

REPORT OF THE COMMITTEE ON HOUSING, SUSTAINABILITY AND HEALTH

Voting Members:

Matt Weyer, Chair; Esther Kia'āina, Vice Chair;
Tyler Dos Santos-Tam, Val A. Ōkimoto, Augie Tulba

Committee Meeting Held
August 21, 2024

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

Mr. Chair:

Your Committee on Housing, Sustainability and Health, which considered Bill 47 (2024) entitled:

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

which passed first reading at the August 7, 2024 Council meeting, reports as follows:

The purpose of the bill is to address the taxation of real property by establishing dedications of real property as aina kupuna.

At your Committee's meeting on August 21, 2024, the Director of Budget and Fiscal Services provided comments on the bill and answered questions from Councilmembers.

Your Committee considered and approved a CD1 version of the bill that makes the following amendments:

- A. In SECTION 2 of the bill:
 1. Amends the definition of aina kupuna to specify that real property includes property improved with a one- or two-family detached dwelling and to require that the property be owned by a descendant of a person who owned the property at least 50 years prior to the dedication (instead of 80 years);
 2. Removes the definition of and references to commercial purpose;

HONOLULU CITY COUNCIL
Ke Kanihela o ke Kalana o Honolulu
CITY AND COUNTY OF HONOLULU

ADOPTED ON SEP 4 2024

COMMITTEE REPORT NO. 266

REPORT OF THE COMMITTEE ON HOUSING, SUSTAINABILITY AND HEALTH

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3. Amends the definition of descendant by deleting the language specifying that ownership of the property may be held by a corporation, limited liability company, or similar entity, and by moving to proposed subsection (b)(6) the language specifying that a descendant may own the property as an individual or with other individuals, or that the descendant's beneficial ownership interest may be represented by one or more trustees;
4. In proposed subsection (b)(3), adds language specifying that the real property must be occupied by the owner or owners of the property for residential purposes, provided that the real property may be used for commercial agriculture;
5. In proposed subsection (b)(6), deletes language specifying that if ownership is held by a corporation, limited liability company, or similar entity, at least one trustee, member of the board of directors, shareholder, managing member, or member must be a resident of the city; and clarifies that the dedication of real property may be made by a descendant of a person who owned the property at least 50 years prior to the date of the petition, to address cases in which real property was previously owned by more than one person;
6. In proposed subsection (c), adds language requiring that the owner declare in the petition for dedication that the real property will not be occupied by a nonowner(s); and
7. In proposed subsection (f)(1), adds language specifying that the aina kupuna dedication terminates automatically upon the owner's failure to comply with restrictions on the use or occupancy of real property under certain circumstances.

HONOLULU CITY COUNCIL
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CITY AND COUNTY OF HONOLULU

ADOPTED ON **SEP 4 2024**

COMMITTEE REPORT NO. **266**

REPORT OF THE COMMITTEE ON HOUSING, SUSTAINABILITY AND HEALTH

Voting Members:

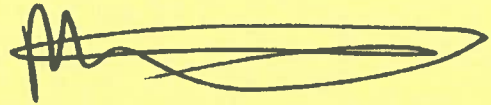
Matt Weyer, Chair; Esther Kia'āina, Vice Chair;
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B. Makes various technical and nonsubstantive amendments.

Your Committee on Housing, Sustainability and Health is in accord with the intent and purpose of Bill 47 (2024), as amended herein, and recommends that it pass second reading, be scheduled for a public hearing, and be referred to, and accepted by, the Committee on Budget for further consideration pursuant to its consecutive referral in the form attached hereto as Bill 47 (2024), CD1. (Ayes: Kia'āina, Okimoto, Weyer, Tulba – 4; Noes: None; Absent: Dos Santos-Tam – 1.)

Respectfully submitted,

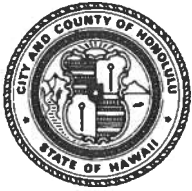


Committee Chair

HONOLULU CITY COUNCIL
Ke Kanihela o ke Kalana o Honolulu
CITY AND COUNTY OF HONOLULU

ADOPTED ON SEP 4 2024

COMMITTEE REPORT NO. 266



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 address the taxation of real property.

SECTION 2. Chapter 8, Article 7, Revised Ordinances of Honolulu 2021 ("Valuations"), is amended by adding a new section to be appropriately designated by the Revisor of Ordinances and to read as follows:

"§ 8-7. Real property dedicated as aina kupuna.

(a) For the purposes of this section, the following definitions apply unless the context clearly indicates or requires a different meaning.

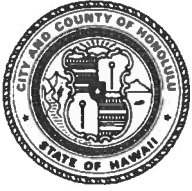
Agriculture. The production of plant and animal life for food and fiber, and for raw materials for processed products. The term includes the following along with their accompanying services and facilities:

- (1) Fruit, vegetable, and flower growing;
- (2) Forestry;
- (3) Aquaculture;
- (4) Beekeeping; and
- (5) Grazing and dairying.

Aina Kupuna. Real property, including property improved with a one- or two-family detached dwelling or duplex unit, that is owned, in whole or in part, in fee simple by one or more descendants of a person who owned the property at least 50 years prior to the date of the petition.

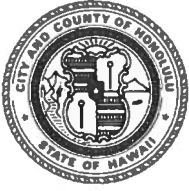
Descendant. Has the same meaning as defined in HRS § 560:1-201.

Owner. A person who is the fee simple owner of the real property.



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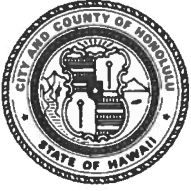
- (b) An owner of real property may dedicate the real property as aina kupuna for a period of 10 years, subject to the minimum tax required under § 8-11.1(g); provided that:
- (1) The real property qualifies as aina kupuna;
 - (2) The real property is not conveyed to a non-descendant for the duration of the dedication;
 - (3) The real property is occupied by the owner or owners thereof for residential purposes for the duration of the dedication; provided that the real property may be used for commercial agriculture;
 - (4) The real property is located in the special management area as defined in HRS § 205A-22;
 - (5) The aggregate real property taxes assessed on the property for the 10 tax years prior to the initial petition exceeded \$10,000; and
 - (6) A descendant of a person who owned the property at least 50 years prior to the date of the petition may own the property as an individual or with other individuals, or a descendant's beneficial ownership interest may be represented by one or more trustees; provided that if ownership of the real property is held with other individuals, at least one owner is a resident of the city.
- (c) The owner shall file a petition to dedicate the property as aina kupuna with the director. The petition for dedication requires a declaration that if the petition is approved by the director, the real property or any portion thereof, will not be conveyed to a non-descendant or occupied by a nonowner(s) for the duration of the dedication period following approval of the petition. The owner is responsible for the cost of obtaining evidence in support of the petition.
- (1) If the owner is not identified as an owner of the property in the real property tax records, the director shall require the owner, at the owner's expense, to obtain a deed, court order, or other reliable evidence to verify ownership of the property.
 - (2) Genealogical verification by the Office of Hawaiian Affairs or by court order is sufficient to satisfy the descendency requirement.



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- (3) Evidence includes conveyance deeds, wills, trusts, birth certificates, death certificates, and other legally valid documentation that demonstrates legal ownership and descendency.
- (d) The petition must be filed with the director by September 1 of any calendar year, in a form prescribed by the director.
- (1) Following receipt of a petition, the director shall make a finding of fact as to whether the owner and property described in the petition qualify. If the finding is favorable to the owner, the director shall approve the petition and declare the real property to be dedicated. If approved, the minimum tax takes effect the succeeding tax year, and penalties and interest from the 2026 and 2027 tax years must be removed from these portions of the real property dedicated as aina kupuna. No new penalties and interest will be assessed during the dedication period and the director has the authority to waive § 8-5.2.
- (2) If the owner or property does not qualify for the aina kupuna dedication, the director shall notify the owner on or before December 15 preceding the tax year.
- (e) To maintain the aina kupuna dedication, the owner shall apply for renewal no later than September 1 during the ninth year of each dedication period, for an additional period of no less than 10 years, subject to cancellation by the owner.
- (f) The aina kupuna dedication terminates automatically, retroactive to the date of the dedication or the commencement of the latest renewal period, upon the owner's:
- (1) Failure to comply with the restrictions on the use or occupancy of real property specified in this section beyond a period of two weeks after a notice and warning have been issued to the owner by the director; or
- (2) Conveyance of the real property to a non-descendant.

All differences in the amount of taxes that were paid and those that would have been due from assessment without the minimum tax privilege will be payable with a 10 percent penalty from the respective dates that these payments would have been due. The additional taxes and penalties, due and owing as a result of the breach of the dedication, constitute a paramount lien upon the real property



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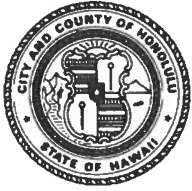
BILL 47 (2024), CD1

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assessed. Nothing in this subsection precludes the city from pursuing any other remedy to enforce the covenant on the use of the real property.

- (g) The owner may appeal any disapproved petition for an aina kupuna dedication as in the case of an appeal from an assessment.
- (h) To place prospective buyers on notice of any rollback taxes and penalties, the owner shall, within 30 days of notice of approval, record the dedication in accordance with the procedures of the State bureau of conveyances or the land court. The director shall prescribe the form of the dedication."

SECTION 3. 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 underscoring.



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ORDINANCE _____

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SECTION 4. This ordinance takes effect upon its approval and applies to tax years beginning July 1, 2026 and thereafter.

INTRODUCED BY:

Tommy Waters

Matt Weyer

DATE OF INTRODUCTION:

August 1, 2024

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

Report Title:

Aina Kupuna; 'Āina Kūpuna; Dedications; Descendants; Real Property; Real Property Tax; Assessments; Department of Budget and Fiscal Services ("BFS"); Office of Hawaiian Affairs ("OHA")

Description:

Establishes dedications of real property as aina kupuna for real property taxation purposes. Provides petition requirements to qualify for the dedication. Applies to tax years beginning July 1, 2026 and thereafter.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.