

ORDINANCE NO. 5493

BILL NO. 192, FD1 (2022)

A BILL FOR AN ORDINANCE AMENDING CHAPTER 3.48,
RELATING TO REAL PROPERTY TAX CLASSIFICATIONS AND EXEMPTIONS

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

SECTION 1. This Ordinance's purpose is to promote equity in Real Property Tax, including by replacing the Short-Term Rental Home classification with a TVR-STRH classification and ensuring that property owners who are effectively renting to themselves are not eligible to be classified Long-Term Residential.

SECTION 2. Section 3.48.005, Maui County Code, is amended to add new definitions to be appropriately inserted and to read as follows:

“Dwelling unit” means the same as in section 19.04.040.”

“TVR-STRH” means the class, as described in section 3.48.305, primarily for real property that is used or can be used for transient vacation rentals or short-term rental homes.”

SECTION 3. Section 3.48.305, Maui County Code, is amended to read as follows:

“3.48.305 Classification of real property. A. Except as otherwise provided in subsection B, real property must be classified, upon consideration of its highest and best use, into the following general classes:

1. Owner-occupied.
2. Non-owner-occupied.
3. Apartment.
4. Hotel and resort.
5. Time share.

6. [Short-term rental.] TVR-STRH.
7. Agricultural.
8. Conservation.
9. Commercial.
10. Industrial.
11. Commercialized residential.
12. Long-term rental.

B. In assigning land to one of the general classes, the director must give major consideration to: the districting established by the land use commission in accordance with chapter 205, Hawaii Revised Statutes; the districting established by the County in its general plan and comprehensive zoning ordinance; use classifications established in the Hawaii state plan; and other factors that influence highest and best use; except that:

1. Real property that is used as the owner's principal residence and has been granted either a home exemption in accordance with sections 3.48.410 and 3.48.450 or an exemption in accordance with sections 3.48.410 and 3.48.475 must be classified as "owner-occupied" without regard to its highest and best use.

2. Real property improved with a dwelling[, as defined in the comprehensive zoning ordinance,] that would not be classified as "owner-occupied," "hotel and resort," "time share," ["short-term rental,"] "TVR-STRH," "commercial," "industrial," "commercialized residential," or "long-term rental," must be classified as "non-owner-occupied."

3. Multi-dwelling-unit improvements containing five or more dwellings that would not be classified ["short-term rental"] "TVR-STRH" must be classified "apartment."

4. Real property that serves as the owner's principal residence and has been granted a bed and breakfast home permit, a short-term rental home permit, or operates as a transient vacation rental, must be classified "commercialized residential" without regard to its highest and best use, and cannot qualify for a home exemption.

5. Real property that is subject to a time share plan as defined in section 514E-1, Hawaii Revised Statutes, as amended, must be classified as "time share."

6. Unless classified as "time share," "hotel and resort," or "commercialized residential," lodging or dwelling units[, as defined in the comprehensive zoning ordinance,] occupied by transient tenants for periods of less than six consecutive months, including real property that does not serve as the owner's principal residence and has been granted a short-term rental home permit or a conditional permit allowing transient vacation rental use [in accordance with the

comprehensive zoning ordinance,] must be classified as ["short-term rental"] "TVR-STRH" without regard to its highest and best use, and cannot qualify for a home exemption.

7. Unless classified as "time share" or "commercialized residential," properties occupied by transient tenants for periods of less than six consecutive months, have eight or more lodging or dwelling units, [as defined in the comprehensive zoning ordinance,] and employ more than twenty full-time persons, must be classified as "hotel and resort."

8. [Lodging or dwelling units as defined in the comprehensive zoning ordinance] Dwelling units occupied by long-term tenants for periods of twelve consecutive months or more to the same tenant and have been granted a long-term rental exemption in accordance with sections 3.48.410, 3.48.425, and 3.48.466 must be classified as "long-term rental," unless the property also qualifies for a homeowner exemption in accordance with section 3.48.450, in which case the property must be classified ["homeowner." The real property owner must report any change in actual use of a property with a long-term rental exemption within thirty days of that change. The director may investigate any real property and, if the director determines that the actual use differs from a long-term rental, the director may reclassify and reassess the real property.] "owner-occupied." Dwelling units where a portion is used for transient vacation rental, hotel, commercial, or industrial purposes must not be classified as "long-term rental." Portions of dwelling units not used for residential use must not be classified as "long-term rental."

C. Dwelling units in the hotel district must be classified as "TVR-STRH" unless classified as "long-term rental," "commercialized residential," "apartment," or "owner-occupied."

D. Dwelling units located in the apartment district or in a planned development must be classified as "TVR-STRH" if transient vacation rentals are a permitted use unless classified as "long-term rental," "commercialized residential," "apartment," or "owner-occupied."

SECTION 4. Section 3.48.466, Maui County Code, is amended to read as follows:

"3.48.466 Long-term rentals—standards for valuation. A. [Real property] Dwelling units occupied as a long-term rental and under signed contract to lease for twelve consecutive months or more to the same tenant, as of the date of assessment, by [an individual

or individuals,] a natural person with no other place of residence, will be exempt only to the following extent from property taxes:

1. For tax years beginning on or after July 1, 2022:
 - a. Totally exempt where the value of the property is not in excess of \$200,000; or
 - b. Where the value of the property is in excess of \$200,000, the exemption will be in the amount of \$200,000.

B. The provisions of subsection A [will apply, provided, as follows:] are subject to the following conditions:

1. That long-term rental exemptions may be allowed on more than one home for any one taxpayer[, provided however, that] if the homes are located on different parcels.

2. That where a homeowner resides and in accordance with the requirements of 3.48.450 qualifies for a homeowner exemption, and a long-term rental exemption, for tax years beginning on or after July 1, 2023:

- a. Totally exempt where the value of the property is not in excess of \$400,000; or
- b. Where the value of the property is in excess of \$400,000, the exemption will be in the amount of \$100,000.

3. That if a portion of the [premises] structure is used for commercial purposes, [such] that portion of the [premises] structure will not be entitled to an exemption[, but will be entitled to an exemption with respect to the portion thereof used exclusively as a long-term rental].

4. That [no such] the exemption will not be allowed for any real property that is classified as “commercialized residential” or as a [“short term rental.”] “TVR-STRH.”

5. That if the term of the lease is greater than one year, one year of exemption will be granted. After the initial year of the exemption, no exemption will be allowed unless the lease terminates after September 30 of any later assessment year.

6. That if the long-term rental lease is granted to any of the following lessees, the exemption must not be allowed:

- a. A natural person who has an ownership interest in the property including natural persons who are considered as owners under section 3.48.150.

- b. An officer or member of a corporation that has an ownership interest in the property.

- c. A partner in a partnership that has an ownership interest in the property.

- d. Business, corporation, partnership, or any entity other than a natural person.

7. That if the tenant of the long-term lease maintains a permanent place of abode in addition to the dwelling unit, the exemption must not be allowed.

C. Upon proper application, a taxpayer will be entitled to a long-term rental exemption, [provided] if the taxpayer provides the director a copy of the signed lease and all required documentation requested by the director in order to confirm the long-term rental occupation, including contact information for the renter as evidence of continued qualification for an exemption. Failure to respond to the director's demand in thirty days will be grounds for denial of a claim for an exemption.

D. If the director obtains evidence that any use other than long-term rental use is occurring, such evidence will serve as prima facie proof that the individual does not qualify for a long-term rental exemption, and the director must provide written notice to the individual by mail that the individual does not qualify for an exemption or continued exemption under this section. Such evidence may include, but is not limited to, homes that are being advertised for occupancy by transient tenants for periods of less than six consecutive months for any period during the course of any assessment year.

E. If during the course of any tax year, the exemption of a property is revoked, the taxes for the entire tax year will be recalculated without the exemption.

F. No long-term exemption will be allowed if taxes on the property are delinquent for more than one year.

G. If, during the course of the assessment year, any portion of the dwelling is used as a transient vacation rental or short-term rental home, the exemption must be revoked and the taxes for the entire year recalculated without the exemption.

H. The real property owner must report any change in use or occupancy of a property with a long-term rental exemption within thirty days of that change. The director may investigate any real property and, if the director determines that the actual use differs from a long-term rental, may reclassify and reassess the real property.

I. The director may adopt rules and prescribe forms to implement this chapter."

SECTION 5. 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 6. This Ordinance takes effect on January 1, 2023.

APPROVED AS TO FORM AND LEGALITY:



KRISTINA C. TOSHIKIYO
Department of the Corporation Counsel
County of Maui
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PAF 22-289 2022-12-07 Ord Amd 3.48

INTRODUCED BY:

Keani Rawlins-Fernandez

KEANI N.W. RAWLINS-FERNANDEZ

I, KATHY L. KAOHU, County Clerk of the County of Maui, State of Hawaii, DO HEREBY CERTIFY that the foregoing BILL NO. 192, FD1 (2022), was passed on Second and Final Reading by the Council of the County of Maui, State of Hawaii, on the 16th day of December, 2022, by the following vote:

AYES: Councilmembers Gabriel Johnson, Kelly T. King, Michael J. Molina, Tamara A.M. Paltin, Shane M. Sinenci, Yuki Lei K. Sugimura, Vice-Chair Keani N.W. Rawlins-Fernandez, and Chair Alice L. Lee.

NOES: None.

EXCUSED: Councilmember Natalie A. Kama.

I FURTHER CERTIFY that on the 20th day of December, 2022, said BILL NO. 192, FD1 (2022), was presented to the Mayor of the County of Maui for his approval or otherwise; that on the 30th day of December, 2022, the Mayor returned said BILL NO. 192, FD1 (2022), without his signature; therefore, pursuant to Section 4-3 of the Charter of the County of Maui, said BILL NO. 192, FD1 (2022), was designated as ORDINANCE NO. 5493 of the County of Maui.

DATED at Wailuku, Maui, Hawaii, this 30th day of December, 2022.



KATHY L. KAOHU, COUNTY CLERK
COUNTY OF MAUI, STATE OF HAWAII

Passed First Reading: November 18, 2022

Effective Date of Ordinance: January 1, 2023