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**Article IX. - Exemptions**

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**3.48.410 - Claims—Filing required.**

None of the exemptions from taxation granted in sections 3.48.450 through 3.48.465, 3.48.475 through 3.48.500, 3.48.554, 3.48.557, and 3.48.558 shall be allowed in any case, unless the claimant shall have filed with the department of finance, on or before December 31 preceding the tax year for which such exemption is claimed, a claim for exemption in such form as shall be prescribed by the department. The exemption from taxation granted in section 3.48.556 shall not be allowed in any case, unless the claimant shall have filed with the department of finance, on or before June 30 of the tax year for which such exemption is claimed, a claim for exemption in such form as shall be prescribed by the department.

*(Ord. No. 3679, § 2, 2009; Ord. 3458 § 1, 2007; Ord. 2533 § 1, 1997; Ord. 1643 § 2, 1987; Ord. 1076 § 3 (part), 1980; prior code § 6-1.68(a))*

**3.48.415 - Claims—Effect.**

Except for child care facilities exemptions as set forth in section 3.48.558, a claim for exemption once allowed shall have continuing effect until:

- A. The exemption is disallowed;
- B. The assessor voids the claim after first giving notice, either to the claimant or to all claimants in the manner provided for by ordinance, that the claim or claims on file will be voided on a certain date, not less than thirty days after such notice;
- C. The five-year period for exemption, as allowed in section 3.48.500, expires; or

from the lessee. The assessment of such property shall not impair, and shall be so made as to not impair, any right, title, lien, or interest of the United States.

*(Ord. 1076 § 3 (part), 1980: prior code § 6-1.86)*

### **3.48.545 - Low and moderate income housing.**

- A. For the purposes of this section, "nonprofit or limited distribution mortgagor" means a mortgagor who qualified for and obtains mortgage insurance under Sections 202, 221(d) (3) or 236 of the National Housing Act as a nonprofit or limited distribution mortgagor.
- B. Real property used for a housing project which is owned and operated by a nonprofit or limited distribution mortgagor or which is owned and operated by a person, corporation, or association regulated by federal and state laws or by a political subdivision of the state or agency thereof as to rents, charges, profits, dividends, development costs and methods of operation shall be exempt from property taxes.
- C. Exemptions claimed under Section 53-38 of the Hawaii Revised Statutes shall disqualify the same property from receiving an exemption under this section.
- D. The director of finance shall promulgate rules and regulations necessary to administer this section.

*(Ord. 1076 § 3 (part), 1980: prior code § 6-1.87)*

### **3.48.550 - Claim for exemption.**

- A. Notwithstanding any provision in this chapter to the contrary, any real property exempt from property taxes under Section 3.48.545 shall be exempt from property taxes from the date the property is qualified for the exemption; provided, that a claim for exemption is filed with the director within sixty days of the qualification. As used in this section, the date of the qualification shall be the date when the mortgage made by a nonprofit or limited distribution mortgagor and insured under sections 202, 221(d)(3) or 236 of the National Housing Act is filed for recording with the registrar of the bureau of conveyances or the assistant registrar of the land court of the state, whichever is applicable.
- B. After the initial year of the qualification, the claim for exemption shall be filed in the manner provided by applicable law or rule or regulation.
- C. In the event property taxes have been paid to the County in advance for real property subsequently becoming qualified for the exemption, the director of finance shall refund to the nonprofit or limited distribution mortgagor owning the property that portion of the taxes attributable to and paid for the period after the qualification.

*(Ord. 1076 § 3 (part), 1980: prior code § 6-1.88)*

### **3.48.553 - Historic residential real property dedicated for preservation, exemption.**

- A. Portions of residential real property which are dedicated and approved by the director of finance, as provided for by this section, shall be exempt from real property taxation except as provided by section 3.48.590. The owners shall assure reasonable visual access to public.
- B. An owner of taxable real property that is the site of a historic residential property that has been placed on the Hawaii register of historic places after January 1, 1977, desiring to dedicate a portion or portions thereof for historic preservation, shall petition the director of finance.
- C. The director of finance shall approve the petition and determine what portion or portions of the real property shall be exempted from real property taxes. The director shall consult with the state historic preservation office in making this determination. The director may take into consideration whether the current level of taxation is a material factor which threatens the continued existence of the historic property, and may determine the total area or areas of the real property that shall be exempted.
- D. The approval of the petition by the director shall constitute a forfeiture on the part of the owner of any right to change the use of his property for a minimum period of ten years, automatically renewable indefinitely, subject to cancellation by either the owner or the director upon five years' notice at any time after the end of the fifth year.
- E. Failure of the owner to observe the restrictions of subsection D of this section shall cancel the tax exemption and privilege retroactive to the date of the dedication, and all differences in the amount of taxes that were paid and those that would have been due but for the exemption allowed by this section shall be payable together with interest at twelve per cent per year from the respective dates that these payments would have been due provided, the provision in this paragraph shall preclude the County from pursuing any other remedy to enforce the covenant on the use of the land.
- F. Any person who becomes an owner of real property that is permitted an exemption under this section shall be subject to the restrictions and duties imposed under this section.
- G. The director shall prescribe the form of the petition. The petition shall be filed with the director by September 1 of any calendar year and shall be approved or disapproved by December 15 of such

year. The exemption provided for by this section shall be effective January 1 of the next calendar year.

- H. An owner applicant may appeal any determination as in the case of an appeal from an assessment.
- I. Subject to chapter 91, Hawaii Revised Statutes, the director shall adopt rules and regulations decreed necessary to accomplish the foregoing.

*(Ord. 1426 § 1, 1984; Ord. 1281 § 2, 1982)*

### **3.48.554 - Exemption—Kuleana land.**

- A. Those portions of real property designated as kuleana land, shall be exempt from paying real property taxes if:
  1. The property is owned in whole or in part by a lineal descendant of the person(s) who received the original title to the kuleana land;
  2. The portion of property designated as kuleana land is not used for commercial purposes; and
  3. An application for exemption is filed with, and approved by, the director.
- B. An application for the exemption described in subsection A shall be on forms prescribed by the director and shall include documents verifying ownership of the portion of real property concerned and satisfaction of the requirements of subsection A.
- C. The applicant shall be responsible for the cost of obtaining evidence in support of an application. If the applicant is not identified as the owner of the property in the records of the director, the director shall require the applicant, at applicant's expense, to obtain a deed or court order to verify ownership of the property. For purposes of determining whether the lineal descendancy requirement in subsection A.1 has been satisfied, genealogy verification by the Office of Hawaiian Affairs or by court order shall be deemed sufficient.
- D. For purposes of this section:
  1. "Agriculture" means the production of plant and animal life for food and fiber, and for raw materials for processed products, and includes, but is not limited to: fruit, vegetable, and flower growing; forestry; aquaculture; beekeeping; grazing and dairying; and their accompanying services and facilities.
  2. "Commercial purposes" means the processing, manufacturing, warehousing, distribution, or sale of goods, or the provision of services for consideration and profit, including the operation of transient vacation rental and bed and breakfast homes, but shall exclude agriculture.
  3. "Kuleana land" means those lands granted to native tenants pursuant to L. 1850, p. 202, entitled "An Act Confirming Certain Resolutions of the King and Privy Council, Passed on the 21st Day of December, A.D. 1849, Granting to the Common People Allodial Titles for Their Own Lands and House Lots, and Certain Other Privileges," as amended by L. 1851, p. 98, entitled "An Act to Amend An Act Granting to the Common People Allodial Titles for Their Own Lands and House Lots, and Certain Other Privileges" and as further amended by any subsequent legislation.

*(Ord. No. 3679, § 4, 2009)*

### **3.48.555 - Other exemptions.**

Exemptions from real property taxes as set forth in chapters 53, 154, 183, 186, 234, 239 and 514 of the Hawaii Revised Statutes, and in section 208 of the Hawaiian Homes Commission Act, 1920, and which were enacted prior to November 7, 1978, shall remain in effect and be recognized by this County in its administration of the real property tax system; provided, that real property leased under homestead and not general leases pursuant to the authority granted the department of Hawaiian home lands by section 207 of the Hawaiian Homes Commission Act, 1920, shall be exempt from real property taxes, the seven-year limitation on the exemption afforded by section 208 of the Hawaiian Homes Commission Act, 1920, notwithstanding.

*(Ord. 2095 § 1, 1992; Ord. 1076 § 3 (part), 1980; prior code § 6-1.89)*

### **3.48.556 - Deployed active-duty military personnel.**

- A. An individual serving in the armed forces of the United States at any time during a tax year in an area designated by law, the Governor of the State of Hawaii, or the President of the United States by executive order, as a combat zone or hazardous duty area, or in direct support of military operations in a combat zone or hazardous duty area, shall be entitled to a full exemption on the assessed value of real property that is owned by the individual and which was granted a home exemption pursuant to section 3.48.450.
- B. The exemption shall be applied to the assessment made for the tax year for which a claim for exemption is submitted and granted, provided that the minimum real property tax shall be paid in accordance with section 3.48.590. The individual may be granted an exemption for a tax year even if