

(August 2, 2017)

FLOOR AMENDMENT

Bill No. 2658, Relating To A Bill For An Ordinance Amending Chapter 5A, Article 11 and 11A, Kaua'i County Code 1987, As Amended, Relating to Real Property Tax

Introduced By: MASON K. CHOCK

Amend Bill No. 2658 in its entirety to read as follows:

"BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF KAUAI, STATE OF HAWAII:

SECTION 1. Purpose. The purpose of this Ordinance is to amend Chapter 5A, Article 11 and 11A, Kaua'i County Code 1987, as amended, relating to real property tax.

SECTION 2. Chapter 5A, Article 11 of the Kaua'i County Code 1987, as amended, is hereby amended by amending Section 5A-11.4(a) to read as follows.

"(a) Real property owned and occupied only as the taxpayer's principal home, as of the date of assessment by any individual or individuals, shall be exempt only to the following extent from property taxes:

(1) Totally exempt where the value of the property is not in excess of one hundred sixty thousand dollars (\$160,000.00);

(2) Where the value of such property is in excess of one hundred sixty thousand dollars (\$160,000.00), the exemption shall be the amount of one hundred sixty thousand dollars (\$160,000.00).

Provided:

(A) That no such exemption shall be allowed to any corporation, copartnership, or company;

(B) That the exemption shall not be allowed on more than one (1) home for any one (1) taxpayer;

(C) That where the taxpayer has acquired the taxpayer's home by a deed, the deed shall have been recorded on or before September 30th immediately preceding the year for which the exemption is claimed;

(D) That a husband and wife shall not be permitted exemption of separate homes owned by each of them, unless they are living separate and apart, in which case they shall be entitled to one (1) exemption, to be apportioned between each of their respective homes in proportion to the value thereof;

(E) That a person living on-premises, a portion of which is used for commercial purposes, shall be placed in the commercialized home use class.

[(F) That a property transferred for the purpose of conveying real property from a grantor to the grantor's revocable living trust, or from a grantor's revocable living trust to the grantor as beneficiary of the trust shall be exempt so long as the real property is owned and occupied as the grantor's principal home.]

(F) That a property transferred for the purpose of conveying real property for the following shall be exempt so long as the real property is owned and occupied as the same owner's principal home:

- (1) Grantor to the grantor's revocable living trust;
- (2) Grantor's revocable living trust to grantor;
- (3) Taxpayer and spouse;
- (4) Surviving spouse who maintains portion of ownership and resides on property, but deceased spouse's interest is transferred to another party;
- (5) Life Estate; or
- (6) Any other method of property transfer for the purpose of conveying real property which the Director of Finance finds to be similar in nature to those listed in this Section."

SECTION 3. Chapter 5A, Article 11A of the Kaua'i County Code 1987, as amended, is hereby amended by amending Section 5A-11A.3 to read as follows.

"Sec. 5A-11A.3 Assessment Cap for Home Exemption Property and Property Used For Long Term Affordable Rental.

(a) Any owner who has a home exemption pursuant to Sec. 5A-11.4, Kaua'i County Code 1987, as amended, or receives the beneficial tax rate due to a long term affordable rental pursuant to Sec. 5A-11A.1 shall receive an Assessment Cap.

(b) The Director shall note on the notice of assessment or tax bill, or both, that the property receives the Assessment Cap.

(c) Property receiving the Assessment Cap shall be taxed in the following manner:

- (1) The property shall be assessed based on its market value, provided that, any increase or decrease in assessed value from the prior tax year shall not exceed three percent (3%).

(A) Any improvements that are undertaken on the property, including, but not limited to: new construction, renovations, partial demolition, etc., and such improvements increase or decrease the fair market value of the property, the assessment shall be increased based on the value of the improvements undertaken, notwithstanding the assessment cap limits.

(B) If property receiving the assessment cap subsequently increases or decreases in assessed value due solely to actions of the owner, such as but not limited to, the creation of a subdivision or condominium property regime, consolidation of lots or land area, or change in zoning, the assessment cap shall be reset to market value in the year of the change.

(C) If there is an error in the assessment for any year, the correction of which is not permitted under the terms of Section 5A-1.19, the assessment for the next year shall be based on what the assessment would have been for the previous year without the error.

(D) The gain or loss of an agricultural dedication, breach, or expiration of a dedication, or change in status to another real property program that affect the value shall be excluded from the three percent (3%) assessment cap limit.

(2) In the case of properties that are multiuse parcels or structures, the entire property shall receive the assessment cap, but shall be classified and taxed at the highest applicable tax rate in accordance with Section 5A-6.4 based on the property's actual use.

(d) The Director shall calculate the assessment cap as prescribed in subsection (c).

(e) Upon transfer or sale of property, real property assessments shall be reset to reflect the current market value of the property.

[(f) The transfer of property for the purpose of conveying real property from a grantor to the grantor's revocable living trust, or from a grantor's revocable living trust to the grantor as beneficiary of the trust shall be excluded from subsection (e). For the tax year 2017, any owner who transfers property for this purpose shall file a notice of property transfer to/from revocable living trust with the Department of Finance, Real Property Tax Division, on or before September 30, 2017 to receive an adjustment to reset the real property's assessment to the assessed value at the time of the transfer.]

(f) The transfer of property for the purpose of conveying real property shall be excluded from subsection (e) if the same owner continues to maintain a home exemption pursuant to Section 5A-11.4(a) of Kaua'i County

Code 1987, as amended. For the tax year 2017, any owner who transfers property pursuant to Section 5A-11.4(a) shall file a notice of property transfer with the Department of Finance, Real Property Tax Division, on or before September 30, 2017 to receive a real property tax adjustment to reset the real property's assessment to the assessed value at the time of the transfer."

[SECTION 3.] SECTION 4. If any provision of this Ordinance, or the application thereof to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable.

[SECTION 4] SECTION 5. Ordinance material to be repealed is bracketed. New Ordinance material is underscored. When revising, compiling, or printing this Ordinance for inclusion in the Kaua'i County Code 1987, the brackets, bracketed material and underscoring shall not be included.

[SECTION 5.] SECTION 6. This Ordinance shall take effect upon its approval."

(Material to be deleted is bracketed. New material is underscored.)
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