

ACT 32

H. B. 203.

A Bill for an Act Relating to Exemption from Real Property Taxation for Low and Moderate Income Housing Projects by Amending Chapter 128 and Section 115-28(a), Revised Laws of Hawaii 1955, as Amended.

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

SECTION 1. This Act is hereby declared to be an urgency measure deemed necessary in the public interest within the meaning of section 11 of Article III of the Constitution of the State of Hawaii.

The following is a statement of facts constituting such urgency:

There is a critical shortage of adequate housing for low and moderate income families in Hawaii. Private nonprofit organizations are attempting to alleviate this situation by developing housing projects for such families. The success of such projects is greatly dependent upon government assistance such as mortgage insurance under the provisions of section 221(d)(3) of the National Housing Act and exemption from real property taxes. By Act 135 of the Session Laws of Hawaii 1967, the Legislature exempted from property taxes, real property developed, owned, and operated for housing projects for low and moderate income families by nonprofit organizations, provided such projects are regulated by a federal or state agency and such organizations

are mortgagors qualified for a mortgage loan insured under section 221(d)(3) of the National Housing Act. Said Act 135 was implemented by the rules and regulations of the Director of Taxation which require, among other things, that the nonprofit organization file its claim for exemption from property taxes and a copy of the Regulatory Agreement between such organization and the Federal Housing Administration on or before December 31 immediately preceding the year for which exemption is claimed. In most instances the nonprofit organization is not expected to acquire the title to the property for which real property tax exemption is sought prior to the time when such nonprofit organization qualified as a mortgagor of a mortgage loan insured under said section 221(d)(3) as expressly required by said Act 135, and the acquisition of the property and the statutory qualification will occur simultaneously. Moreover, the Regulatory Agreement made between the mortgagor and the Commissioner of the Federal Housing Administration is executed upon the initial or final endorsement for mortgage insurance for the mortgage loan, i.e., the initial or final closing. Under the present laws of the State of Hawaii and the present rules and regulations of the Director of Taxation, a nonprofit organization, otherwise qualified to secure the benefits provided for in said Act 135, may be required to pay real property taxes for the period from the acquisition of the title to the real property until the end of the year during which such property is acquired. The resultant imposition of real property taxes will require an increase in rentals payable by families of low and moderate income or may so adversely affect the economies of the project as to cause such proposed housing projects to be abandoned. Such results are totally inconsistent and in opposition to the purposes for which said Act 135 was enacted.

For the foregoing reasons, it is deemed necessary in the public interest to enact this Bill.

SECTION 2. Chapter 128 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended by adding a new section thereto to be appropriately numbered, and the revisor of statutes is further authorized to insert the appropriate section number of chapter 128 therein in lieu of "Section 1 of Act 135 of the Session Laws of Hawaii 1967" whenever the same appears hereinafter, to read as follows:

"§ 128-..... Claim for exemption. (a) Notwithstanding any provision in this chapter to the contrary, any real property exempt from property taxes under the provisions of section 1 of Act 135 of the Session Laws of Hawaii 1967, shall be exempt from property taxes from the date such property is qualified for such exemption, provided a claim for exemption is filed with the assessor within 60 days of the date of such qualification. As used herein, the date of such qualification shall be the date the mortgage or mortgages made by a nonprofit corporation or association and insured under the provisions of section 221(d)(3) of the National Housing Act are filed for recording with the registrar of the bureau of conveyances or the assistant registrar of the land court of the State of Hawaii, whichever is applicable.

(b) After the initial year of such qualification, the claim for exemption

shall be filed in the manner provided by applicable law or rule or regulation.

(c) In the event property taxes have been paid to the State in advance for real property subsequently becoming qualified for such exemption, the director of taxation shall refund to the nonprofit corporation or association owning such property that portion of the taxes attributable to and paid for the period after such qualification.”

SECTION 3. Section 115-28(a), Revised Laws of Hawaii 1955, as amended, is amended by adding a new paragraph to be numbered (3) and renumbering paragraph (3) as it presently appears therein as paragraph (4), and the revisor of statutes is authorized to insert the appropriate section number of chapter 128 therein in lieu of “Section 1 of Act 135 of the Session Laws of Hawaii 1967” wherever the same appears hereinafter, to read as follows:

“Whenever any real property is deemed by the director of taxation to be exempt from taxation under the provisions of Section 1 of Act 135 of the Session Laws of Hawaii 1967, if there shall have been paid prior to the effective date of such exemption any real property taxes applicable to the period following the effective date of such exemption, there shall be refunded to the nonprofit corporation or association owning such property in the manner provided in subsection (d) of this section all amounts representing such real property taxes theretofore paid on account of such property and attributable to the period following the effective date of such exemption.”

SECTION 4. This Act shall take effect upon approval and shall be effective as of January 1, 1968.

(Approved May 7, 1968.)