

A Bill for an Act Relating to Real Property Taxation.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 246-10, Hawaii Revised Statutes, is amended by amending subsection (f) to read as follows:

- “(f)(1) In determining the value of land, other than land classified and used for agriculture, 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 the 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 246-12, 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.
- (2) In determining the value of lands which are classified and used for agriculture, whether such lands are dedicated pursuant to section 246-12 or not, consideration shall be given to rent, productivity, nature of actual agricultural use, 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, and to the opinions of persons who may be considered to have special knowledge of land values.
- (3) A deferred or roll back tax shall be imposed on the owner of agricultural lands assessed according to its agricultural use as provided in subsection (a) of this section in the event of a change in land use classification by the authorized state agency to urban or rural districts or upon the subdivision of the land into parcels of five acres or less, provided that the tax shall not apply if the owner dedicates his land as provided in section 246-12 within three years from the date of change in land use classification and fulfills all of the requirements of the dedication. The deferred tax shall be due and payable at the end of the third year following the change in land use classification provided that the land shall continue to be used for agriculture during this period. The total amount of deferred taxes shall be computed commencing at the end of the third year following the change in classification where the land has continuously been used for agriculture; provided however that where the land has been put to a higher urban or rural use prior to the expiration of the three-year period the amount of deferred taxes shall be computed commencing at the end of the year in which the land has been put to such higher urban or rural use, and shall be retroactive to the date the assessment was made pursuant to

subsection (a) of this section provided the retroactive period shall not exceed ten years. Where the owner has subdivided his land into parcels of five acres or less, the deferred tax shall commence from the date the conversion was made retroactive to the date the assessment was made pursuant to subsection (a) of this subsection but for not more than ten years. Any other provisions to the contrary notwithstanding, the deferred or roll back tax shall apply only if a change in land use classification has been made as a result of a petition by any property owner or lessee and shall apply only upon lands owned by the owner or lessee who has petitioned for the change in classification. The deferred or roll back tax shall not apply to lands owned by any owner or lessee who has not petitioned for the change in classification provided the owner or lessee shall continue to use the land in its agricultural use for a period of three years after the change in land use classification is made, or where the change in classification is initiated by any governmental agency or instrumentality. The deferred or roll back tax shall be based on the difference in assessed value between the highest and best use and the agricultural use of the land, at the tax rate applicable for the respective years.

- (A) Where the owner subdivides his land into parcels of five acres or less, the deferred tax shall be due and payable within sixty days of such conversion, subject to a ten per cent per annum penalty, provided that if the conversion occurs within five years of the date of enactment of this law, twice the amount of taxes and penalties as provided herein shall become due and owing.
- (B) Where the owner changes the land use classification, the deferred tax shall be due and payable within three years of such conversion except that where the land has been put to its higher urban or rural use, the tax shall be due and payable at the end of the year in which the land has been put to such higher use, subject to a ten per cent per annum penalty.

Any other provisions to the contrary notwithstanding, the land shall continue to be assessed in its agricultural use as provided in subsection (a) of this section until the land is put to its higher urban or rural use or for a period of three years following the change in classification whichever is shorter, provided that for purposes of determining the amount of deferred taxes to be assessed to the owner or lessee, the retroactive period shall include the period during which the land is continued to be assessed in its agricultural use following the change in classification. Any tax due and owing shall attach to the land as a paramount lien in favor of the State pursuant to section 246-55.

- (4) Where lands located within agricultural districts are put to agricultural uses, that portion of such lands not usable or suitable for any agricultural use, whether dedicated pursuant to section 246-12 or not, the tax upon such unusable or unsuitable land shall be deferred and shall be payable upon conversion as provided under this section."

SECTION 2. Section 246-12, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) Failure of the owner to observe the restrictions on the use of his land shall cancel the dedication and special tax assessment privilege retroactive to the date of the dedication, but in any event, shall not exceed the term of the original dedication, and all differences in the amount of taxes that were paid and those that would have been due from assessment in the higher use shall be payable with a ten per cent a year penalty from the respective dates that these payments would have been due. The additional taxes and penalties, due and owing as a result of a breach of the dedication, shall be a paramount lien upon the property pursuant to section 246-55. Failure to observe the restrictions on the use means failure for a period of twelve consecutive months to use the land in that manner requested in the petition or the overt act of changing the use for any period provided that a change in land use classification upon petition by the owner of such dedicated lands shall not be deemed to constitute an overt act of changing the use of the land. Any other provisions to the contrary notwithstanding, when a portion of the dedicated land is subsequently applied to a use other than the use set forth in the original petition, only such portion as is withdrawn from the dedicated use and applied to a use other than ranching or other agricultural use shall be taxed as provided by this subsection.”

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 4. This Act shall take effect upon its approval.

(Approved May 31, 1977.)

*Edited accordingly.