

ACT 142

A Bill for an Act Relating to the Taxation of Real Property.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 128-2, Revised Laws of Hawaii 1955, as amended, is hereby amended to read as follows:

**“Sec. 128-2. Tax base and rate.** Except as exempted or otherwise taxed, all real property in each county shall be subject each year to a tax upon its fair market value determined in the manner provided by law, at such rate as shall be determined in the manner provided in section 129-2. However, the director of taxation may use as the tax base a percentage of fair market value; if he does so he shall certify to the board of supervisors or city council the percentage so used at the time he furnishes the board the calculations as to the tax base pursuant to section 129-2(f), and if he does not do so he shall certify to the board that he has used one hundred per cent of fair market value as the tax base. Both as to the calculations as to the tax base and also as to the percentage of fair market value used as the tax base, the director’s certificate to the board shall be conclusive upon the county and further

shall be conclusive insofar as the validity of any tax rate is concerned, except for the right to appeal assessments of real property as may be provided by law. Whether the director uses as the tax base one hundred per cent of fair market value or some other percent of fair market value, no taxpayer shall be deemed aggrieved by an assessment, nor shall an assessment be lowered, except as the result of a decision on an appeal as provided by law.”

SECTION 2. Section 128-4, Revised Laws of Hawaii 1955, is hereby amended by adding at the end of the second paragraph the following sentence:

“Lessees holding any real property under a lease for a term of fifteen years or more and having an option granted by the lease or conferred by law to purchase the fee, and persons holding any real property under an agreement to purchase the same, shall be considered as owners during the time the real property is held or controlled by them as such; provided the lease or the agreement to purchase (1) shall have been recorded in the bureau of conveyances, and (2) shall provide that the lessee or purchaser, as the case may be, shall pay the real property taxes levied on the property.”

SECTION 3. Section 128-9, Revised Laws of Hawaii 1955, as amended, is hereby amended to read as follows:

“**Sec. 128-9. Valuation; considerations in fixing.** (a) The director of taxation shall cause the fair market value of all taxable real property to be determined and annually assessed as provided by law. In making such determination and assessment, the director shall separately value and assess, within each class established in accordance with subsection (d) of this section, (1) buildings, and (2) all other real property, exclusive of buildings.

(b) All property shall be valued by appropriate systematic methods so selected and applied as to obtain, as far as possible, uniform and equalized assessments throughout the State.

(c) So far as practicable, records shall be compiled and kept in each division which shall show the methods established by or under the authority of the director of taxation, for the determination of values.

(d) The land in each county shall be classified, upon consideration of its highest and best use, into the following general classes: (1) single family and two family residential, (2) three or more family apartment and hotel and resort, (3) commercial, (4) industrial, (5) agricultural, and (6) conservation. In assigning land to one of the general classes the director of taxation shall give consideration to the districting established by the land use commission pursuant to chapter 98H, the districting established by a county in its general plan and zoning ordinance, use classifications established in the general plan of the State, and such other factors which influence highest and best use.

(e) The director of taxation shall select and require the use of mathematical tables or formulas based upon a suitable unit of quantity and designed to determine equitably the effect, upon the value, of street or highway frontages, depth from the street or highway, shape, street corners, and other physical elements the effect of which upon value the director of taxation finds feasible to determine by means of tables or formulas. These tables or formulas shall be used for all areas where

this can be done appropriately, and in any event as provided in the next paragraph.

Whenever land has been divided into lots or parcels which are used or suitable for use for residential, commercial or other urban or village purposes, each such lot or parcel shall be separately assessed, and the aforesaid mathematical tables or formulas shall be used unless this is precluded by the shape of the lots or parcels.

(f) In determining the value of land, consideration shall be given to selling prices and income (including, where available, such data relating to the property being assessed and similar data for comparable properties), productivity and nature of use (actual and potential), the advantage or disadvantage of factors such as location, accessibility, transportation facilities, size, shape, topography, quality of soil, water privileges, availability of water and its cost, easements and appurtenances, zoning, dedication of lands as provided for in section 128-9.2, and further to the opinions of persons who may be considered to have special knowledge of land values, and all other influences, whether similar to those listed or not, which fairly and reasonably bear upon the question of value.

(g) Buildings shall be valued each year upon the basis of the cost of replacement less depreciation, if any. Age, condition and utility or obsolescence shall be considered. The director of taxation shall determine and require the use of average-basic replacement cost factors."

SECTION 4. Section 128-10, Revised Laws of Hawaii 1955, as amended, is hereby amended to read as follows:

**"Sec. 128-10. Nontaxable property.** For purposes of accountability, the director of taxation shall assess at the nominal sum of one dollar each parcel of real property in each division which is completely exempt from taxation."

SECTION 5. Chapter 128 of the Revised Laws of Hawaii 1955, as amended, is hereby amended by adding a new section to be appropriately numbered and to read as follows:

**"Sec. 128- . . . . . Assignment of partial exemptions.** Unless otherwise specifically provided, allowable exemptions shall be applied first to the value of the buildings on the land and the remainder of the unused exemption, if any, to the value of the land."

SECTION 6. Section 128-27, Revised Laws of Hawaii 1955, as amended, is hereby amended by amending the first sentence to read as follows:

**"Sec. 128-27. Notice of assessments; addresses of persons entitled to notice.** Each year, on or before March 10, the director of taxation shall give notice of the assessments for such year against each known owner, by personal delivery to such owner or by mailing to him on or before such date postage prepaid and addressed to him at his last known place of residence or address a written notice identifying the property involved by the tax key and the general class established in accordance with subsection 128-9(d) and setting forth separately the valuation placed upon buildings, and the valuation placed upon all other real property, exclusive of buildings, determined pursuant to the provisions of section 128-9(a), the exemption, if any, allowed or denied, as the case may be

and the amount of the exemption applied to the buildings and the amount applied to all other real property, exclusive of buildings, and the net taxable value of the buildings and the net taxable value of all other real property, exclusive of the buildings.”

SECTION 7. Section 128-28, Revised Laws of Hawaii 1955, as amended, is hereby amended to read as follows:

“**Sec. 128-28. Assessment lists.** On or before March 31 of each year the director of taxation shall have prepared from the records of taxable properties maintained in each division a list in triplicate of all assessments made for each district in such division, which list shall be signed and sworn to by the person preparing it. Such assessment list shall identify the property assessed by its tax key and shall set forth the general class of the property established in accordance with subsection 128-9(d), the valuation of buildings and the valuation of all other real property, exclusive of buildings, the amount of exemption allowed on buildings and the amount of exemption allowed on all other real property, exclusive of the buildings, and the net taxable value of the buildings and the net taxable value of all other real property, exclusive of the buildings. Such assessment list shall be the lists in accordance with which taxes shall be collected, subject only to change made by any court or other tribunal having jurisdiction, where appeals from assessments have been duly taken and prosecuted to final determination, and subject to section 115-26. There shall be noted upon such lists all appeals taken for such year and the amounts involved in each case. The original of the assessment lists shall be retained by the assessor and a duplicate of the information contained in the list shall be retained by the director. The lists may be made up of a separate sheet or card for each property. The director shall furnish a duplicate list to the county in such form and at such time as will not interfere with the preparation of those records needed for tax collection purposes.”

SECTION 8. Section 129-2, Revised Laws of Hawaii 1955, as amended, is hereby amended to read as follows:

“**Sec. 129-2. Real property tax; determination of rates.** (a) Unless a different meaning is clearly indicated by the context, as used in this section:

(1) “Net taxable lands” means all other real property exclusive of buildings.

(2) “Net taxable real property” or “net taxable buildings” or “net taxable lands” means, as indicated by the context, seventy per cent or such other percentage of the fair market value of such property as the director certifies as the tax base as provided by law less exemptions as provided by law and, in all cases where appeals from the director’s assessment are then unsettled, less fifty per cent of the value in dispute.

(3) “The building tax factor” means the percentage of net taxable buildings to be used as the tax base for buildings in determining real property tax rates.

(4) “Modified net taxable real property” means the total of net taxable lands plus the product of net taxable buildings and the building tax factor.

(b) The board of supervisors or the city council of each county shall determine the tax rates for buildings and for all other real prop-

erty, exclusive of buildings, for each class of property established in accordance with subsection 128-9(d); provided that the board or council shall determine a single tax rate to be applied to net taxable real property within the agricultural and conservation classes. Such rates shall be determined for each calendar year, by resolution adopted in the manner provided by law relating to resolutions involving the expenditure of public money; provided that after introduction of such resolution and before final action on the same, a public hearing shall be held thereon after publication of notice thereof in a newspaper of general circulation in the county in which the rates are to be fixed, which notice shall be published not less than ten days before the hearing and shall set forth the tax rates under consideration by the board or council; and provided further, that upon the final reading, subsequent to the public hearing of any resolution for the adoption of such rates, the board of supervisors or the city council may fix such rates at an amount differing from that originally proposed or under consideration when the notice of public hearing was published. The resolution fixing the tax rates in each county shall be adopted on or before April 20 of the year for which property tax revenues are to be raised.

(c) The board of supervisors and the city council of each county shall determine the tax rates applicable in the county using the following method:

(1) the net taxable real property of each class shall be divided by the net taxable real property for the county to determine the percentage of revenue to be raised from each class;

(2) The percentage of revenue to be raised from each class shall be multiplied by the total revenue to be raised from real property in the county in order to determine the amount of revenue to be derived from each class;

(3) The net taxable buildings in each class, except agricultural and conservation, shall be multiplied by the applicable building tax factor and the product thereof divided by the modified net taxable value of real property in that class which quotient shall be multiplied by the amount of revenue to be raised from that class in order to determine the amount of revenue to be raised from the tax on net taxable buildings which amount shall be divided by the net taxable value of buildings in that class to determine the tax rate which shall be expressed in terms of tax per \$1,000 of net taxable buildings;

(4) The net taxable lands in each class, except agricultural and conservation, shall be divided by the modified net taxable value of real property in that class which quotient shall be multiplied by the amount of revenue to be raised from that class in order to determine the amount of revenue to be raised from the tax on net taxable lands which amount shall be divided by the net taxable value of lands in that class to determine the tax rate which shall be expressed in terms of tax per \$1,000 of net taxable lands;

(5) The amount of revenue to be raised from net taxable real property in the agricultural and conservation classes shall be divided by the net taxable real property in the respective classes to determine the respective tax rates which shall be expressed in terms of tax per \$1,000 of net taxable real property.

(d) The building tax factor shall be determined as provided for in this subsection.

(1) Effective January 1, 1965 the building tax factor shall be 90 per cent;

(2) Effective January 1, 1967 the building tax factor shall be 80 per cent; provided that the governor may defer the effective date of this reduction in any county for a period of up to two years;

(3) Effective two years after the building tax factor has been first fixed at 80 per cent, the building tax factor shall be 70 per cent; provided that the governor may defer the effective date of this reduction in any county for an additional period of up to two years.

(4) Effective two or more years after the building tax factor has first been fixed at 70 per cent, the board of supervisors or city council of each county may further reduce the building tax factor; provided that (i) prior approval of the reduction is obtained from the governor, (ii) the building tax factor is changed in units of 10 per cent, (iii) not more than 10 per cent change is made in any two years, and (iv) the building tax factor is not lowered to less than 40 per cent.

(e) Upon determination of the tax rates for the calendar year in each county, the board or council shall notify the director of taxation of the rates, and the director shall employ such rates in the levying of property taxes in that county as provided by law.

(f) The director of taxation shall, on or before March 31 of each year, furnish each board and council with a calculation, certified by him as being as nearly accurate as may be, of the net taxable real property within the county, separately stated for each class established in accordance with subsection 128-9(d) for net taxable lands and for net taxable buildings, plus such additional data relating to the property tax base as may be necessary.

(g) Insofar as the validity of any tax rate is concerned, the provisions of subsections (b) and (f) of this section, including provisions as to dates, shall be deemed directory and no mere informality in employing the procedures thereby prescribed for determining a property tax rate shall invalidate that rate. The provisions of subsections (c), (d) and (e) shall be deemed mandatory."

SECTION 9. Chapters 128 and 129 of the Revised Laws of Hawaii 1955, as amended, are hereby amended to change the word "rate" to "rate or rates" wherever the context indicates it should be done to be consistent with the provisions of this Act.

SECTION 10. Subsection 143-21(c), Revised Laws of Hawaii 1955, as amended, is hereby amended by deleting from the second sentence the following words " , and for this purpose the tax rate limit provided by section 129-2 may be exceeded by not more than \$2 per \$1,000 of assessed value of taxable real property in the county for the year".

SECTION 11. The provisions of this Act are declared to be severable and, if any word, sentence or section of this Act or the application thereof to any person, circumstance or property is held invalid for any reason, the validity of the remainder of this Act or the application of such portion to other persons, circumstances or property shall not be affected.

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SECTION 12. This Act shall take effect upon its approval, provided that the provisions of sections 1, 5, 6, 7, 8 and 9 shall take effect on January 1, 1965; and provided further that parcels need not be assigned to classes as prescribed by the provisions of section 3 prior to January 1, 1965.

(Approved June 3, 1963.) **H.B. 22.**

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