

A Bill for an Act Relating to Lands Dedicated for Residential Use.

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

SECTION 1. Section 246-12.3, Hawaii Revised Statutes is amended to read:

“Sec. 246-12.3 Certain lands dedicated for residential use. (a) The term “owner” as used in this section means a person 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 within a hotel, apartment, resort, commercial, or industrial 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 limited to a parcel used only for single family dwelling residential use, (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 use 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 dwelling residential use 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 single family dwelling residential use 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, automatically renewable thereafter for additional periods of ten years subject to cancellation by either the owner or the director of taxation.

(e) Failure of the owner to observe the restrictions on the use of his land or the sale of the property shall cancel the special tax assessment privilege retroactive to the date of the [petition,] dedication, or the latest renewal-ten-year period, 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 ten 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, or the sale of the real property. Nothing in this subsection shall preclude the State from pursuing any other remedy to enforce the covenant on the use of the land.

The additional taxes and penalties, due and owing as a result of failure to use or any other breach of the dedication shall be a paramount lien upon the property pursuant to section 246-55.

(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.

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

SECTION 2. Sections 246-12.4 and 246-12.5, Hawaii Revised Statutes, are repealed.

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes may exclude the brackets, the bracketed material, and the underscoring. In making the deletions allowed by this section, the revisor shall retain the amendments made by Act 157, Session Laws of Hawaii 1975. The intent of this Act is not to repeal or affect Act 157.*

*Edited accordingly.

[Revisor's note. Underscored matter is substituted for bracketed matter, effective January 1, 1977. L 1975, Act 157, §§7, 35.]

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SECTION 4. This Act shall be effective for taxable years beginning after June 30, 1976.

(Approved June 1, 1976.)