

ORDINANCE NO. 4136

BILL NO. 40 (2014)

A BILL FOR AN ORDINANCE AMENDING CHAPTER 3.48, MAUI COUNTY CODE,  
RELATING TO ELIGIBILITY FOR THE CIRCUIT BREAKER TAX CREDIT

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

SECTION 1. The purpose of this ordinance is to modify the eligibility criteria for the circuit breaker tax credit and to establish an appeals process for a homeowner who fails to qualify for the credit. Eligibility criteria are primarily modified by: (1) limiting the definition of “Household” to include titleholders living on the homeowner property instead of all titleholders; (2) removing the limitation on ownership interests in other real property by members of the household; and (3) establishing a phase-out schedule for the gross building assessed value.

SECTION 2. Section 3.48.595, Maui County Code, is amended to read as follows:

**“3.48.595 Generally.** In the case of a real property tax appeal, a taxpayer shall first appeal to the County board of review, pursuant to section 232-16, Hawaii Revised Statutes. Appeals to the County board of review shall be on grounds as provided in sections 3.48.605.A, 3.48.605.B, 3.48.605.C, [and/or] 3.48.605.D, and 3.48.605.E. Appeals to the County board of review shall be filed on or before April 9 preceding the tax year; provided that for the tax year ending June 30, 2015, appeals to the County board of review based on section 3.48.605.D shall be filed on or before November 30, 2014. Where such an appeal is based upon grounds that the assessed value of the real property for tax purposes is excessive, the valuation claimed by the taxpayer in the appeal shall be admissible in evidence in any subsequent condemnation action involving the property, as an admission that the fair market value of the real property, as of the date of assessment, is no more than the value arrived at when the assessed value from which the taxpayer appealed is adjusted to one hundred percent fair market value; provided, that such evidence shall not in any way affect the right of the taxpayer to any severance damages to which the taxpayer may be entitled. Any taxpayer aggrieved by a County board of review final decision may file an appeal for judicial review to the tax appeal court pursuant to sections 91-12 and 91-14 Hawaii Revised Statutes.”

SECTION 3. Section 3.48.605, Maui County Code, is amended to read as follows:

**“3.48.605 Grounds—Real property taxes.** In the case of a real property tax appeal, no taxpayer shall be deemed aggrieved by an assessment, nor shall an assessment be lowered or an exemption or circuit breaker tax credit allowed, unless there is shown:

A. Assessment of the property exceeds by more than twenty percent the assessment of market value used by the director as the real property tax base; or

B. Lack of uniformity or inequality, brought about by inability of the methods used or error in the application of the methods to the property involved; or

C. Denial of an exemption to which the taxpayer is entitled and for which the taxpayer has qualified; or

D. Denial of the circuit breaker tax credit for which the taxpayer is entitled and for which the taxpayer has qualified; or

E. Illegality, on any ground arising under the Constitution or laws of the United States or the laws of the State or the ordinances of the [county] County in addition to the ground of illegality of the methods used, mentioned in subsection B of this section.”

SECTION 4. Section 3.48.805, Maui County Code, is amended by amending the definition of “Household” to read as follows:

““Household” means a homeowner, spouse of the homeowner, and any titleholders living on the homeowner property.”

SECTION 5. Section 3.48.810, Maui County Code, is amended to read as follows:

**“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]out of the prior six 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, unless the other real property is vacant and has a market land value, as determined by the director, that does not exceed \$10,000, 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.] D. The credit shall only apply for the succeeding tax year, with no carryover credit allowed;

[F.] E. The amount of the circuit breaker tax credit is based on the homeowner's gross building assessed value [is not greater than \$400,000; and] and shall be phased out using the following schedule:

<u>Homeowner's gross building assessed value</u>	<u>Eligible percentage of circuit breaker tax credit</u>
<u>Up to \$400,000</u>	<u>100%</u>
<u>\$400,001 to \$412,500</u>	<u>80%</u>
<u>\$412,501 to \$425,000</u>	<u>60%</u>
<u>\$425,001 to \$437,500</u>	<u>40%</u>
<u>\$437,501 to \$450,000</u>	<u>20%</u>
<u>\$450,001 or more</u>	<u>0%</u>

; and

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

SECTION 6. Section 3.48.815, Maui County Code, is amended to read as follows:

**“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. For the tax year ending June 30, 2015, the homeowner shall file the application by [January 31] September 15, 2014. 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; provided that for the tax year ending June 30, 2015, the homeowner property shall qualify for the home exemption for the entire tax year; and

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

SECTION 7. Section 3.48.820, Maui County Code, is amended to read as follows:

**“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]may 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. If the homeowner does not qualify for the circuit breaker tax credit, the director shall notify the homeowner on or before March 1 preceding the tax year. For the tax year ending June 30, 2015, the director shall notify the homeowner on or before October 31, 2014.

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.”

SECTION 8. 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 9. This ordinance shall take effect upon its approval and shall apply beginning with the tax year ending June 30, 2015.

APPROVED AS TO FORM AND  
LEGALITY:

  
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Jeffrey Ueoka  
Department of the Corporation Counsel  
County of Maui

paf:mmy:14-148d6

WE HEREBY CERTIFY that the foregoing BILL NO. 40 (2014)

1. Passed FINAL READING at the meeting of the Council of the County of Maui, State of Hawaii, held on the 22nd day of July, 2014, by the following vote:

Gladys C. BAISA Chair	Robert CARROLL Vice-Chair	Eleanora COCHRAN	Donald G. COUCH, JR.	S. Stacy CRIVELLO	Donald S. GUZMAN	G. Riki HOKAMA	Michael P. VICTORINO	Michael B. WHITE
Aye	Aye	Aye	Aye	Aye	Excused	Aye	Aye	Aye

2. Was transmitted to the Mayor of the County of Maui, State of Hawaii, on the 22nd day of July, 2014.

DATED AT WAILUKU, MAUI, HAWAII, this 22nd day of July, 2014.

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OFFICE OF THE MAYOR

GLADYS C. BAISA, CHAIR  
Council of the County of Maui

DENNIS A. MATEO, COUNTY CLERK  
County of Maui

THE FOREGOING BILL IS HEREBY APPROVED THIS 22 DAY OF July, 2014.

ALAN M. ARAKAWA, MAYOR  
County of Maui

I HEREBY CERTIFY that upon approval of the foregoing BILL by the Mayor of the County of Maui, the said BILL was designated as ORDINANCE NO. 4136 of the County of Maui, State of Hawaii.

DENNIS A. MATEO, COUNTY CLERK  
County of Maui

Passed First Reading on July 8, 2014.  
Effective date of Ordinance July 22, 2014

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OFFICE OF THE  
COUNTY CLERK

I HEREBY CERTIFY that the foregoing is a true and correct copy of Ordinance No. 4136, the original of which is on file in the Office of the County Clerk, County of Maui, State of Hawaii.

Dated at Wailuku, Hawaii, on

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County Clerk, County of Maui