

SUMMARY OF PROPOSED COMMITTEE DRAFT:

**BILL 39 (2021)
RELATING TO REAL PROPERTY TAXATION.**

The PROPOSED CD1 makes the following amendments:

- A. Amends the title of ROH Section 8-10.15 to be "Exemption—Renewable energy."
- B. Changes all references to the phrases "alternate energy" and "alternative energy" to "renewable energy" throughout the measure.
- C. Amends ROH Section 8-10.15(b) to provide that the portions of land actually used for the active production of renewable energy will be exempt from 80 percent, as opposed to 50 percent, of its value from the measure of the taxes imposed under ROH Chapter 8.
- D. Amends new ROH 8-10.15(f) to provide that scheduled equipment maintenance and forced shutdown(s) due to unforeseen circumstances beyond the control of the claimant will be considered as part of the director's determination to cancel the real property tax exemption.
- E. Clarifies in ROH Section 8-10.15(h) that land portion(s) granted under the exemption may not be combined with any other real property tax exemption in ROH Chapter 8, Article 10 or dedication program in ROH Chapter 8, Article 7.
- F. Amends SECTION 4 of the measure to allow properties with existing exemptions granted by the Director of Budget and Fiscal Services under ROH Section 8-10.15, Revised Ordinances of Honolulu 1990, as it read prior to the effective date of the measure, to continue to receive the exemption until such time that the exemption is disallowed under ROH Section 8-10.15(d), as it read prior to the effective date of the measure.
- G. Makes miscellaneous technical and nonsubstantive amendments.



A BILL FOR AN ORDINANCE

RELATING TO REAL PROPERTY TAXATION.

BE IT ORDAINED by the People of the City and County of Honolulu:

SECTION 1. Purpose. The purpose of this ordinance is to amend the provisions relating to the alternate energy improvements real property tax exemption.

SECTION 2. Section 8-10.15, Revised Ordinances of Honolulu 1990, is amended to read as follows:

**"Sec. 8-10.15 ~~[Exemption—Alternate]~~ Exemption—Renewable energy
[improvements].**

(a) The value of all improvements ~~[in the county]~~ permanently affixed to land (not including a building or its structural components, except where ~~[alternate]~~ renewable energy improvements are incorporated into the building, and then only that part of the building necessary to such improvement) and actually used for ~~[an alternate]~~ a renewable energy improvement ~~[shall be exempted from the measure of the taxes imposed by this article.]~~ is exempt from real property taxes if a timely claim for exemption is approved by the director.

(b) The portions of land actually used for the active production of renewable energy shall be exempt from 80 percent of its value from the measure of the taxes imposed by this chapter. A State-approved special use permit or county-approved conditional use permit allowing for such production is required if the production of renewable energy is inconsistent with or not permitted by the underlying zoning. The production of renewable energy must be primarily for use, distribution, or sale to public utilities or for public consumption, and does not apply to the production of renewable energy primarily for personal use or used to sustain private enterprises or operations.

~~[(b)]~~ (c) As used in this section, ~~["alternate"]~~ "renewable energy improvement" means any construction or addition, alteration, modification, improvement, or repair work undertaken upon or made to any building, property, or land ~~[which]~~ that results in:

(1) The production of energy from a source, or uses a process which does not use fossil fuels, nuclear fuels, or geothermal source. Such energy source may include, but ~~[shall]~~ is not ~~[be]~~ limited to, ~~[solid-~~



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~~wastes, wind or ocean waves, tides or currents;~~ wind, sun, falling water, biogas, ocean water, currents and waves, biomass waste, and biofuels; or

- (2) An increased level of efficiency in the utilization of energy produced by fossil fuels or in the utilization of secondary forms of energy dependent upon fossil fuels for its generation.

- ~~[(e)]~~ (d) Application for the exemption provided by this section ~~[shall be made]~~ must be filed by the taxpayer with the director on or before September 30th, preceding the tax year for which the exemption is claimed. No improvement exemption may be claimed for devices that convert solar radiation to electricity or heat because these devices are excluded from the definition of "property" or "real property" and are not assessed. The director may require the taxpayer to furnish reasonable information in order that the director may ascertain the validity of the claim for exemption.
- ~~[(d)]~~ The claim for exemption, once allowed, shall continue for a period of 25 years ~~thereafter.~~
- (e) The director may require that the claimant provide documentation to support an initial claim for exemption or the continuing qualification for the exemption. Failure to provide the director with such documentation is grounds for denying a claim for an exemption or disallowing an existing exemption. The director may require that the claimant provide documentation evidencing active production of renewable energy, such as a current, valid copy of a State-approved special use permit or county-approved conditional use permit, approvals or orders from the State Public Utilities Commission, or if the claimant is not the fee owner, a copy of the lease or agreement describing the allowable uses and period of use of the real property. Failure to provide the director with such documentation within 30 days of the director's request is grounds for disallowance or denial of a claim for the exemption.
- (f) The director may cancel the exemption if the renewable energy improvement ceases operations that generate renewable energy, and when the production of renewable energy on the land ceases or terminates. Scheduled equipment maintenance and forced shut downs due to unforeseen circumstances beyond the control of the claimant will be considered.
- (g) The claimant may cancel the exemption by filing a written notice of cancellation with the director.



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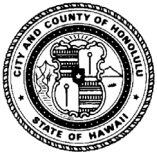
(h) The land portions granted this exemption may not be subject to other real property tax exemption in this article or dedication program in Article 7.

~~[(e)]~~ (i) The director may adopt rules [and regulations] in accordance with HRS Chapter 91 to implement this section."

SECTION 3. Ordinance material to be repealed is bracketed and stricken. New material is underscored. When revising, compiling, or printing this ordinance for inclusion in the Revised Ordinances of Honolulu, the Revisor of Ordinances need not include the brackets, the material that has been bracketed and stricken, or the underscoring.

SECTION 4. This ordinance takes effect upon its approval and applies to the tax years beginning July 1, 2022 and thereafter; provided that:

- (1) Notwithstanding the September 30th application deadline specified in Section 8-10.15(d), Revised Ordinances of Honolulu 1990, as amended, a one-time application period of 10 calendar days following the effective date of this ordinance will be permitted to allow eligible properties an opportunity to qualify for the tax year beginning July 1, 2022 and the assurance toward the correctness of the assessment lists and certification of the net taxable amounts of real property; and



CITY COUNCIL

CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

ORDINANCE _____

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- (2) Properties under which an exemption under Section 8-10.15, Revised Ordinances of Honolulu 1990, as it read prior to the effective date of this ordinance, have been granted by the Director of Budget and Fiscal Services will continue to be allowed the exemption until such time that the exemption is disallowed pursuant to Section 8-10.15(d), Revised Ordinances of Honolulu 1990, as it read prior to the effective date of this ordinance.

INTRODUCED BY:

Tommy Waters (br)

DATE OF INTRODUCTION:

September 28, 2021

Honolulu, Hawai'i

Councilmembers

APPROVED AS TO FORM AND LEGALITY:

Deputy Corporation Counsel

APPROVED this _____ day of _____, 20 _____.

RICK BLANGIARDI, Mayor
City and County of Honolulu