

COUNCIL OF THE COUNTY OF MAUI
BUDGET AND FINANCE COMMITTEE

March 15, 2013

Committee
Report No. _____

Honorable Chair and Members
of the County Council
County of Maui
Wailuku, Maui, Hawaii

Chair and Members:

Your Budget and Finance Committee, having met on February 12, 2013, makes reference to County Communication 13-56, from Councilmember Mike White, transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 3.48, ARTICLE XII, MAUI COUNTY CODE, BY REPEALING SECTION 3.48.780, MAUI COUNTY CODE, PERTAINING TO CIRCUIT BREAKER CREDIT, AND ESTABLISHING A NEW ARTICLE XIII, MAUI COUNTY CODE, PERTAINING TO CIRCUIT BREAKER CREDIT".

The purposes of the proposed bill are to amend the criteria that qualify a taxpayer for a circuit breaker tax credit and facilitate the Department of Finance's administration of the credit.

The Chair of your Committee transmitted a revised proposed bill entitled "A BILL FOR AN ORDINANCE REPEALING SECTION 3.48.780, MAUI COUNTY CODE, PERTAINING TO CIRCUIT BREAKER CREDIT, AND ESTABLISHING A NEW ARTICLE XIII, MAUI COUNTY CODE, PERTAINING TO CIRCUIT BREAKER TAX CREDIT". The revised proposed bill incorporates nonsubstantive revisions for clarity and readability, and defines "income" using adjusted gross income, rather than total income.

When the circuit breaker tax credit was originally established, its primary purpose was to protect landowners from being forced off their land because of their inability to pay real property taxes due to escalating land values. The revised proposed bill is intended to update the circuit breaker tax credit in a manner that would increase the likelihood the credit will benefit the homeowners it was intended to assist.

Your Committee notes that proposed Section 3.48.810 provides the criteria that must be met to qualify for the circuit breaker tax credit. The adjusted gross income of all titleholders who have an ownership interest in the property would be considered in determining whether a homeowner may qualify for the circuit breaker tax credit. Households whose combined income exceeds \$100,000 would not qualify. In addition,

COUNCIL OF THE COUNTY OF MAUI
BUDGET AND FINANCE COMMITTEE

Page 2

**Committee
Report No.** _____

to qualify, members of the household cannot have an ownership interest in any other real property, the homeowner's gross building assessed value cannot be greater than \$400,000, and real property taxes on the property must not be delinquent. The proposal limits the credit to \$5,000.

A representative from the Department of Finance explained some of the potential impacts of the proposed changes to the criteria for the circuit breaker tax credit. The Department provided examples of properties currently receiving the credit, and historical statistics for recipients of the circuit breaker tax credit.

Another representative from the Department of Finance requested that your Committee consider revising proposed Subsections 3.48.810(C) and (G), to clarify that these criteria must be met not only at the time of application, but also throughout the tax year for which the credit applies. Thus, the restriction on other ownership interests in real property and the requirement that a homeowner be current on property taxes would apply on an ongoing basis.

Your Committee voted to revise proposed Subsections 3.48.810(C) and (G) by extending the time frame for which those criteria would apply, as recommended by the Department of Finance.

Your Committee also voted to revise the definition of "household income" by incorporating reference to adjusted gross income, as defined by the Internal Revenue Service, rendering the definition of "income" unnecessary. Your Committee, therefore, voted to delete the definition of "income".

Your Committee noted many residents may not understand the term "circuit breaker tax credit" refers to a real property tax credit program and, therefore, may not be taking advantage of a credit for which they qualify. Your Committee, therefore, recommended that the matter of renaming the circuit breaker tax credit be referred to your Committee.

Your Committee voted 9-0 to recommend passage of the revised proposed bill on first reading, referral of the matter relating to renaming the circuit breaker tax credit, and filing of the communication. Committee Chair White, Vice-Chair Hokama, and members Baisa, Carroll, Cochran, Couch, Crivello, Guzman, and Victorino voted "aye".

COUNCIL OF THE COUNTY OF MAUI
BUDGET AND FINANCE COMMITTEE

Page 3


**Committee
Report No.** _____

Your Committee is in receipt of a revised proposed bill, approved as to form and legality by the Department of the Corporation Counsel, incorporating your Committee's recommended revisions.

Your Budget and Finance Committee RECOMMENDS the following:

1. That Bill _____ (2013), as revised herein and attached hereto, entitled "A BILL FOR AN ORDINANCE REPEALING SECTION 3.48.780, MAUI COUNTY CODE, PERTAINING TO CIRCUIT BREAKER CREDIT, AND ESTABLISHING A NEW ARTICLE XIII, MAUI COUNTY CODE, PERTAINING TO CIRCUIT BREAKER TAX CREDIT", be PASSED ON FIRST READING and be ORDERED TO PRINT;
2. That the matter of renaming the circuit breaker tax credit be REFERRED to your Budget and Finance Committee; and
3. That County Communication 13-56 be FILED.

This report is submitted in accordance with Rule 8 of the Rules of the Council.



MIKE WHITE, Chair

ORDINANCE NO. _____

BILL NO. _____ (2013)

A BILL FOR AN ORDINANCE REPEALING SECTION 3.48.780,
MAUI COUNTY CODE, PERTAINING TO CIRCUIT BREAKER CREDIT,
AND ESTABLISHING A NEW ARTICLE XIII, MAUI COUNTY CODE,
PERTAINING TO CIRCUIT BREAKER TAX CREDIT

BE IT ORDAINED BY THE PEOPLE OF THE COUNTY OF MAUI:

SECTION 1. Section 3.48.780, Maui County Code, is repealed.

["3.48.780 Circuit breaker credit. A. For purposes of this section:

"Homeowner" means a person who filed and was granted a home exemption claim under section 3.48.450.

"Homeowner property" means the property with regard to which a homeowner filed and was granted a home exemption claim under section 3.48.450, and shall include: (1) the entire tax map key parcel the property is located on; (2) the principal home of the homeowner located on such parcel; and (3) all other buildings, structures, fences, and improvements located on such parcel.

"Household" means a homeowner and the spouse of such homeowner.

"Household income" means the total income of a household for the year preceding the year in which an application for credit is submitted pursuant to this section.

"Income" means adjusted gross income as defined by the Internal Revenue Code of 1986, as amended.

B. Upon proper application, a homeowner shall be entitled to a credit in the amount that the real property tax assessed on the homeowner property exceeds two and one-half per cent of household income. For the tax year beginning July 1, 2009 and thereafter, a homeowner shall be entitled to a credit in the amount that the real property tax assessed on the homeowner property exceeds two per cent of household income. The credit shall be applied in equal pro rata amounts against each tax payment due for the tax year following the year in which an application for credit is submitted and granted. No credits shall be applied if taxes on the property are delinquent.

C. No credit shall be granted pursuant to this section unless an application for credit is filed with the department of finance. Applications shall be submitted during the period beginning August 1 and ending December 31 immediately preceding the tax year for which a credit is claimed. The director shall prescribe the form of application. An applicant required under federal or state law to

file federal or state income tax returns for the year preceding the year in which an application is submitted shall submit with the application copies of such returns. If copies of such income tax returns are not submitted or if taxes on the property are delinquent, the director shall deny the application.

D. Credits granted pursuant to this section shall not be transferable to other persons or properties.

E. Applications for credit to be applied for the tax year beginning July 1, 1996 and ending June 30, 1997 shall be filed with the department of finance during the period beginning November 1, 1995 and ending December 1, 1995.

F. The director may adopt rules and prescribe forms to implement this section."]

SECTION 2. Chapter 3.48, Maui County Code, is amended by adding a new article to be appropriately designated and to read as follows:

"Article XIII. Circuit Breaker Tax Credit

Sections:

<u>3.48.800</u>	<u>Purpose.</u>
<u>3.48.805</u>	<u>Definitions.</u>
<u>3.48.810</u>	<u>Circuit breaker tax credit established.</u>
<u>3.48.815</u>	<u>Application for circuit breaker tax credit.</u>
<u>3.48.820</u>	<u>Administration.</u>
<u>3.48.825</u>	<u>Penalties and revocation of credit.</u>

3.48.800 Purpose. The Council finds that tax relief for the citizenry of Maui County is a compelling County interest. The purpose of the circuit breaker tax credit is to provide real property tax relief to Maui County residents who qualify for the home exemption. The credit will limit the real property tax of homeowners to a percentage of the total income of the household, providing relief to full-time Maui County residents whose properties have been affected by significant valuation increases over the past years.

3.48.805 Definitions. Wherever used in this article, the following definitions shall apply:

"Circuit breaker tax credit" means the tax credit established pursuant to section 3.48.810.

"Homeowner" means a person who has been granted a home exemption claim under section 3.48.450.

"Homeowner property" means the real property for which a homeowner has been granted the home exemption claim.

"Household" means a homeowner, spouse of the homeowner, and any titleholders.

"Household income" means the adjusted gross income, as defined by the Internal Revenue Service, of a household for the year preceding the tax year in which an application for circuit breaker tax credit is filed.

"Titleholder" means any person or entity listed on the deed or other legal instrument of record establishing an ownership interest in the property. The term includes corporations and other business entities, but does not include mortgage lenders.

3.48.810 Circuit breaker tax credit established. Upon proper application, a homeowner shall be entitled to a credit, not to exceed \$5,000, equal to the amount by which the real property taxes calculated for the homeowner property for the prior tax year exceeds two per cent of household income, provided:

A. The homeowner has been granted a home exemption on the homeowner property for at least five consecutive tax years, including the tax year immediately preceding the one for which the application for circuit breaker tax credit is filed;

B. Household income does not exceed \$100,000;

C. No member of the household, as defined in section 3.48.805, has an ownership interest in any other real property from the date the application for circuit breaker tax credit is filed and throughout the tax year for which the credit applies;

D. The homeowner is in compliance with section 3.48.820;

E. The credit shall only apply for the succeeding tax year, with no carryover credit allowed;

F. The homeowner's gross building assessed value is not greater than \$400,000; and

G. Taxes on the property are not delinquent from the date the application is filed and throughout the tax year for which the credit applies.

3.48.815 Application for circuit breaker tax credit. The application for circuit breaker tax credit shall be in a form prescribed by the director. The homeowner shall file the application during the application period beginning August 1 and ending December 31 immediately preceding the tax year for which the circuit breaker tax credit is claimed, for a credit upon taxes due in the immediately succeeding tax year. The homeowner shall certify that:

A. The requirements of section 3.48.810 have been read and understood;

B. The homeowner property shall continue to qualify for the home exemption throughout the succeeding tax year; and

C. Any information provided in support of the application is true and correct.

3.48.820 Administration. A. The director shall determine whether the homeowner qualifies for the circuit breaker tax credit upon review and verification of each completed application. To verify information in the application, the director shall require proof of household income, as defined in section 3.48.805. The director shall require that each member of the household provide copies of: (1) a tax return

transcript from the Internal Revenue Service; (2) a tax account transcript, if applicable, from the Internal Revenue Service; and (3) any accompanying forms and schedules as the director may require to verify the transcripts.

The applicant may refuse to provide the information or authorization required by the director. Failure to provide such information or authorization shall result in the denial of the application. Notwithstanding any provision to the contrary, there shall be no appeal from the director's decision to deny an application as a result of the applicant's failure to provide the required information or authorization.

B. The director shall determine if the homeowner qualifies for the circuit breaker tax credit on or before April 30 preceding the tax year.

C. If an application for the circuit breaker tax credit is granted, the director shall apply the credit to the real property tax bills issued pursuant to sections 3.48.190 and 3.48.195, apportioned in equal parts between the two installments.

D. A circuit breaker tax credit shall not be transferable to another person or property.

E. The director may adopt rules and prescribe forms to implement this article.

3.48.825 Penalties and revocation of credit. A. A person shall be subject to a fine of not more than \$2,000 and be liable for any outstanding real property taxes, interest, and penalties, pursuant to section 3.48.220, if that person:

1. Files a fraudulent application for circuit breaker tax credit or attests to any false statement in connection with that application, with the intent to defraud the County or evade the payment of real property taxes; or

2. In any manner intentionally deceives or attempts to deceive the County in obtaining the circuit breaker tax credit.

B. The circuit breaker tax credit shall be revoked if, during any tax year for which the homeowner has been granted the credit:

1. Title to the property is transferred to a new owner by gift, sale, devise, operation of law, or otherwise, except when title is transferred to a qualified surviving spouse; or

2. The requirements of section 3.48.810 are no longer satisfied.

C. The homeowner shall be subject to a fine of \$200 when the credit is revoked pursuant to subsection 3.48.825(B)(2) and the homeowner failed to notify the County within thirty days that the requirements of section 3.48.810 are no longer satisfied."

SECTION 3. Material to be repealed is bracketed. New material is underscored. In printing this bill, the County Clerk need not include the brackets, the bracketed material, or the underscoring.

SECTION 4. This ordinance shall take effect on July 1, 2013.

APPROVED AS TO FORM AND LEGALITY:



JEFFREY UEOKA

Deputy Corporation Counsel

County of Maui

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