

COUNCIL OF THE COUNTY OF MAUI

BUDGET AND FINANCE COMMITTEE

November 5, 2004

Committee
Report No. 04-188

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 October 12, 2004, makes reference to County Communication No. 04-150, from the Chair of your Budget and Finance Committee, referring the matter relating to the circuit breaker credit (Section 3.48.780, Maui County Code).

Your Committee notes that a circuit breaker credit is available to any homeowner, regardless of the homeowner's age. Any homeowner is entitled to a circuit breaker credit in the amount that the real property tax assessed on the homeowner's property exceeds 3 percent of household income.

Your Committee further notes that it previously reported on this matter through Committee Report No. 04-124, which recommended that a proposed bill entitled "A BILL FOR AN ORDINANCE RELATING TO THE REAL PROPERTY TAX CIRCUIT BREAKER CREDIT" be passed on first reading and be ordered to print. At its meeting of August 24, 2004, the Council adopted Committee Report No. 04-124 (Ordinance No. 3200). Ordinance No. 3200 extended the time period for submitting an application for the circuit breaker credit from "August 1st and ending September 30th" to "August 1st and ending December 31st".

By correspondence dated August 25, 2004, your Committee's Chair transmitted copies of correspondence dated April 21, 2004 and a proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING SECTION 3.48.780, MAUI COUNTY CODE, PERTAINING TO THE CIRCUIT BREAKER CREDIT" from Councilmember Robert Carroll. The purpose of the proposed bill is to amend the definition of "homeowner property", for purposes of the circuit breaker credit, to include the entire tax map key parcel on which the property is located; the principal home of the homeowner located on such parcel; and all other buildings, structures, fences, and improvements located on such parcel.

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By correspondence dated September 30, 2004, your Committee's Chair requested that the Department of the Corporation Counsel review and approve, as to form and legality, a draft bill entitled "A BILL FOR AN ORDINANCE AMENDING SECTION 3.48.780, MAUI COUNTY CODE, PERTAINING TO THE CIRCUIT BREAKER CREDIT". The purpose of the draft bill is to amend the definition of "homeowner property", for purposes of the circuit breaker credit, to include all improvements on the property and a restriction that no portion of the property shall be rented or used for other business purposes.

By correspondence dated October 6, 2004, your Committee's Chair transmitted a draft bill entitled "A BILL FOR AN ORDINANCE AMENDING SECTION 3.48.780, MAUI COUNTY CODE, PERTAINING TO THE CIRCUIT BREAKER CREDIT DEFINITION OF 'HOMEOWNER PROPERTY'". The draft bill has a different title, but would impose the same restrictions against rental or business activities on the property.

By correspondence dated October 8, 2004, the Department of the Corporation Counsel transmitted a revised proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING SECTION 3.48.780, MAUI COUNTY CODE, PERTAINING TO THE CIRCUIT BREAKER CREDIT", approved as to form and legality. The proposed bill conforms to the September 30th request from your Committee's Chair.

At its meeting, your Committee met with the Director of Finance, the Real Property Tax Administrator from the Department of Finance, and the First Deputy Corporation Counsel.

Your Committee notes that before 2002 the circuit breaker credit was interpreted to be available to a homeowner regardless of whether the entire property was used as a home. However, in a September 6, 2002 legal opinion, the Department of the Corporation Counsel advised that the exemption shall not be allowed on more than one home for each taxpayer. Based on that opinion, the Real Property Tax Division changed its application of the circuit breaker credit to apply only to the principal residence and one-half of the land when an accessory unit is located on the parcel.

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Your Committee received public testimony from four members of the public in support of applying the circuit breaker credit to the entire tax map key parcel.

The Real Property Tax Administrator informed your Committee that applying the circuit breaker credit to the whole parcel for taxpayers currently eligible for the credit will reduce real property tax revenue by approximately \$182,000. He noted that the “educational blitzes” to inform the public of the circuit breaker credit resulted in 200 new applications, which could further reduce real property tax revenue.

Your Committee applauded the positive measures taken by the Administration and the Department to hold informational community meetings and disseminate the message about the circuit breaker credit.

Your Committee recognized that, from its inception in Fiscal Year 1996 until Fiscal Year 2003, the circuit breaker credit was applied to the entire parcel regardless of the number of dwellings. The purpose for the circuit breaker credit was to prevent homeowners from being forced to sell their homes because increasing property values caused their real property taxes to rise beyond their means. Therefore, your Committee agreed that the proposed bill, which expands the definition of “homeowner property” to include the entire parcel including all other buildings, structures, fences, and improvements regardless of whether or not a portion of the property is rented or used for other business purposes would meet the original intent of the circuit breaker credit.

Your Committee voted to recommend that the proposed bill entitled “A BILL FOR AN ORDINANCE AMENDING SECTION 3.48.780, MAUI COUNTY CODE, PERTAINING TO THE CIRCUIT BREAKER CREDIT”, which recognizes that the entire parcel would be eligible for the circuit breaker credit, regardless of whether or not a portion of the property is rented or used for other business purposes, be passed on first reading.

Your Committee deferred the matter for further discussion.

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Your Budget and Finance Committee RECOMMENDS that Bill No. _____ (2004), attached hereto, entitled "A BILL FOR AN ORDINANCE AMENDING SECTION 3.48.780, MAUI COUNTY CODE, PERTAINING TO THE CIRCUIT BREAKER CREDIT", be PASSED ON FIRST READING and be ORDERED TO PRINT.

Adoption of this report is respectfully requested.

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G. RIKI HOKAMA **Chair**

DANNY A. MATEO **Member**

WAYNE K. NISHIKI **Vice-Chair**

MICHAEL J. MOLINA **Member**

ROBERT CARROLL **Member**

JOSEPH PONTANILLA **Member**

JO ANNE JOHNSON **Member**

CHARMAINE TAVARES **Member**

DAIN P. KANE **Member**