

ACT 309

S.B. NO. 789

A Bill for an Act Relating to General Excise Tax Exemptions for Affordable Housing.

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

SECTION 1. Act 303, Session Laws of Hawaii 1992, is amended by amending section 1 to read as follows:

“SECTION 1. Chapter 237, Hawaii Revised Statutes is amended by adding a new section to be appropriately designated and to read as follows:

“§237- Affordable housing development exemption. (a) There shall be an exemption from the taxes imposed by this chapter for the development of affordable housing. The housing finance and development corporation may certify for exemption any qualified person involved with the planning, design, financing, construction, or sale of affordable housing units developed by a private developer [who is fulfilling an affordable housing requirement imposed by the state land use commission or by a county land use decision-making body.]; provided that in the case of projects involving the development of market-price as well as affordable housing units, the exemption under this section shall apply exclusively to the units developed as affordable housing units as defined in subsection (e).

(b) All claims for exemption shall be filed with and certified by the housing finance and development corporation and forwarded to the department of taxation. The housing finance and development corporation shall not be considered a governmental contracting party when approving any claim for exemption for the purposes of section 104-2[, Hawaii Revised Statutes].

(c) The exemption shall apply to all amounts received by any certified person for the planning, design, financing, construction, or sale in the State of affordable housing units as described under subsection (a), and on which actual construction has started between July 1, 1992, and December 31, 1993, and which is completed by December 31, 1994, as verified by the housing finance and development corporation; provided that in the event that the developer is delayed or hindered from completing the project by reason of floods, earthquakes (or other acts of nature), strikes, lockouts, inability to procure materials, failure of power, riots, insurrection, war, civil or criminal proceedings, injunctions, writs, appeals, stays, or other reason of a like nature, which is not the fault of or capable of being prevented by the developer, then the December 31, 1994, completion deadline may be extended for a period equivalent to the period of the delay. In the event of a delay, the developer shall be required to submit to the housing finance and develop-

ment corporation verification of the date of commencement of any of the delaying events, as well as the date on which the event ended.

(d) The exemption shall apply to projects containing the first ten thousand affordable housing units which are certified and completed by December 31, 1994.

(e) For the purposes of this section:

“Actual construction” means construction of residential improvements, as well as grubbing, grading, or leveling of the land, construction of roads, installation of utilities, or otherwise preparing undeveloped land for the construction of improvements. “Actual construction” does not mean and shall exclude project planning, design, or obtaining necessary permits for construction.

“Affordable housing units” means housing units which are sold at prices or rented at rates affordable to households earning up to one hundred forty per cent of the area median income as determined by the United States Department of Housing and Urban Development.

(f) The provisions of this section shall apply to property subject to chapter 238.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect on July 1, 1993.

(Approved June 21, 1993.)