice of appeal has been duly filed by a taxpayer or county shall be conclusive evidence of the existence of a dispute; provided that this provision shall not be construed to permit a taxpayer to dispute an assessment to the extent that it is in accordance with his return."

SECTION 4. Subsection 116-4(b), Revised Laws of Hawaii 1955, as amended, is hereby amended by deleting in the second sentence thereof the clause "in his notice of appeal" and substituting in lieu thereof the following: "or the county in the notice of appeal,".

SECTION 5. Subsection 116-4(c), Revised Laws of Hawaii 1955, as amended, is hereby amended by adding a sentence at the end thereof to read as follows:

"In the case of a real property tax appeal taken by a county, a certified copy of the decision of the board shall be furnished by the assessor forthwith to the county by delivery to the county clerk."

SECTION 6. Subsection 116-4(d), Revised Laws of Hawaii 1955, as amended, is hereby amended in the following respects:

(a) By inserting after the word "taxpayer" wherever it appears the words "or county".

(b) By inserting after the word "taxpayers" in line 29, a comma and the words "the county".

SECTION 7. Section 116-10, Revised Laws of Hawaii 1955, as amended, is hereby amended in the following respects:

(a) By inserting after the word "taxpayer" in the second paragraph the words "or county".

(b) By inserting after the word "taxpayer" wherever it appears in the fourth paragraph, a comma and the words and punctuation "the county,".

SECTION 8. Section 116-12, Revised Laws of Hawaii 1955, is hereby amended in the following respects:

(a) By inserting after the word "taxpayer" wherever it appears in the second paragraph thereof the words "or county".

(b) By adding a new sentence at the end of the second paragraph thereof to read as follows:

"If an appeal is taken by a county, the notice of appeal shall be served upon the taxpayer or taxpayers concerned."

(c) By deleting in the third paragraph thereof the words "taxpayer in his" wherever they appear and substituting in lieu thereof the words "taxpayer or county in the".

SECTION 9. Section 116-13, Revised Laws of Hawaii 1955, is hereby amended in the following respects:

(a) By amending the first paragraph thereof to read as follows:

"Appeal to tax appeal court. A taxpayer or county may, in all cases,

appeal directly to the tax appeal court without appealing to the board of review by filing, on or before the date fixed by law for the taking of the appeal, a written notice of appeal in the office of the tax appeal court. An appealing taxpayer shall pay the costs in the amount fixed by section 116-19. The taxpayer or county shall also file a copy of the notice of appeal in the assessor's office or mail such copy to the assessor not later than the date fixed by law for the taking of the appeal."

(b) By inserting in the fifth paragraph thereof immediately following the word "assessor," the clause "and to the taxpayer or taxpayers in the case of an appeal taken by a county,".

(c) By deleting in the sixth paragraph thereof the words "taxpayer in his" and substituting in lieu thereof the words "taxpayer or county in the".

SECTION 10. Section 116-14, Revised Laws of Hawaii 1955, is hereby amended to read as follows:

"Sec. 116-14. Appeals from boards of review to tax appeal court. An appeal shall lie to the tax appeal court from the decision of a board of review by the filing, by the taxpayer, the county or the tax assessor, of a written notice of appeal in the office of the tax appeal court within twenty days after the filing of the decision of the board of review and, in the case of an appealing taxpayer, the payment of such costs of court in the amount fixed by section 116-19. The taxpayer shall also file a copy of the notice of appeal in the assessor's office and, in case of an appeal from a decision involving a county as a party, with the county clerk. If an appeal is taken by a county, a copy of the notice of appeal shall be filed in the assessor's office and a copy shall be served upon the taxpayer or taxpayers concerned. A notice of appeal shall be sufficient if it states that the taxpayer, county or assessor appeals from the decision of the board of review to the tax appeal court and may be amended at any time. The appeal shall bring up for determination all questions of fact and all questions of law, including constitutional questions involved in the appeal.

In case of an appeal by the assessor, a copy of the notice of appeal shall be forthwith delivered or mailed to the taxpayer concerned or to the clerk of the county concerned in the manner provided in section 116-4 for giving notice of decisions.

An appeal shall be deemed to have been taken in time if the notice thereof and costs, if any, and the copy or copies of the notice shall have been deposited in the mail, postage prepaid, properly addressed to the tax appeal court, tax assessor, taxpayer or taxpayers and county, respectively, within the period hereinabove provided."

SECTION 11. Section 116-15, Revised Laws of Hawaii 1955, is hereby amended by inserting in the last sentence thereof immediately following the word "taxpayer's" a comma and the word "county's".

SECTION 12. Section 116-16, Revised Laws of Hawaii 1955, is hereby amended by inserting in the first sentence thereof immediately following the word "taxpayer" the words "or county".

SECTION 13. Section 116-17, Revised Laws of Hawaii 1955, is hereby amended in the following respects:

(a) By deleting the period at the end of the sentence in item (b)

and adding the words and punctuation "or county." at the end of the sentence.

(b) By inserting in item (c) thereof immediately following the word "taxpayer's" the words "or county's".

(c) By inserting in the first sentence of item (f) thereof immediately following the word "taxpayer" a comma and the words "the county".

(d) By inserting in the second sentence of item (f) thereof immediately following the word "taxpayer's" a comma and the word "county's".

SECTION 14. Section 116-19, Revised Laws of Hawaii 1955, as amended, is hereby amended by inserting in the last sentence thereof immediately following the word "assessor" the words "or the county".

SECTION 15. Section 116-20, Revised Laws of Hawaii 1955, as amended, is hereby amended in the following respects:

(a) By inserting immediately following the phrase "in the event of an appeal" wherever it appears the words "by a taxpayer".

(b) By adding a new paragraph at the end thereof to read as follows: "In the event of a final determination of an appeal by a county to a board of review, the tax appeal court, or the supreme court that a higher assessment should be made of the property involved, the additional tax due shall be collected in the same manner as the tax based upon the original assessment."

SECTION 16. This Act shall take effect upon its approval.

(Approved May 29, 1963.) **S.B. 5.**
