

ACT 157

H.B. NO. 904

A Bill for an Act Relating to Real Property Tax Due Dates.

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

**SECTION 1. Purpose.** The purpose of this Act is to coincide the dates on which annual county budget ordinances are enacted and real property taxes are set. Under present law, the deadline for setting real property tax rates is October 26. The monies raised therefrom finance budgets which were enacted the previous May and June. By changing the deadlines for setting real property tax rates from October 26 to June 20, fiscal policy decisions on both revenues and spending will be made concurrently.

**SECTION 2.** Section 246-3 of the Hawaii Revised Statutes is amended to read as follows:

**“Sec. 246-3 Tax year; time as of which levy and assessment made.** For real property tax purposes, “tax year” shall mean the fiscal year beginning July 1 of each calendar year and ending June 30 of the following calendar year. Real property shall be assessed, and taxes shall be levied thereon, as

of [July 1 of the] January 1 preceding each tax year upon the basis of valuations determined in the manner and at the time provided in this chapter.”

SECTION 3. Section 246-4 of the Hawaii Revised Statutes is amended to read as follows:

“**Sec. 246-4 Assessment of property; to whom in general.** Real property shall be assessed in its entirety to the owner thereof; provided that where improved residential land has been leased for a term of fifteen years or more, the real property shall be assessed in its entirety to the lessee or his successor in interest holding the land for such term under such lease and the lessee or successor in interest shall be deemed the owner of the real property in its entirety for the purposes of this chapter; provided, however, that the lease and any extension, renewal, assignment, or agreement to assign the lease (1) shall have been duly entered into and recorded in the bureau of conveyances or filed in the office of the assistant registrar of the land court prior to [July 1 of] January 1 preceding the tax year for which the assessment is made, and (2) shall provide that the lessee shall pay all taxes levied on the property during the term of the lease.

“Improved residential land” as used herein means land improved with a single dwelling on it.

For the purposes of this chapter, life tenants, executors, administrators, trustees, guardians, or other fiduciaries may be, and persons holding government property under an agreement for the conveyance of the same to such persons shall be considered as owners during the time any real property is held or controlled by them as such, as more fully provided in section 246-36; and further, notwithstanding any provision to the contrary in this chapter, any tenant occupying government land, whether such occupancy be on a permit, license, month to month tenancy, or otherwise, shall be considered as owner where such occupancy has continued for a period of one year or more, as more fully provided in section 246-36. Persons holding any real property under an agreement to purchase the same, shall be considered as owners during the time the real property is held or controlled by them as such; provided the agreement to purchase (1) shall have been recorded in the bureau of conveyances, and (2) shall provide that the purchasers shall pay the real property taxes levied on the property. Persons holding any real property under a lease for a term to last during the lifetime of the lessee, shall be considered as owners during the time the real property is held or controlled by them as such; provided that the lease (1) shall have been duly entered into and recorded in the bureau of conveyances or filed in the office of the assistant registrar of the land court prior to [July 1 of] January 1 preceding the tax year for which the assessment is made, and (2) shall provide that the lessee shall pay all taxes levied on the property during the term of the lease.

SECTION 4. Section 246-8 of the Hawaii Revised Statutes is amended to read as follows:

“**Sec. 246-8 Assessment of property of unknown owners.** The taxable property of persons unknown, or some of whom are unknown, shall be assessed to “unknown owners,” or to named persons and “unknown owners,”

as the case may be. The taxable property of persons not having record title thereto on [July 1 of] January 1 preceding the tax year for which the assessment is made, or some of whom did not have record title thereto on [July 1 of] January 1 preceding the tax year for which the assessment is made, may be assessed to "unknown owners," or to named persons and "unknown owners," as the case may be. Such property may be levied upon for unpaid taxes."

SECTION 5. Section 246-12 of the Hawaii Revised Statutes is amended in the following respects:

a. By amending subparagraph (1) of paragraph (c) to read as follows:

"(1) In the case of a ten-year dedication, the owner may [during] after the ninth year and years thereafter, give notice of cancellation by filing with the director, a written notice of cancellation, on or before [September 25] April 9, to be effective as of [July 1] January 1 of the following [tax] year;"

b. By amending paragraph (e) to read as follows:

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

SECTION 6. Section 246-12.2 of the Hawaii Revised Statutes is amended in the following respects:

a. By amending subparagraph (C) of paragraph (1) to read as follows:

"(C) The failure of the owner to observe the restrictions on the use of his land to that of a golf course shall cancel the special tax assessment privilege retroactive to the date of the [petition] dedication but not more than ten years prior to the tax year in which the exemption is disallowed; 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 a six per cent a 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] twelve consecutive months to use the land in that manner requested in the petition as a golf course by the overt act of changing the use for any period. Nothing in this paragraph shall preclude the State from pursuing any other remedy to enforce the covenant on the use of the land as a golf course."

b. By amending subparagraph (D) of paragraph (1) to read as follows:

"(D) The director of taxation shall prescribe the form of the petition. The petition shall be filed by [March 1] September 1 of any [tax] calendar year and shall be approved or disapproved by [June 15] December 15 of such year. If approved, the assessment based upon the use requested in the dedication shall be effective on [July 1] January 1 of the succeeding [tax] year."

SECTION 7. Section 246-12.3 of the Hawaii Revised Statutes is

amended in the following respects:

a. By amending paragraph (e) to read as follows:

“(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] dedication, 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] twelve consecutive months 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.”

b. By amending paragraph (f) to read as follows:

“(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] September 1 of any calendar year and shall be approved or disapproved by [June 15] December 15. If approved, the assessment based upon the use requested in the dedication shall be effective on [July 1] January 1 of the next calendar year.”

SECTION 8. Section 246-18 of the Hawaii Revised Statutes is amended to read as follows:

“**Sec. 246-18 Special tax assessment.** Any property classified as wasteland development property by the director of taxation shall be, for a period of five years, assessed for real property tax purposes at its value as wasteland. The five year period shall commence from [July 1] January 1 of the year following the approval of the application.

SECTION 9. Section 246-23 of the Hawaii Revised Statutes is amended in the following respects:

a. By amending paragraph (a) 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 and 246-33 shall be allowed in any case, unless the claimant shall have filed with the department of taxation, on or before [June 30] December 31 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. By amending the third paragraph of subparagraph (3) of paragraph (d) to read as follows:

“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] January 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.”

c. By amending paragraph (e) to read as follows:

“(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] January 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] April 9 preceding 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.”

SECTION 10. Section 246-26 of the Hawaii Revised Statutes is amended in the following respects:

a. By amending subparagraph (C) of subparagraph (2) of paragraph (a) to read as follows:

“(C) That where the taxpayer has acquired his home by a deed made on or after July 1, 1951, the deed shall have been recorded on or before [June 30] December 31 immediately preceding the year for which the exemption is claimed;”

b. By amending subparagraph (F) of subparagraph (2) of paragraph (a) to read as follows:

“(F) That such exemption shall be revoked if the home is not occupied by the owner or owners during the first three months of the [tax] calendar year.”

SECTION 11. Section 246-27 of the Hawaii Revised Statutes is amended in the following respects:

a. By amending paragraphs (2) and (3) to read as follows:

“(2) A residential building on land held by the lessee or his successor in interest under a lease for a term of five years or more for residential purposes and owned and used as a residence by the lessee or his successor in interest, where the lease and any extension, renewal, assignment, or agreement to assign the lease, have been duly entered into and recorded prior to [July 1 of] January 1 preceding the tax year for which the exemption is claimed, and whereby the lessee agrees to pay all taxes during the term of the lease;

(3) An apartment which is a living unit (held under a proprietary lease by the tenant thereof) in a multiunit residential building on land held by a cooperative apartment corporation (of which the proprietary lessee of such living unit is a stockholder) under a lease for a term of five years or more for residential purposes and which apartment is used as a residence by the lessee-stockholder, where the lease and any extension or renewal have been duly entered into and recorded prior to [July 1 of] January 1 preceding the tax year for which the exemption is claimed, and whereby the lessee-

stockholder agrees to pay all taxes during the term of the lease provided that:

- (A) The exemption shall not be allowed in respect to any cooperative apartment unit where the owner of the cooperative apartment unit claims exemption on a home or other cooperative apartment unit; and
  - (B) The owner or owners of a cooperative apartment building or premises shall not be permitted exemptions where a husband and wife owner of a cooperative apartment unit own separate cooperative apartment units or separate homes owned by each of them, unless they are living separate and apart, in which case the owner of the cooperative apartment or premises shall be entitled to one-half of one exemption;”
- b. By amending paragraphs (6) and (7) to read as follows:
- “(6) Premises held under an agreement to purchase the same for a home, where the agreement has been duly entered into and recorded prior to [July 1 of] January 1 preceding the tax year for which the exemption is claimed, whereby the purchaser agrees to pay all taxes while purchasing the premises.
  - (7) An apartment which is a living unit (held under a lease by the tenant thereof) in a multi-unit residential building used for retirement purposes under a lease for a term to last during the lifetime of the lessee and his or her surviving spouse and which apartment is used as a residence by the lessee and his or her surviving spouse, and where the apartment unit reverts back to the lessor upon the death of the lessee and his or her surviving spouse, and where the lease has been duly entered into and recorded prior to [July 1 of] January 1 preceding the tax year for which the exemption is claimed, and whereby the lessee agrees to pay all taxes during the term of the lease.”

SECTION 12. Section 246-29 of the Hawaii Revised Statutes is amended by amending the last paragraph to read as follows:

“For the purposes of this section, the word “home” includes the entire homestead when it is occupied by a qualified totally disabled veteran as a home; houses where the disabled veteran owner sublets not more than one room to a tenant; and premises held under an agreement to purchase the same for a home, where the agreement has been duly entered into and recorded prior to [July 1 of] January 1 preceding the tax year for which exemption is claimed, whereby the purchaser agrees to pay all taxes while purchasing the premises.”

SECTION 13. Section 246-33 of the Hawaii Revised Statutes is amended to read as follows:

“**Sec. 246-33 Property used in manufacture of pulp and paper.** All property in the State, both real and personal, actually and solely used or to be used, whether by the owner or lessee thereof, in connection with the manufacture of pulp and paper from bagasse fibre, shall be exempt from property

taxes for a period of five years from the first day of [July] January following commencement of construction of a plant or plants on the property for such purpose.”

SECTION 14. Section 246-33.1 of the Hawaii Revised Statutes is amended to read as follows:

“**Sec. 246-33.1 Crop shelters.** Any other law to the contrary notwithstanding, any permanent structure constructed or installed on any taxable real property consisting of frames or supports and covered by rigid plastic, fiber glass, or other rigid and semi-rigid transparent or translucent material, and including wooden laths, used primarily for the protection of crops shall be exempted in determining and assessing the value of such taxable real property for ten years or for a period of ten years from the first day of [July] January following commencement of construction or installation of the structure on the property for such purpose; provided that any temporary structure so constructed or installed and covered by flexible plastic or other flexible transparent or translucent material, used for such purpose, shall be so exempted not subject to the ten year limitation; provided, further, that such exemption shall continue only so long as the structure is maintained in good condition. Only structures used for commercial agricultural or horticultural purposes shall be included in the exemption.”

SECTION 15. Section 246-34 of the Hawaii Revised Statutes is amended by amending paragraphs (d) and (e) to read as follows:

“(d) Failure of the owner to observe the restrictions on the use, improvement, and maintenance of his land shall cancel the special tax exemption privilege retroactive to the date of the original [petition] dedication, and all differences in the amount of taxes that were paid and those that would have been due from the assessment of the tax exempted portion of his land shall be payable together with interest of five per cent a year 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] twelve consecutive months to use, improve, and maintain the land in the manner requested in the petition or any overt act changing the use for any period. Nothing in this paragraph shall preclude the State from pursuing any other remedy to enforce the covenant on the use of the land.

(e) The director shall prescribe the form of the petition. The petition shall be filed with the director by [March 1] September 1 of any calendar year and shall be approved or disapproved by [June 15] December 15 of such year. If approved, the exemption based upon the use requested in the dedication shall be effective [July 1] January 1, next.”

SECTION 16. Section 246-36 of the Hawaii Revised Statutes is amended in the following respects:

a. By amending subparagraphs (A), (B) and (C) of paragraph (1) to read as follows:

“(A) Property held on [July 1 of] January 1 preceding the tax year under an agreement for its conveyance by the government to private

persons shall be deemed fully taxable, the same as if the conveyance had been made;

- (B) Property held on [July 1 of] January 1 preceding the tax year under a government lease shall be entered in the assessment lists and such tax rolls for that year as fully taxable for the entire tax year, but adjustments of the taxes so assessed may be made as provided in section 246-53, so that such tenants are required to pay only so much of the taxes as is proportionate to the portion of the tax year during which the real property is held or controlled by them;
- (C) Property held under a government lease commencing after [July 1 of] January 1 preceding the tax year or under an agreement for its conveyance or a conveyance by the government, made after [July 1 of] January 1 preceding the tax year, shall be assessed as omitted property as provided in section 246-51, but the taxes thereon shall be prorated so as to require the payment of only so much of the taxes as is proportionate to the remainder of the tax year;"

b. By amending subparagraphs (i) and (ii) of subparagraph (E) of paragraph (1) to read as follows:

- "(i) Property held on [July 1 of] January 1 preceding the tax year under an agreement for the conveyance of the same by the government to private persons shall be deemed fully taxable, the same as if the conveyance had been made, but the assessment thereof shall not impair and shall be so made as to not impair, any right, title, lien, or interest of the United States.
- (ii) Property held under an agreement for the conveyance of the same or a conveyance of the same by the government, made after [July 1 of] January 1 preceding the tax year, shall be assessed as omitted property as provided in section 246-51, but the taxes thereon shall be prorated so as to require the payment of only so much of such taxes as is proportionate to the remainder of the tax year, and in the case of property held under an agreement for the conveyance of the same but not yet conveyed, the assessment thereof shall not impair, and shall be so made as to not impair, any right, title, lien, or interest of the United States."

c. By amending paragraphs (3), (4), and (5) to read as follows:

- "(3) Subject to section 101-39(B), any real property in the possession of the State or any county which is the subject of eminent domain proceedings commenced for the acquisition of the fee simple estate in such land by the State or such county; provided the fact of such possession has been certified to the department of taxation as provided by section 101-36 or 101-38, or is certified not later than [June 30] December 31 preceding the tax year for which such exemption is claimed.
- (4) Real property with respect to which the owner has granted to the State or any county thereof a right of entry and upon which the State or county has entered and taken possession under the authority of the right of entry with intention to acquire the fee simple es-



- tate therein and to devote the real property to public use; provided the State or county shall have, prior to [June 30] December 31 preceding the tax year for which the exemption is claimed, certified to the appropriate tax official the date upon which it took possession;
- (5) Any portion of real property within the area upon which construction of buildings is restricted or prohibited and which is actually rendered useless and of no value to the owners thereof by virtue of any ordinance of any county, establishing setback lines thereon; provided, that in order to secure the exemption the person claiming it shall annually file between [June 15 and June 30] December 15 and December 31 preceding the applicable tax year a sworn written statement with the tax assessor describing the real property in detail and setting forth the facts upon which exemption is claimed, together with a written agreement that in consideration of the exemption from taxes he will not make use of the land in any way whatsoever during the ensuing year. Any person who has secured such exemption who violates the terms of the agreement shall be fined twice the amount of the tax which would be assessed upon the land but for such exemption;"

SECTION 17. Section 246-37 of the Hawaii Revised Statutes is amended by amending paragraph (b) to read as follows:

"(b) The tax shall be assessed to and collected from such lessee as nearly as possible in the same manner and time as the tax assessed to owners of real property, except that the tax shall not become a lien against the property. In case the use or occupancy is in effect on [July 1 of] January 1 preceding the tax year, the lessee shall be assessed for the entire year but adjustments of the tax so assessed shall be made in the event of the termination of the use or occupancy during the year so that the lessee is required to pay only so much of the tax as is proportionate to the portion of the tax year during which the use or occupancy is in effect, and the tax assessor and tax collector of the district in which the property is situated are hereby authorized to remit the tax due for the balance of the tax year. In case the use or occupancy commences after [July 1 of] January 1 preceding the tax year, the lessee shall be assessed for only so much of the tax as is proportionate to the period that the use or occupancy bears to the tax year.

The assessment of the use or occupancy of real property made under this section shall not be included in the aggregate value of taxable realty for the purposes of section 248-2 but each board of supervisors or city council, at the time that it is furnished with information as to the value of taxable real property, shall also be furnished with information as to the assessments made under this section, similarly determined but separately stated.

If a use or occupancy is in effect on [July 1 of] January 1 preceding the tax year, the assessment shall be made and listed for that year and the notice of assessment shall be given to the taxpayer in the manner and at the time prescribed in section 246-43; and when so given, the taxpayer, if he deems himself aggrieved, may appeal as provided in section 246-46; if a use or occupancy commences after [July 1 of] January 1 preceding the tax year or if for

any reason an assessment is omitted for any tax year, the assessment shall be made and listed and notice thereof shall be given in the manner and at the time prescribed in section 246-43, and an appeal from an assessment so made may be taken as provided in section 246-51."

SECTION 18. Section 246-40 of the Hawaii Revised Statutes is amended by amending the first paragraph to read as follows:

**"Sec. 246-40 Returns, made when; form; open to public.** Whenever the department of taxation finds that the filing of returns under this paragraph is advisable for the making of assessments and so orders, the assessor shall give, to the taxpayers of his district during the month of [~~June~~] December, of the year such order is made, public notice (by publication thereof, in English, at least three times on different days during the month, in a newspaper of general circulation in such district, published in the English language) requiring such taxpayers to file with the assessor, on or before [~~July 15~~] January 15 of the succeeding year, returns in the manner and form required by this section. After such publication of notice, every person owning, or having possession, custody, or control of, real property in the district, whether entitled to exemption or not, shall, during the month of [~~July~~] January, file upon forms prescribed by the department and in the manner required by such forms, a return signed as provided in section 231-15 setting forth the description and location of all real property in the district belonging to such person or of which he had possession, custody, or control on [~~July 1~~] January 1, and setting forth the taxpayer's opinion of the fair market value thereof as of such [~~July 1~~] January 1. It shall be sufficient to describe his property by setting forth the location and a brief description in sufficient detail to identify the property."

SECTION 19. Section 246-43 of the Hawaii Revised Statutes is amended to read as follows:

**"Sec. 246-43 Notice of assessments; addresses of persons entitled to notice.** On or before [~~August 31 of~~] March 15 preceding the tax year, the director of taxation shall give notice of the assessment for the tax year against each known owner, by personal delivery to the owner or by mailing to him on or before such date postage prepaid and addressed to him at his last known place of residence or address a written notice identifying the property involved by the tax key and the general class established in accordance with subsection 246-10(d) and setting forth separately the valuation placed upon buildings, and the valuation placed upon all other real property, exclusive of buildings, determined pursuant to section 246-10(a), the exemption, if any, allowed or denied, as the case may be, and the amount of the exemption applied to the buildings and the amount applied to all other real property, exclusive of buildings, and the net taxable value of the buildings and the net taxable value of all other real property, exclusive of the buildings.

In addition to the foregoing, the assessor of each district shall in each year give notice of the assessments in his district for the year by public notice (by publication thereof in English at least three times on different days during

the month of [August] March of such year in a newspaper of general circulation in the district, published in the English language) of a time when (which shall be not less than a period of ten days prior to [August 31 of] March 31 preceding the tax year) and of a place where the records of taxable properties maintained in the district showing all assessments made for the district may be inspected by any person for the purpose of enabling him to ascertain what assessments have been made against him or his property and to confer with the assessor so that any errors may be corrected before the filing of the assessment list.”

SECTION 20. Section 246-44 of the Hawaii Revised Statutes is amended to read as follows:

“**Sec. 246-44 Assessment lists.** On or before [September 30 of] April 19 preceding the tax year the director of taxation shall have prepared from the records of taxable properties maintained in each district a list in triplicate of all assessments made for each district, which list shall be signed and sworn to by the person preparing it. The assessment list shall identify the property assessed by its tax key and shall set forth the general class of the property established in accordance with section 246-10(d), the valuation of buildings and the valuation of all other real property, exclusive of buildings, the amount of exemption allowed on buildings and the amount of exemption allowed on all other real property, exclusive of the buildings, and the net taxable value of the buildings and the net taxable value of all other real property, exclusive of the buildings. The assessment list shall be the lists in accordance with which taxes shall be collected, subject only to change made by any court or other tribunal having jurisdiction, where appeals from assessments have been duly taken and prosecuted to final determination, and subject to section 231-22. There shall be noted upon such lists all appeals taken for the year and the amounts involved in each case. The original of the assessment lists shall be retained by the assessor and a duplicate of the information contained in the list shall be retained by the director. The lists may be made up of a separate sheet or card for each property. The director shall furnish a duplicate list to the county in such form and at such time as will not interfere with the preparation of those records needed for tax collection purposes.”

SECTION 21. Section 246-46 of the Hawaii Revised Statutes is amended as follows:

“**Sec. 246-46 Appeals.** Any taxpayer who may deem himself aggrieved by an assessment made by the assessor or by the assessor’s refusal to allow any exemption, may appeal from the assessment or from such refusal to a board of review or the tax appeal court, on or before [September 25 of] April 9 preceding the tax year, as provided in chapter 232. Where such an appeal is based upon the ground that the assessed value of the real property for tax purposes is excessive, the valuation claimed by the taxpayer in the appeal shall be admissible in evidence, in any subsequent condemnation action involving the property, as an admission that the fair market value of the real property as of the date of assessment is no more than the value arrived at when the assessed value from which the taxpayer appealed is adjusted to one hundred per

cent fair market value; provided that such evidence shall not in any way affect the right of the taxpayer to any severance damages to which he may be entitled.

The chairman of the board of supervisors or the board of supervisors of any county or the mayor or the city council of the city and county of Honolulu may appeal any assessment of real property located within the respective county which, in his or its 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 the exemption is not authorized by law. The appeal shall be taken to a board of review or the tax appeal court on or before [September 25 of] April 9 preceding the tax 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 chapter 232.

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

SECTION 22. Section 246-48 of the Hawaii Revised Statutes is amended to read as follows:

“Sec. 246-48 Taxes; due when; installment payments; billing and delinquent dates. All real property taxes shall be due and payable on and after July 1 of each tax year and the payment thereof shall be determined in the following manner:

All known persons assessed for real property taxes shall be billed not later than the billing date designated in the schedule listed herein; subject however, to the limitations heretofore provided in section 246-47. Each taxpayer shall pay the real property taxes due from him, for the year in which the taxes are assessed, in two equal installments on or before the dates designated [for the group to which his parcel is assigned. The director of taxation shall, in each year, arrange the total parcels of real property in each taxation district into two groups designated as Groups I and II. He shall then assign each parcel to one of these groups in such a manner as to insure that approximately 25 percent of the estimated real property taxes for the current year are due on each of the four payment dates designated] in the following schedule:

	Fiscal Year Schedule		
	(Billing Date)	(1st Payment)	(2nd Payment)
[Group I	November 5	November 20	May 20
Group II	November 15	November 30	May 30]
	<u>July 20</u>	<u>August 20</u>	<u>February 20</u>

All such taxes due on the first payment date of such year from each taxpayer [in each respective group], which remain unpaid after the date, shall thereupon become delinquent, and the balance of such taxes due on the second payment date of such year from each taxpayer [in each respective group], which remain unpaid after the date, shall thereupon become delinquent.”

SECTION 23. Section 246-52 of the Hawaii Revised Statutes is amended to read as follows:

**“Sec. 246-52 Reassessments.** Any property assessed to a person or persons who did not have record title upon [July 1 of] January 1 preceding the tax year in which the assessment is made, may be, and in any case where the attempted assessment of property is void or so defective as to create no real property tax lien on the property and the taxes have not been fully collected the property shall be, assessed as omitted property in the manner provided by section 246-51.”

SECTION 24. Section 246-55 of the Hawaii Revised Statutes is amended by amending the first paragraph to read as follows:

**“Sec. 246-55 Tax liens; co-owners’ rights; foreclosures; limitation.** Every tax due upon real property, as defined by section 246-1, shall be a paramount lien upon the property assessed, which lien shall attach as of [July 1 in] January 1 preceding each tax year and shall continue for six years. If proceedings for the enforcement or foreclosure of the lien are brought within the applicable period hereinabove designated, the lien shall continue until the termination of the proceedings or the completion of such sale.”

SECTION 25. Section 248-2 of the Hawaii Revised Statutes is amended in the following respects:

a. By amending paragraph (b) to read as follows:

“(b) The board of supervisors or the city council of each county shall determine the tax rates for buildings and for all other real property, exclusive of buildings; for each class of property established in accordance with subsection 246-10(d); provided that the board or council shall determine a single tax rate to be applied to net taxable real property, for each class of property within category I. Such rates shall be determined for each tax year, by resolution adopted in the manner provided by law relating to resolutions involving the expenditure of public money; provided that after introduction of the resolution and before final action on the same, a public hearing shall be held thereon after publication of notice thereof in a newspaper of general circulation in the county in which the rates are to be fixed, which notice shall be published not less than ten days before the hearing and shall set forth the tax rates under consideration by the board or council; and provided further that upon the final reading, subsequent to the public hearing of any resolution for the adoption of such rates, the board of supervisors or the city council may fix such rates at an amount differing from that originally proposed or under consideration when the notice of public hearing was published. The resolution fixing the tax rates in each county shall be adopted on or before [October 26 of] June 20 preceding the tax year for which property tax revenues are to be raised.”

b. By amending paragraph (f) to read as follows:

“(f) The director of taxation shall on or before [October 5 of] May 1 preceding the tax year furnish each board and council with a calculation certified by him as being as nearly accurate as may be, of the net taxable real

property within the county, separately stated for each class established in accordance with subsection 246-10(d) for net taxable lands and for net taxable buildings plus such additional data relating to the property tax base as may be necessary.”

SECTION 26. Section 154-2 of the Hawaii Revised Statutes is amended to read as follows:

“**Sec. 154-2 Eligibility; application.** The owner of any property which is suitable for the raising of merchantable fruits or nuts having a normal period of development from the initial time of planting to the first harvest of not less than three years and which contains an area sufficient to make the undertaking economically feasible may apply to the board of agriculture for the classification of his property as orchard property.

The board shall prescribe the form of application. The application shall be filed with the board by [January 1] July 1 of any calendar year.”

SECTION 27. Section 154-3 of the Hawaii Revised Statutes is amended by amending the first paragraph to read as follows:

“**Sec. 154-3 Classification, appeal.** Upon a finding by the board of agriculture that the property described in the application is eligible for classification as orchard property, the board shall, on or before [March 1] September 1 immediately following the date of filing of the application, notify the department of taxation in writing of its finding. Within seventy-five days after receipt of the notification, the department of taxation shall make a finding of fact as to the highest and best use of the property and shall inform the board of its finding in writing. The finding shall be based upon all available information on soils, climate, land use trends, use of surrounding similar lands, and other criteria as may be appropriate and shall specify the orchard crop, if any, which is best suited for the property.”

SECTION 28. Section 154-5 of the Hawaii Revised Statutes is amended to read as follows:

“**Sec. 154-5 Exemption from real property tax.** Orchard property, during the period of such classification, shall be exempt from real property taxes set forth in chapter 246; provided that this exemption shall take effect as of [July 1 of] January 1 preceding the tax year following the execution of the agreement provided in section 154-4 and shall in any event terminate on [June 30] December 31 of the [tax] year of expiration of the agreement.”

SECTION 29. Section 186-4 of the Hawaii Revised Statutes is amended by amending the first paragraph to read as follows:

“**Sec. 186-4 Classification.** If the board of land and natural resources finds that the property identified in the application is suitable for the raising of trees of commercial species, in quantity sufficient to establish a business in the sale thereof, the board shall notify the department of taxation, in writing and by [March 1] September 1, of its finding. Then the department of taxation shall, by [May 15] November 15, make a finding of fact as to the highest and best use of the property and shall inform the board of its findings in writ-

ing. The determination as to the highest and best use of the property shall be based upon all available information on soils, climate, land use trends, watershed values, present use of surrounding similar lands, and other criteria as may be appropriate.”

SECTION 30. Section 186-7 of the Hawaii Revised Statutes is amended to read as follows:

“**Sec. 186-7 Exemption from real property tax.** Any property classified as tree farm property by the board of land and natural resources and the department of taxation shall not, as long as the agreement described in section 186-5 is in effect, be subject to the real property tax set forth in chapter 246 provided that this exemption shall take effect as of [July 1] January 1 of the year following the execution of the agreement.”

SECTION 31. Section 232-4 of the Hawaii Revised Statutes is amended to read as follows:

“**Sec. 232-4 Second appeal.** In every case in which a taxpayer appeals a real property tax assessment to a board of review or to a tax appeal court and there is pending an appeal of the assessment, the taxpayer shall not be required to file a notice of the second appeal; provided the first appeal has not been decided prior to [September 25 of] April 9 preceding the tax year of the second appeal; and provided further the assessor gives notice that the tax assessment has not been changed from the assessment which is the subject of the appeal.”

SECTION 32. Section 232-7 of the Hawaii Revised Statutes is amended in the following respect:

a. By amending paragraph (b) to read as follows:

“(b) Each board shall hold public meetings at some central location in its taxation district, commencing not later than [September 25] April 9 of each year and shall hear, as speedily as possible, all appeals presented for each year. Each board shall have the power and authority to decide all questions of fact and all questions of law, excepting questions involving the Constitution or laws of the United States, necessary to the determination of the objections raised by the taxpayer or the county in the notice of appeal; provided that no board shall have power to determine or declare an assessment illegal or void. Without prejudice to the generality of the foregoing, each board shall have power to allow or disallow exemptions pursuant to law whether or not previously allowed or disallowed by the assessor and to increase or lower any assessment.”

b. By amending paragraph (d) to read as follows:

“(d) Upon completion of its review of the property tax appeals for the current year, the board shall compile and submit to the governor, and shall file with the assessor for the use of the public, a copy of a report covering such features of its work as, in the opinion of the board, will be useful in attaining the objectives set forth in chapter 246. In this report the board shall additionally note instances in which, in the opinion of the board, the assessor, in the application of the methods selected by him, erred as to a particular property or

particular properties not brought before the board by any appeal, whether the error is deemed to have been by way of underassessment or overassessment. Before commencing this phase of its work the board shall publish, during the first week of [March] September, a notice specifying a period of at least ten days within which complaints may be filed by any taxpayer or county. Each complaint shall be in writing, shall identify the particular property involved, shall state the valuation claimed by the taxpayer or county and the grounds of objection to the assessment, and shall be filed with the assessor who shall transmit the same to the board. Not earlier than one week after the close of the period allowed for filing complaints the board shall hear the same, after first giving reasonable notice of the hearing to all interested taxpayers, the county, and the assessor. Like notice and hearing shall be given in order for the board to include in its report any other property not brought before it by an appeal. The board may proceed by districts designated by their tax map designation, and may from time to time publish the notice above provided for as the work proceeds by districts.”

SECTION 33. Section 239-3 of the Hawaii Revised Statutes is amended to read as follows:

“**Sec. 239-3 Exemption from real property taxes.** In order to secure under this chapter an exemption of real property from the taxes imposed by chapter 246, a public utility shall annually file with the tax assessor on or before [June 30] December 31 preceding the tax year, a return of such property in such form as shall be prescribed by the director, setting forth its claim to the exemption. The claim may include real property under lease to the public utility, under which lease the public utility is required to pay the taxes upon the property, and the claim to exemption shall be determined the same as if the public utility were the owner of the property.”

SECTION 34. 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 35. This Act shall take effect on January 1, 1977, except that the date for the second installment payment shall remain in effect through May, 1977.

(Approved May 30, 1975.)