

ACT 139

H.B. NO. 231

A Bill for an Act Relating to Real Property Tax.

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

SECTION 1. Section 246-2, Hawaii Revised Statutes, is amended to read:

**"Sec. 246-2 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 sixty per cent or less of its fair market value determined in the manner provided by law, at such

rate as shall be determined in the manner provided in section 248-2. However, the director of taxation may use as the tax base a lesser percentage of fair market value; if he does so he shall certify to the county council the percentage so used at the time he furnishes the council the calculations as to the tax base pursuant to section 248-2(d), and if he does not do so he shall certify to the council that he has used sixty 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 council 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 sixty per cent of fair market value or some other percentage 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 246-10, Hawaii Revised Statutes, is amended by amending subsection (d) to read:

- "(d) (1) The land in each county shall be classified, upon consideration of its highest and best use, into the following general classes:
- (A) Single-family and two-family residential,
  - (B) Three or more family residential, apartment, hotel and resort,
  - (C) Commercial,
  - (D) Industrial,
  - (E) Agricultural, and
  - (F) Conservation.
- (2) In assigning land to one of the general classes the director of taxation shall give major consideration to the districting established by the land use commission pursuant to chapter 205, 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.

SECTION 3. Section 246-24, Hawaii Revised Statutes, is repealed.

SECTION 4. Section 246-43, Hawaii Revised Statutes, is amended to read:

**"Sec. 246-43 Notice of assessments; addresses of persons entitled to notice.**

On or before March 15 preceding the tax year, the director of taxation shall give notice of the assessment for the tax year against each known owner, by personal delivery to the 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 section 246-10(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 section 246-10, the exemption, if any, and the net assessed value of the property.

In addition to the foregoing, the assessor of each district shall in each year give notice of the assessments in his district for the year by public notice (by publication thereof in English at least three times on different days during the

month of March of such year in a newspaper of general circulation in the district, published in the English language) of a time when (which shall be not less than a period of ten days prior to March 31 preceding the tax year) and of a place where the records of taxable properties maintained in the district showing all assessments made for the district may be inspected by any person for the purpose of enabling him to ascertain what assessments have been made against him or his property and to confer with the assessor so that any errors may be corrected before the filing of the assessment list."

SECTION 5. Section 246-44, Hawaii Revised Statutes, is amended to read:

**"Sec. 246-44 Assessment lists.** On or before April 19 preceding the tax year the director of taxation shall have prepared from the records of taxable properties maintained in each district a list in triplicate of all assessments made for each district, which list shall be signed and sworn to by the person preparing it. The 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 section 246-10(d), the valuation of buildings and the valuation of all other real property, exclusive of buildings, the amount of exemption, if any, and the net assessed value of the property. The 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 231-22. There shall be noted upon such lists all appeals taken for the 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 6. Section 246-47, Hawaii Revised Statutes, is amended to read:

**"Sec. 246-47 Tax rolls; tax bills.** The tax collector shall prepare tax rolls for his district from the district assessment lists provided for by section 246-44, showing thereon, in each case, names and addresses of the assessed and amount of taxes which shall not be less than \$7 as provided for in section 248-2(f).

Each tax collector shall mail, postage prepaid, or deliver, each year on or before the billing dates as provided for by section 246-48, to all known persons assessed for real property taxes in his district for such year, respectively, tax bills demanding payments of taxes due from each of them respectively, but no person shall be excused from the payment of any tax or delinquent penalties thereon by reason of failure on his part to receive, or failure on the part of the tax collector so to mail or deliver such bill. The bill, if mailed, shall be addressed to the person concerned at his last known address or place of residence. Whenever any bill covers taxes for any real property owned, jointly or as tenants in common or otherwise, by more than one person, the bill shall be sent to each known co-owner but shall demand the full amount of the taxes due upon such real property."

SECTION 7. Section 248-2, Hawaii Revised Statutes, is amended to read:

**"Sec. 248-2 Real property tax; determination of rates.** (a) The council of each county may increase or decrease the tax rate as which real property in that county shall be taxed for each tax year. A resolution increasing or decreasing the tax rate in each county shall be adopted on or before June 20 preceding the tax year for which property tax revenues are to be raised according to the following procedures:

- (1) After determining that any tax rate certified by the director of taxation under subsection (d) should be increased or decreased and the date of a public hearing concerning such determination, the council shall advertise its intention to increase or decrease the tax rate and the date, time, and place of the public hearing in a newspaper of general circulation in the county in which the rates are to be increased or decreased. The date of the public hearing shall be not less than ten days after the advertisement is first published and shall set forth the tax rate to be considered by the council.
- (2) After the public hearing provided for in paragraph (1), the council shall readvertise and reconvene within two weeks to adopt a resolution fixing the tax rate for the tax year for which property tax revenues are to be raised. The advertisement shall state the new rate to be fixed and the amount of the increase or decrease, and the date, time, and place of the public hearing scheduled for fixing such rate. The date, time, and place of the public hearing shall also be announced at the public hearing required by paragraph (1). If the resolution fixing the tax rate is not adopted within two weeks from the public hearing required by paragraph (1), the council shall again advertise and meet as required by paragraph (1).
- (3) If after adopting an increase or decrease in the tax rate as provided by paragraph (1) and (2), the council determines that it requires a further increase or decrease in a tax rate or fails to act in any specified period, the council shall readvertise and follow the requirements of paragraphs (1) and (2).

If the council of each county does not increase or decrease the tax rate certified to the council by the director of taxation under subsection (d) as provided in this subsection, the tax rate so certified shall be the tax rate in the county for the tax year for which the property tax revenues are to be raised.

(b) The council of each county shall increase or decrease the tax rate applicable in the county using the following method:

- (1) The total revenue to be raised from real property in the county shall be divided by the aggregate value of the taxable real property within the county. The aggregate value of taxable real property within the county shall mean the net assessed value of all real property in the county as of April 19 preceding the tax year. In all cases where appeals from the assessment of the department of taxation have not yet been finally determined, the values used in determining the aggregate shall be the value claimed by the taxpayer in each case, plus fifty per cent of the value in dispute.

(2) The rate shall be expressed in terms of the tax per \$1,000 of assessed value of taxable real property in the county, provided that the applicable rate for each county shall be computed to the nearest cent.

(c) If the tax rate for the tax year in any county is increased or decreased, the council shall notify the director of taxation of the increased or decreased rate, and the director shall employ such rate in the levying of property taxes in that county as provided by law.

(d) The director of taxation shall on or before May 1 preceding the tax year furnish each council with a calculation certified by him as being as nearly accurate as may be, of the aggregate value of taxable real property within the county plus such additional data relating to the property tax base as the council may request in writing. In addition, the director shall certify to the council of each county, the tax rate for the forthcoming tax year in each county by determining such tax rate by the method established in subsection (b) and by using the aggregate value of taxable real property within the county for the forthcoming year and the county's real property revenues for the current year. Upon its determination such tax rate shall be the tax rate for the county for the forthcoming tax year, unless the county increases or decreases the tax rate as provided in subsection (a).

(e) Insofar as the validity of any tax rate is concerned, the provisions of subsections (a) and (d) of this section as to dates, shall be deemed directory; provided that all other provisions of subsections (a) and (d) and all provisions of subsections (b) and (c) shall be deemed mandatory.

(f) Notwithstanding any provision to the contrary, there shall be levied upon each individual parcel of real property taxable under chapter 246 a minimum real property tax of \$7 a year."

SECTION 8. 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 9. This Act shall take effect upon its approval; provided that sections 1 to 8 of this Act shall take effect on January 1, 1980; and provided further that section 248-2(d), Hawaii Revised Statutes, to the contrary notwithstanding, the building tax factor shall be increased to eighty per cent on January 1, 1978 and to ninety per cent on January 1, 1979.

(Approved June 1, 1977.)