

A Bill for an Act Relating to Real Property Taxes.

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

SECTION 1. Chapter 246, Hawaii Revised Statutes, is amended by adding three new sections to be appropriately designated and to read as follows:

“Sec. 246- Dedicated lands for residential uses.

(a) The term ‘owner’ as used in this section means a person sixty years of age or older who is the fee simple owner of real property, or who is the lessee of real property whose lease term extends at least ten years from the date of the petition.

(b) A special land reserve is established to enable the owner of any parcel of land not more than 10,000 square feet in area within an urban district to dedicate his land for residential use and to have his land assessed at its value in residential use; provided that (1) the land dedicated shall be used only for single family residential uses; (2) the owner of the land dedicated shall use it as his home; and (3) not more than one parcel of land shall be dedicated for residential uses by any owner.

(c) If any owner desires to use his land for residential use and to have his land assessed at its value in this use, he shall so petition the director of taxation and declare in his petition that if his petition is approved, he will use his land for single family residential uses only and that his land so dedicated will be used as his home.

Upon receipt of any such petition, the director of taxation shall make a finding of fact as to whether the land described in the petition is being used by the owner for residential uses only and as his home. If the finding is favorable to the owner, the director of taxation shall approve the petition and declare the land to be dedicated.

(d) The approval of the petition by the director of taxation to dedicate shall constitute a forfeiture on the part of the owner of any right to change the use of his land for a minimum period of ten years, renewable thereafter for additional periods of ten years each upon reapplication, subject to cancellation by either the owner or the director of taxation upon five years’ notice at any time after the end of the fifth year.

(e) Failure of the owner to observe the restrictions on the use of his land shall cancel the special tax assessment privilege retroactive to the date of the

petition, and all differences in the amount of taxes that were paid and those that would have been due from assessment in the higher use shall be payable with an eight per cent per year penalty from the respective dates that these payments would have been due. Failure to observe the restrictions on the use means failure for a period of over one calendar year to use the land in the manner requested in the petition or the overt act of changing the use for any period. Nothing in this subsection shall preclude the State from pursuing any other remedy to enforce the covenant on the use of the land.

(f) The director of taxation shall prescribe the form of the petition. The petition shall be filed with the director of taxation by March 1 of any calendar year and shall be approved or disapproved by June 15. If approved, the assessment based upon the use requested in the dedication shall be effective on July 1 of the next calendar year.

(g) The owner may appeal any disapproved petition as in the case of an appeal from an assessment.

Sec. 246- Effect of sale of dedicated land under certain circumstances.

(a) Upon the sale of land dedicated pursuant to section 246- and within five years after:

- (1) Failure of the owner to observe the restrictions on the use of the dedicated land;
- (2) Termination of the initial or any succeeding ten year dedication period; or
- (3) Death of the owner who was granted approval to dedicate; there shall be due to the State from the vendor of the land the amount specified in subsection (b).

(b) The amount due to the State pursuant to subsection (a) shall be fifty per cent of the difference between the selling price of the land and:

- (1) The basis of the land for determining capital gain or loss for tax purposes; or
- (2) The real property tax assessed value as of the date of the happening of the event designated in subsection (a) (1), (2), or (3);

whichever is higher.

Sec. 246- Payment of amount due to the State. Payment of any amount due under section 246- shall be made to the director of taxation within six months after sale of the land. Any amounts not paid within such time shall constitute a lien in favor of the State upon the land sold as of the date of sale. In addition, amounts due and unpaid shall be subject to interest at the rate of six per cent a year until fully paid. Amounts received or recovered by suit shall be deposited into the general fund of the State."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

* Edited accordingly.

ACT 200

SECTION 3. This Act shall take effect upon its approval.
(Approved June 21, 1971.)