

**COUNCIL OF THE COUNTY OF MAUI**

# **BUDGET AND FINANCE COMMITTEE**

April 7, 2015

**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 March 17, 2015, makes reference to County Communication 15-39, from Councilmember Riki Hokama, transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 3.48, MAUI COUNTY CODE, RELATING TO REAL PROPERTY TAX".

The purpose of the proposed bill is to require separated married persons who wish to qualify for homeowner status in different residences to provide a copy of a separation decree and to each file separate income tax returns as a resident of the State of Hawaii.

Your Committee notes that a husband and wife who own separate homes are currently entitled to the homeowner tax rate on each parcel and a home exemption to be apportioned between their homes if they are living separate and apart. The proposed bill will strengthen the application of the real property tax provision by requiring married persons to provide proof of legal separation.

A representative from the Department of Finance informed your Committee the proposed bill will address the rising occurrences of married persons asserting they are living separate and apart as the basis for splitting a home exemption and being afforded the homeowner tax rate for both properties.

The representative further informed your Committee of a problematic situation where one spouse is living and working on the Mainland, while the other spouse is unemployed and residing in Maui County. They file a Federal income tax return as "married filing jointly" on the Mainland. In that circumstance, the Real Property Tax Review Board has favored awarding the couple a home exemption even though

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they are not filing taxes in the State of Hawaii. The proposed bill will provide new guidance to the Real Property Tax Review Board in handling such situations.

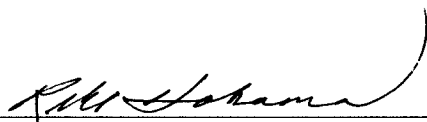
Your Committee voted 7-0 to recommend passage of the proposed bill incorporating your Committee's revisions on first reading and filing of the communication. Committee Chair Hokama, Vice-Chair White, and members Baisa, Carroll, Cochran, Crivello, and Victorino voted "aye". Committee members Couch and Guzman were excused.

Your Committee is in receipt of a revised proposed bill, entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 3.48, MAUI COUNTY CODE, RELATING TO REAL PROPERTY TAX HOME EXEMPTION FOR MARRIED PERSONS LIVING SEPARATE AND APART", approved as to form and legality by the Department of the Corporation Counsel, incorporating your Committee's revisions and nonsubstantive revisions.

Your Budget and Finance Committee RECOMMENDS the following:

1. That Bill \_\_\_\_\_ (2015), as revised herein and attached hereto, entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 3.48, MAUI COUNTY CODE, RELATING TO REAL PROPERTY TAX HOME EXEMPTION FOR MARRIED PERSONS LIVING SEPARATE AND APART", be PASSED ON FIRST READING and be ORDERED TO PRINT; and
2. That County Communication 15-39 be FILED.

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

  
\_\_\_\_\_  
RIKI HOKAMA, Chair

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

BILL NO. \_\_\_\_\_ (2015)

A BILL FOR AN ORDINANCE AMENDING CHAPTER 3.48,  
MAUI COUNTY CODE, RELATING TO REAL PROPERTY TAX HOME  
EXEMPTION FOR MARRIED PERSONS LIVING SEPARATE AND APART

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

SECTION 1. Section 3.48.450, Maui County Code, is amended by  
amending subsection B to read as follows:

"B. The provisions of subsection A [of this section] shall  
apply, provided, as follows:

1. That no such exemption shall be allowed to any corporation, copartnership, or company;
2. That the exemption shall not be allowed on more than one home for any one taxpayer;
3. That where the taxpayer has acquired a home by a deed made on or after July 1, 1951, the deed shall have been recorded on or before December 31 immediately preceding the year for which the exemption is claimed;
4. That [a husband and wife] married persons shall not be permitted an exemption of separate homes [owned by each of them], unless they are living separate and apart[;], and provide a copy of a decree of separation from the appropriate court having jurisdiction that shall be in effect prior to the effective date of the exemption; and each file a separate income tax return as a resident of the State of Hawaii with a reported address in the County the year prior to the effective date of the exemption; in which case they shall be entitled to one exemption, to be apportioned equally between each of their respective homes [in proportion to the value thereof];
5. That a person living on premises, a portion of which is used for commercial purposes, shall not be entitled to an exemption with respect to such portion, but shall be entitled to an exemption with respect to the portion thereof used exclusively as a home; and
6. That no such exemption shall be allowed for any real property that is classified as "commercialized residential."

SECTION 2. Section 3.48.470, Maui County Code, is amended by amending subsection A to read as follows:

"A. For the purpose of sections 3.48.450 through [3.48.465] 3.48.460 "home" includes:

1. The entire homestead when it is occupied by the taxpayer as such;

2. A residential building on land held by the lessee or [his] the lessee's 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] the lessee's 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 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 multi-unit 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 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] married persons who own a cooperative apartment unit [owns] own separate cooperative apartment units or separate homes owned by each of them, unless they are living separate and apart[.]; and provide a copy of a decree of separation from the appropriate court having jurisdiction that shall be in effect prior to the effective date of the exemption; and each file a separate income tax return as a resident of the State of Hawaii with a reported address in the County the year prior to the effective date of the exemption, in which case the owner of the cooperative apartment or premises shall be entitled to one-half of one exemption[.].

4. An apartment in a multi-unit apartment building which is occupied by the owner of the entire apartment building as [his] the owner's residence; provided, that:

a. The exemption shall not be allowed in respect to any apartment owner who claims any other home exemption[.]; and

b. [A husband or wife owner of] Married person who own the aforementioned type of apartment shall not be [allowed a full] permitted an exemption [where the husband and wife are living separate and apart and each is maintaining an apartment or home entitled to an exemption,] of separate homes unless they are living separate and apart; and provide a copy of a decree of separation from the appropriate court having jurisdiction that shall be in effect prior to the effective date of the exemption; and each file a separate income tax return as a resident of the State of Hawaii with a reported address in the County the year prior to the effective date of the exemption, in which case they shall be entitled to one exemption, to be apportioned equally between each of their respective homes [in proportion to the value thereof;].

5. That portion of a residential duplex and that portion of land appurtenant to the duplex which are occupied by the owner of the duplex and land as [his] the owner's residence; provided, that:

a. The exemption shall not be allowed in respect to any duplex owner who claims any other home exemption[.];

b. The portion of the appurtenant land shall not be exempt unless owned in fee by the duplex owner[.]; and

c. [A husband or wife owner of] Married persons who own the duplex shall not be [allowed a full] permitted an exemption [where the husband and wife are living separate and apart and each is maintaining a duplex or home entitled to an exemption,] for separate homes unless they are living separate and apart; and provide a copy of a decree of separation from the appropriate court having jurisdiction that shall be in effect prior to the effective date of the exemption; and each file a separate income tax returns as a resident of the State of Hawaii with a reported address in the County the year prior to the effective date of the exemption, in which case they shall be entitled to one exemption to be apportioned equally between each of their respect homes [in proportion to the value thereof;].

6. Premises held under an agreement to purchase the same for a home, where the agreement has been duly

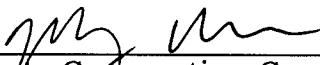
entered into and recorded prior to January 1 preceding the tax year for which the exemption is claimed, whereby the purchaser agrees to pay all taxes while purchasing the premises;

7. An apartment which is a living unit, held under a lease by the tenant thereof, is 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] the lessee's surviving spouse and which apartment is used as a residence by the lessee and [his or her] the lessee's surviving spouse, and where the apartment unit reverts back to the lessor upon the death of the lessee and [his or her] the lessee's surviving spouse, and where the lessee has been duly entered into and recorded prior to 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 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, 2015.

APPROVED AS TO FORM  
AND LEGALITY:

  
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Deputy Corporation Counsel  
County of Maui  
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