
A BILL FOR AN ACT

RELATING TO HOUSING.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that lands utilized by
2 the department of Hawaiian home lands to provide housing for
3 native Hawaiians are offered at affordable rates when compared
4 to similar housing available in Hawaii.

5 The purpose of this Act is to exempt any housing developed
6 by the department of Hawaiian home lands from general excise and
7 use taxes.

8 SECTION 2. Chapter 237, Hawaii Revised Statutes, is
9 amended by adding a new section to be appropriately designated
10 and to read as follows:

11 "§237- Exemptions for any housing development by the
12 department of Hawaiian home lands. (a) There shall be exempted
13 from the measure of the taxes imposed by this chapter, all gross
14 proceeds arising from the planning, design, financing, or
15 construction of any housing development by the department of
16 Hawaiian home lands, as provided in this section.



1 (b) The exemption shall be approved by the department of
2 Hawaiian home lands and shall apply to the gross income derived
3 by any qualified person from a newly constructed or a moderately
4 or substantially rehabilitated homestead development that is
5 developed:

6 (1) Under a government assistance program approved by the
7 department of Hawaiian home lands;

8 (2) Under the sponsorship of a nonprofit organization
9 providing home rehabilitation or new homes for
10 qualified families in need of decent, low-cost housing
11 on Hawaiian home lands;

12 (3) To provide affordable rental housing on Hawaiian home
13 lands where at least fifty per cent of the available
14 units are for households with incomes at or below
15 eighty per cent of the area median family income, as
16 determined by the United States Department of Housing
17 and Urban Development; or

18 (4) By contract or project developer agreement to provide
19 affordable housing through new construction or
20 substantial rehabilitation of a homestead development;
21 provided that:



1 (A) The allowable general excise tax and use tax
2 costs shall apply to contracting only and shall
3 not exceed \$30,000,000 per year in the aggregate
4 for all projects approved and certified by the
5 department of Hawaiian home lands; and

6 (B) At least twenty per cent of the available units
7 are for households with incomes at or below
8 eighty per cent of the area median family income,
9 as determined by the United States Department of
10 Housing and Urban Development.

11 (c) The exemption shall apply to housing projects that are
12 covered by a regulatory agreement with the department of
13 Hawaiian home lands to ensure the project's continued compliance
14 with the applicable eligibility requirements in subsection (b),
15 unless exempted by the department of Hawaiian home lands.

16 (d) All claims for exemption under this section shall be
17 filed with and certified by the department of Hawaiian home
18 lands and forwarded to the department of taxation by the
19 claimant. Any claim for exemption that is filed and approved
20 shall not be considered a subsidy.



1 (e) The department of Hawaiian home lands may establish,
2 revise, charge, and collect a reasonable service fee, as
3 necessary, in connection with its approvals and certifications
4 of the exemption under this section. The fees shall be
5 deposited into the Hawaiian home administration account.

6 (f) The department of Hawaiian home lands shall adopt
7 rules pursuant to chapter 91 necessary to carry out the purposes
8 of this section.

9 (g) For purposes of this section:

10 "Moderately rehabilitated" means rehabilitation to upgrade
11 a dwelling unit to a decent, safe, and sanitary condition, or to
12 repair or replace major building systems or components in danger
13 of failure.

14 "Substantially rehabilitated":

15 (1) Means the improvement of a property to a decent, safe,
16 and sanitary condition that requires more than routine
17 or minor repairs or improvements. It may include but
18 shall not be limited to:

19 (A) The gutting and extensive reconstruction of a
20 dwelling unit; or



1 (B) Cosmetic improvements coupled with the curing of
2 a substantial accumulation of deferred
3 maintenance; and

4 (2) Includes renovation, alteration, or remodeling to
5 convert or adapt structurally sound property to the
6 design and condition required for a specific use, such
7 as conversion of a hotel to housing for elders."

8 SECTION 3. Section 238-3, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "**§238-3 Application of tax, etc.** (a) The tax imposed by
11 this chapter shall not apply to any property, services, or
12 contracting or to any use of the property, services, or
13 contracting that cannot legally be so taxed under the
14 Constitution or laws of the United States, but only so long as,
15 and only to the extent to which the State is without power to
16 impose the tax.

17 To the extent that any exemption, exclusion, or
18 apportionment is necessary to comply with the preceding
19 sentence, the director of taxation shall:

20 (1) Exempt or exclude from the tax under this chapter,
21 property, services, or contracting or the use of



1 property, services, or contracting exempted under
2 chapter 237; or

3 (2) Apportion the gross value of services or contracting
4 sold to customers within the State by persons engaged
5 in business both within and without the State to
6 determine the value of that portion of the services or
7 contracting that is subject to taxation under chapter
8 237 for the purposes of section 237-21.

9 (b) The tax imposed by this chapter shall not apply to any
10 use of property, services, or contracting the transfer of which
11 property, services, or contracting to, or the acquisition of
12 which by, the person so using the same, has actually been or
13 actually is taxed under chapter 237.

14 (c) The tax imposed by this chapter shall be paid only
15 once upon or in respect of the same property, services, or
16 contracting; provided that nothing in this chapter contained
17 shall be construed to exempt any property, services, or
18 contracting, or the use thereof from taxation under any other
19 law of the State.

20 (d) The tax imposed by this chapter shall be in addition
21 to any other taxes imposed by any other laws of the State,



1 except as otherwise specifically provided herein; provided that
2 if it be finally held by any court of competent jurisdiction,
3 that the tax imposed by this chapter may not legally be imposed
4 in addition to any other tax or taxes imposed by any other law
5 or laws with respect to the same property, services, or
6 contracting, or the use thereof, then this chapter shall be
7 deemed not to apply to the property, services, or contracting,
8 or the use thereof under such specific circumstances, but such
9 other laws shall be given full effect with respect to the
10 property, services, or contracting, or use.

11 (e) The tax imposed by this chapter shall not apply to any
12 use of property exempted by section 238-4.

13 (f) The tax imposed by this chapter shall not apply to any
14 use or consumption of aircraft and vessels, the transfer of
15 which aircraft or vessel to, or the acquisition of which by, the
16 person so using or consuming the same, or the rental for the use
17 of the aircraft or vessel, has actually been or actually is
18 taxed under chapter 237.

19 (g) The tax imposed by this chapter shall not apply to any
20 intoxicating liquor as defined in chapter 244D and cigarettes
21 and tobacco products as defined in chapter 245, imported into



1 the State and sold to any person or common carrier in interstate
2 commerce, whether ocean-going or air, for consumption out-of-
3 state by the person, crew, or passengers on the shipper's
4 vessels or airplanes.

5 (h) The tax imposed by this chapter shall not apply to any
6 use of vessels constructed under section 189-25 prior to July 1,
7 1969.

8 (i) Each taxpayer liable for the tax imposed by this
9 chapter on property, services, or contracting shall be entitled
10 to full credit for the combined amount or amounts of legally
11 imposed sales or use taxes paid by the taxpayer with respect to
12 the same transaction and property, services, or contracting to
13 another state and any subdivision thereof, but the credit shall
14 not exceed the amount of the use tax imposed under this chapter
15 on account of the transaction and property, services, or
16 contracting. The director of taxation may require the taxpayer
17 to produce the necessary receipts or vouchers indicating the
18 payment of the sales or use tax to another state or subdivision
19 as a condition for the allowance of the credit.



1 (j) The tax imposed by this chapter shall not apply to any
2 use of property, services, or contracting exempted by section
3 237-26 or section 237-29.

4 (k) The tax imposed by this chapter shall not apply to any
5 use of air pollution control facility exempted by section 237-
6 27.5.

7 (l) The tax imposed by this chapter shall not apply to use
8 of imported property or services arising from the planning,
9 design, financing, or construction of any housing development by
10 the department of Hawaiian home lands."

11 SECTION 4. New statutory material is underscored.

12 SECTION 5. This Act shall take effect on July 1, 2050.



Report Title:

DHHL; Taxation; Housing; General Excise Tax; Use Tax; Exemption

Description:

Exempts housing developed by the department of Hawaiian home lands from general excise and use taxes. Effective 7/1/2050.
(HD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

