

REPORT OF THE COMMITTEE ON BUDGET

Voting Members:

Calvin K.Y. Say, Chair; Radiant Cordero, Vice-Chair;
Brandon J.C. Elefante, Esther Kia'āina, Heidi Tsuneyoshi, Andria Tupola

Committee Meeting Held
November 17, 2021

Honorable Tommy Waters
Chair, City Council
City and County of Honolulu

Mr. Chair:

Your Committee on Budget, which considered Bill 39 (2021), CD1 entitled:

"A BILL FOR AN ORDINANCE RELATING TO REAL PROPERTY TAXATION,"

which passed Second Reading and was the subject of a public hearing at the November 10, 2021 Council meeting, reports as follows:

The purpose of the bill is to amend the provisions relating to the alternative energy improvements real property tax exemption.

The Director of Budget and Fiscal Services and a representative from the Department of Budget and Fiscal Services provided explanations of the bill and answered questions from the Committee.

Your Committee received testimony in support of the bill from one individual and the following organizations: Hawaii Solar Energy Association and the Ulupono Initiative. Comments were received from the following organizations: Ho'ohana Solar 1, LLC, Hawaii Division of Consumer Advocacy, State of Hawaii Public Utilities Commission, Hawaii State Energy Office, Clearway Energy Group, Hawaiian Electric, State of Hawaii Governor's Office.

CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

ADOPTED ON **DEC 1 2021**

COMMITTEE REPORT NO. **322**

REPORT OF THE COMMITTEE ON BUDGET

Voting Members:

Calvin K.Y. Say, Chair; Radiant Cordero, Vice-Chair;
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Your Committee considered and approved a proposed CD2 version of the bill that makes the following amendments:

- A. In SECTION 2 of the measure, which amends ROH Section 8-10.15:
 - 1. Amends subsection (a) by:
 - a. Deleting the word "permanently" before the word "affixed"; and
 - b. Clarifying that the value of all improvements affixed to land and actually used for a renewable energy improvement is exempt from real property taxes, as provided in ROH Section 8-10.15, if a timely claim for exemption is approved by the Director of Budget and Fiscal Services;
 - 2. Amends subsection (b) by:
 - a. Clarifying that the portions of land actually used for the active production or storage of renewable energy shall be exempt from 80 percent of its value from the measure of taxes, provided that, among other things, the production or storage of renewable energy must be primarily for the use of, distribution to, or sale to public utilities or for public consumption under a power purchase agreement or power purchase contract with the utility; and

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- b. Clarifying that, as used in subsection (b), "portions of land actually used" means the land area in physical contact with renewable energy structures;
 - 3. Adds a new subsection (c) that provides that ROH Section 8-10.15 does not apply to any portion of land or improvements used primarily for the production or storage of renewable energy for personal use, or used to sustain private enterprises or operations; and renumbers subsequent subsections accordingly;
 - 4. Amends renumbered subsection (d) by clarifying in subdivision (1) that the term "renewable energy improvement" means any construction or addition, alteration, modification, improvement, or repair work undertaken upon or made to any building, property, or land that results in the production or storage of energy from a source, or involves a process that does not use fossil fuels or nuclear fuels. Such energy source may include, but is not limited to, solid wastes, wind, sun, falling water, biogas, geothermal, ocean water, currents and waves, biomass biofuels, hydrogen, or any combination of the foregoing; and
 - 5. Amends renumbered subsection (f) to specify that the claim for exemption, once allowed, shall continue for the period of the power purchase agreement or contract with the utility.
- B. Makes miscellaneous technical and nonsubstantive amendments.

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Your Committee on Budget is in accord with the intent and purpose of Bill 39 (2021), CD1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as Bill 39 (2021), CD2. (Ayes: Cordero, Elefante, Kia'āina, Say, Tsuneyoshi, Tupola – 6; Noes: None.)

Respectfully submitted,



Committee Chair

CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

ADOPTED ON DEC 1 2021

COMMITTEE REPORT NO. 322



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. 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]~~ 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, as provided in this section, if a timely claim for exemption is approved by the director.
- (b) The portions of land actually used for the active production or storage of renewable energy shall be exempt from 80 percent of its value from the measure of the taxes imposed by this chapter; provided that:
- (1) 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; and
- (2) The production or storage of renewable energy must be primarily for use, distribution, or sale to public utilities or for public consumption under a power purchase agreement or power purchase contract with the utility.

As used in this subsection, "portions of land actually used" means the land area in physical contact with renewable energy structures.

- (c) The exemption provided in this section does not apply to any portion of land or improvements used primarily for the production or storage of renewable energy for personal use, or used to sustain private enterprises or operations.



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- ~~[(b)]~~ (d) 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 or storage of energy from a source, or uses a process which does not use fossil fuels, or nuclear fuels ~~[or geothermal source]~~. Such energy source may include, but ~~[shall]~~ is not ~~[be]~~ limited to, solid wastes, ~~[wind or ocean waves, tides or currents;]~~ wind, sun, falling water, biogas, geothermal, ocean water, currents and waves, biomass biofuels, hydrogen, or any combination of the foregoing; 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)]~~ (e) 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)]~~ (f) The claim for exemption, once allowed, shall continue for ~~[a period of 25 years thereafter.]~~ the period of the power purchase agreements or contract with the utility.
- (g) 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



A BILL FOR AN ORDINANCE

days of the director's request is grounds for disallowance or denial of a claim for the exemption.

- (h) The director may cancel the exemption if the renewable energy improvement ceases operations that generate or store renewable energy, and when the production or storage 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.
- (i) The claimant may cancel the exemption by filing a written notice of cancellation with the director.
- (j) The land portions granted in this exemption may not be subject to other real property tax exemption in this article or dedication program in Article 7.
- ~~(e)~~ (k) 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



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HONOLULU, HAWAII

ORDINANCE _____

BILL **39 (2021), CD2**

A BILL FOR AN ORDINANCE

- (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