

ACT 200

H. B. NO. 1893-72

A Bill for an Act Relating to Real Property Tax Exemptions.

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

SECTION 1. Section 246-23, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 246-23 Claims for certain exemptions. (a) None of the exemptions from taxation granted in sections 246-26 and 246-29 to 246-33 shall be allowed in any case, unless the claimant shall have filed with the department of taxation, on or before June 30 preceding the tax year for which such exemption is claimed, a claim for exemption in such form as shall be prescribed by the department.

(b) A claim for exemption once allowed shall have continuing effect until:

- (1) The exemption is disallowed;
- (2) The assessor voids the claim after first giving notice (either to the claimant or to all claimants in the manner provided by either section 246-43 or section 246-40, as the case may be) that the claim or claims on file will be voided on a certain date, not less than thirty days after such notice;
- (3) The five-year period for exemption, as allowed in section 246-33, expires; or
- (4) The claimant makes the report required by subsection (d).

(c) A claimant may file a claim for exemption even though there is on file and in effect a claim covering the same premises, or a claim previously filed and disallowed or otherwise voided. However, no such claim shall be filed if it is identical with one already on file and having continuing effect. The report required by subsection (d) may be accompanied by or combined with a new claim.

(d) Any person who has been allowed an exemption under sections 246-26 or 246-29 to 246-33 has a duty to report to the assessor within thirty days after he ceases to qualify for such an exemption for one of, but not limited to, the following reasons:

- (1) He ceases to be the owner, lessee, or purchaser of the exempt premises.
- (2) A change in the facts previously reported has occurred concerning the occupation, use, or renting of the premises, buildings or other improvements thereon; or
- (3) Some other change in status has occurred which affects his exemption.

Such reports shall have the effect of voiding the claim for exemption previously filed, as provided in subsection (b) (4). The report shall be sufficient if it identifies the property involved, states the change in facts or status, and requests that the claim for exemption previously filed be voided.

In the event the property comes into the hands of a fiduciary who is answerable under sections 246-7 and 246-41, the fiduciary shall make the report required by this subsection within thirty days after his assumption of his fiduciary duties or within the time otherwise required, whichever is later.

Any person who has a duty of making a report as required by this subsection, who within the time required fails to make a report, shall be liable for a civil penalty. The amount of the penalty shall be \$100 or the amount of the taxes on the property computed without the claim for exemption as of July 1 of the year in which the report was due, whichever is lesser. The penalty shall be recovered in accordance with section 231-33. In addition to this penalty, the taxes due on the property plus any additional penalties and interest thereon shall be collected as property taxes and shall be a lien on the property in accordance with section 246-55.

(e) If the assessor is of the view that, for any tax year, the exemption should not be allowed, in whole or in part, he may at any time within five years of July 1 of that year disallow the exemption for that year, in whole or in part, and may add to the assessment list for that year the amount of value involved, in the manner provided by section 246-51 for the assessment of omitted property; provided, that if an assessment or addition under this subsection is made after September 25 of the tax year, the taxes on the amount of value involved in the assessment or addition so made shall not be a lien under section 246-55 but may be made a lien as provided for in section 231-33 by recording a certificate setting forth the amount of tax involved, penalties, and interest.

(f) In any case of recordation of a certificate for the amount of the civil penalty under subsection (d), or for the amount of tax, penalties, and interest assessed or added under subsection (e), a person shall be deemed to have an interest arising before the recordation of the certificate only if and to the extent that he acquired his interest in good faith and for a valuable consideration without notice of a violation of the requirements of subsection (d) having occurred.”

SECTION 2. Section 246-26(d), Hawaii Revised Statutes, is amended to read as follows:

“(d) A taxpayer who is sixty years of age or over and who qualifies under subsection 246-26(a) shall be entitled to one of the following multiples of home exemption:

Age of Taxpayer	Multiple to be Used in Computing Home Exemption
60 years of age or over but not 70 years of age or over	2.0
70 years of age or over	2.5

For the purpose of this subsection, a husband and wife who own property jointly on which a home exemption under the provisions of subsection (a)

has been granted shall be entitled to the applicable multiple of home exemption set forth above when at least one of the spouses qualifies each year for the applicable multiple of home exemption.

SECTION 3. Section 246-32(a), Hawaii Revised Statutes, is amended to read as follows:

“(a) There shall be exempt from real property taxes real property designated in subsection (b) or (c) and meeting the requirements stated therein, actually and (except as otherwise specifically provided) exclusively used for nonprofit purposes. If an exemption is claimed under one of these subsections (b) or (c), an exemption for the same property may not also be claimed under the other of these subsections.

SECTION 4. Section 246-28, Hawaii Revised Statutes, is hereby repealed.

SECTION 5. Section 231-23(a), Hawaii Revised Statutes, as amended, is further amended to read as follows:

“**Sec. 231-23 Adjustments and refunds.** (a) This subsection shall apply to taxes assessed and collected under chapter 246.

- (1) In the event of adjustments on account of duplicate assessments and clerical errors, such as transposition in figures, typographical errors, and errors in calculations, the adjustments may be entered upon the records although the full amount appearing on the records prior to such adjustment has been paid.
- (2) There may be refunded in the manner provided in subsection (d) of this section any amount collected in excess of the amount appearing on the records as adjusted, or any amount constituting a duplication of payment in whole or in part.
- (3) Whenever any real property is deemed by the director of taxation to be exempt from taxation under section 246-39, if there shall have been paid prior to the effective date of the exemption any real property taxes applicable to the period following the effective date of the exemption, there shall be refunded to the nonprofit or limited distribution mortgagor owning the property in the manner provided in section 231-23(d) all amounts representing the real property taxes which have been paid on account of the property and attributable to the period following the effective date of the exemption.”

SECTION 6. Section 246-39, Hawaii Revised Statutes, as amended, is further amended to read as follows:

“**Sec. 246-39 Exemption for low and moderate-income housing.** (a) For the purposes of this section, ‘nonprofit or limited distribution mortgagor’ means a mortgagor who qualifies for and obtains mortgage insurance under sections 202, 221(d) (3), or 236 of the National Housing Act as a nonprofit or limited distribution mortgagor.

(b) Real property used for a housing project which is owned and operated by a nonprofit or limited distribution mortgagor or which is owned and operated by a person, corporation or association regulated by federal or State

laws or by a political subdivision of the State or agency thereof as to rents, charges, profits, dividends, development costs and methods of operation, shall be exempt from property taxes.

(c) Exemptions claimed under this section shall disqualify the same property from receiving an exemption under section 53-38.

(d) The director of taxation shall, pursuant to chapter 91, promulgate rules and regulations necessary to administer this section.”

SECTION 7. Section 246-39.1, Hawaii Revised Statutes, as amended, is further amended to read as follows:

“Sec. 246-39.1 Claim for exemption. (a) Notwithstanding any provision in this chapter to the contrary, any real property exempt from property taxes under section 246-39 shall be exempt from property taxes from the date the property is qualified for the exemption; provided that a claim for exemption is filed with the assessor within sixty days of the qualification. As used herein, the date of the qualification shall be the date when the mortgage made by a nonprofit or limited distribution mortgagor and insured under sections 202, 221(d) (3), or 236 of the National Housing Act is filed for recording with the registrar of the bureau of conveyances or the assistant registrar of the land court of the State, whichever is applicable; provided that in the case of a mortgage made by a nonprofit or limited distribution mortgagor and filed or recorded with the registrar of the bureau of conveyances or the assistant registrar of the land court of the State prior to the effective date of this Act, the date of qualification shall be the effective date of this Act.

(b) After the initial year of the 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 the exemption, the director of taxation shall refund to the nonprofit or limited distribution mortgagor owning the property that portion of the taxes attributable to and paid for the period after the qualification.”

SECTION 8. 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.*

SECTION 9. This Act shall take effect July 1, 1972.

(Approved June 5, 1972.)

*Edited accordingly.