

ORDINANCE NO. \_\_\_\_\_

BILL NO. \_\_\_\_\_ (2014)

A BILL FOR AN ORDINANCE TO PRESERVE FAMILY FARMS BY DEFERRING A  
PORTION OF REAL PROPERTY TAX

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

SECTION 1. The purpose of this ordinance is to allow families to preserve farms on agricultural lands by deferring roll back taxes when the land is subdivided into four divisions or less and transferred to family members. As established on page 61 of the Countywide Policy Plan, adopted by Ordinance 3732 (2010), it is the policy of the County of Maui is to "support a tax structure that is conducive to the growth of the agricultural economy."

SECTION 2. Section 3.48.325, Maui County Code, is amended to read as follows:

**"3.48.325 Deferred or roll back tax [-Change in classification].**

A. A deferred or roll back tax shall be imposed on the owner of agricultural lands assessed according to their agricultural use as provided in section 3.48.290 [in the event of a change in] when the land use classification is changed by the authorized state agency to urban or rural districts or the land is subdivided into parcels of five acres or less [; provided], ~~except~~ that the tax shall not apply if [the]:

1. The owner dedicates [his] the land as provided in section 3.48.350 within three years from the date of the change in land use classification and fulfills all of the requirements of the dedication; or

2. The land is subdivided into four divisions or less and transferred, in whole or part, only to any of the following persons who are related to the transferor by blood, adoption or marriage: parents, spouse, children, siblings, grandchildren, or great-grandchildren.

B. If ownership of a parcel that is part of a subdivision subject to subsection (A)(2) is subsequently transferred to any person who is not a family member as described by that section, the pro rata deferred tax for the parcel shall be imposed on the transferor. Within one month following the date of the transfer, the transferor shall notify the director of the transfer. The deferred tax shall commence from the date the transfer is made, retroactive to the date the assessment was made pursuant to section 3.48.290, but for not more than five years.

C. Except as provided in subsection (B):

1. The deferred tax shall be due and payable at the end of the third year following the change in land use classification, provided that the land shall continue to be used for agriculture during this period.

2. [A.] The total amount of deferred taxes shall be computed commencing at the end of the third year following the change in classification where the land has continuously been used for agriculture; provided, however, that where the land has been put to a higher urban or rural use prior to the expiration of the three-year period, the amount of deferred taxes shall be computed commencing at the end of the year in which the land has been put to such higher urban or rural use, and shall be retroactive to the date the assessment was made pursuant to section 3.48.290, provided the retroactive period shall not exceed ten years.

3. Where the owner has subdivided [his] the land into parcels of five acres or less and the subdivision is not subject to subsection (A)(2), the deferred tax shall commence from the date the conversion was made retroactive to the date the assessment was made pursuant to section 3.48.290, but for not more than ten years.

[B.] D. [Any] With regard to a deferral resulting from a change in land use classification, any other provisions to the contrary notwithstanding, the deferred or roll back tax shall apply only if [a] the change in land use classification has been made as a result of a petition by any property owner or lessee and shall apply only upon lands owned by the owner or lessee who has petitioned for the change in classification. The deferred or roll back tax shall not apply to lands owned by any [other] owner or lessee who has not petitioned for the change in classification, provided the owner or lessee shall continue to use the land in its agricultural use for a period of three years after the change in land use classification is made, or where the change in classification is initiated by any governmental agency or instrumentality.

[C.] E. The deferred or roll back tax shall be based on the difference in assessed value between the highest and best use and the agricultural use of the land, at the tax rate applicable for the respective years.

1. Where the owner subdivides [his] land into parcels of five acres or less, the deferred tax shall be due and payable within sixty days of such conversion, subject to a ten [percent] per cent per year penalty.

2. Where the owner changes the land use classification, the deferred tax shall be due and payable within three years of such conversion, except that where the land has been put to its higher urban or rural use, the tax shall be due and payable at the end of the year in which the land has been put to such higher use, subject to a ten [percent] per cent per year penalty.

3. Where the owner of a parcel that is part of a subdivision subject to subsection (A)(2) subsequently transfers the parcel to any person who is not a family member as described by that section, the deferred tax shall be due and payable within one year of the property transfer.

[D.] F. Any other provisions to the contrary notwithstanding, except as provided in subsection B, the land shall continue to be assessed in its agricultural use as provided in section 3.48.290 until the land is put to its higher urban or rural use for a period of

three years following the change in classification, whichever is shorter; provided, that for purposes of determining the amount of deferred taxes to be assessed to the owner or lessee, the retroactive period shall include the period during which the land is continued to be assessed in its agricultural use following the change in classification. Any tax due and owing shall attach to the land as a paramount lien in favor of the county as provided for by this chapter.”

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 upon its approval.

APPROVED AS TO FORM AND LEGALITY:

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Jeffrey Ueoka  
Department of the Corporation Counsel  
County of Maui

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