

SUMMARY OF PROPOSED COMMITTEE DRAFT:

**Bill 46 (2024), CD1
RELATING TO REAL PROPERTY TAXATION.**

The PROPOSED CD2 makes the following amendments:

- A. In SECTION 2 of the bill:
1. Clarifies that a "Principal Residence" includes a residential property that is leased or rented to a traveling nurse contracted to work or an active member of the armed forces of the United States stationed in the State; and
 2. Amends proposed ROH Section 8-____.3(b) to require that:
 - a. At least 20 percent of revenues from the empty homes tax shall be used to increase the City's supply of affordable housing for persons earning 140 percent or less of the area median income as determined by the United States Department of Housing and Urban Development annually for the Honolulu Metropolitan Statistical area, as adjusted for household size; and
 - b. At least 10 percent of revenues from the empty homes tax shall be used to address homelessness.
- B. Makes miscellaneous technical and nonsubstantive amendments.



HONOLULU CITY COUNCIL
KE KANIHELA O KE KALANA O HONOLULU
CITY AND COUNTY OF HONOLULU

ORDINANCE _____

BILL 46 (2024), CD2

PROPOSED

A BILL FOR AN ORDINANCE

RELATING TO REAL PROPERTY TAXATION.

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

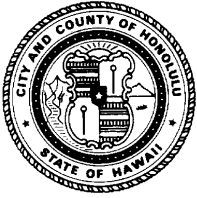
SECTION 1. Purpose. The purpose of this ordinance is to address the taxation of vacant residential properties in the City and County of Honolulu ("City").

This ordinance creates an "empty homes tax," which is a supplemental real property tax intended to help address the City's dual crises of homelessness and a lack of affordable housing that arise from inadequate housing supply and inadequate funding to address these problems. Property owners in the State of Hawai'i ("State") have among the lowest property taxes of property owners in any state in the nation, and funds for programs that address homelessness and affordable housing are limited. The City has one of the nation's highest housing costs, with the median cost for a single-family home exceeding \$1,000,000, as of December 2023. The 2020 U.S. Census reports that the City has a housing vacancy rate of 9.2 percent, with 34,253 housing units unoccupied. A 2024 study by *Demographia International Housing Affordability* ranks Honolulu as having the third worst "impossibly unaffordable" housing in the United States and the 89th worst out of 94 least affordable housing markets in eight major nations of the English-speaking world.

An empty homes tax could help to ease these problems by: (1) encouraging existing owners to rent or sell vacant housing stock for use as homes for local residents; (2) increasing the City's supply of homes to better meet demand and reduce market pressures that cause high and unaffordable housing prices; and (3) raising funds for affordable housing and homelessness solutions.

An empty homes tax could help to convert existing investment properties into housing for local residents without the need for costly construction, long delays for development and permitting, and the acquisition of more land. The tax could increase the affordable housing stock for residents by encouraging long-term rentals and providing funds for the construction of new affordable housing.

The supplemental empty homes tax would only be imposed on properties not used as long-term housing and would not raise taxes on homes occupied by long-term residents. The empty homes tax could help control and potentially lower the City's rapidly increasing housing prices, as it would encourage productive investments and utilization of the City's housing supply. An empty homes tax could help renters; as housing supply increases, landlords will need to offer reasonable rent prices to secure



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renters in order to avoid being assessed for the tax. An empty homes tax could create a dedicated source of revenue for addressing affordable housing and homeless needs.

SECTION 2. Chapter 8, Revised Ordinances of Honolulu 2021 ("Real Property Tax"), is amended by adding a new article to be appropriately designated by the Revisor of Ordinances and to read as follows:

"ARTICLE __: TAXATION OF EMPTY HOMES

§ 8-__.1 Definitions.

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

Accessory Dwelling Unit. Has the same meaning as defined in § 21-10.1.

Bed and Breakfast Home. Has the same meaning as defined in § 21-10.1.

Dwelling Unit. A single-family home, each individual unit in a duplex, condominium, apartment, or otherwise a housing unit containing a room or rooms connected together, constituting an independent housekeeping unit for a family and containing a single kitchen. The term does not include accessory dwelling units or ohana dwelling units.

Empty Home. Any dwelling unit, bed and breakfast home, or transient vacation unit on a residential property that does not qualify for any of the exemptions in § 8-__.4.

Empty Homes Tax. A supplemental real property tax on an empty home.

Floor Area. Has the same meaning as defined in § 21-10.1.

Nonprofit Organization. Has the same meaning as defined in § 8-10.26.

Ohana Dwelling Unit. Has the same meaning as defined in § 21-10.1.

Owner. The registered owner of residential property whose name appears on the real property tax roll prepared pursuant to Chapter 8, Article 3.



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Permitted Occupant. Someone other than the owner of a dwelling unit that maintains principal residency or occupancy at a dwelling unit, regardless of whether rent or other consideration is provided to the dwelling unit owner.

Principal Residence. The usual dwelling where a person lives, makes his or her home, and conducts his or her daily affairs and to which place the individual has, whenever absent, the intention of returning with the intent to reside, and is generally the residential address used on documentation related to employment or education on Oahu, billing, paying bills and receiving mail, identification, taxation, and insurance, including, without limitation, income tax returns, driver's licenses, personal identification, vehicle registration, and utility bills. The term includes a residential property that is leased or rented to a traveling nurse contracted to work or an active member of the armed forces of the United States stationed in the State. A person may only have one principal residence.

Residential Property. Property that is:

- (1) Classified as residential, residential A, bed and breakfast home, or transient vacation under § 8-7.1; or
- (2) Dedicated for residential use under § 8-7.5, including any property improved with a dwelling unit, condominium unit, apartment building, or duplex unit.

Tax Year. The fiscal year beginning July 1 of each calendar year and ending June 30 of the following calendar year for which the tax on empty homes is imposed.

Transient Vacation Unit. Has the same meaning as defined in § 21-10.1.

§ 8-__2 Empty homes tax.

- (a) **Empty homes tax.** An empty homes tax is levied and must be assessed and collected for each tax year for every parcel on which an empty home is situated.
- (b) **Tax calculation.** The empty homes tax rate for an empty home is 3 percent of the tax assessed value of the residential property for the applicable tax year, notwithstanding § 8-11.1(b); provided that:



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- (1) For the first tax year in which the empty homes tax is assessed, the tax rate for an empty home is 1 percent of the tax assessed value of the residential property for that tax year; and
- (2) For the second tax year in which the empty homes tax is assessed, the tax rate for an empty home is 2 percent of the tax assessed value of the residential property for that tax year.

Where a residential property has multiple dwelling units that are not on separate parcels with separately established tax assessed values, then the tax assessed value for each dwelling unit that is an empty home on the residential property will be the tax assessed value for the entire residential property, multiplied by the proportionate square footage for each dwelling unit that is an empty home, in accordance with subsection (c).

- (c) *Tax calculation for properties with multiple dwelling units.* The proportionate square footage of the floor area of a dwelling unit on a residential property that has multiple dwelling units must be determined by taking the square footage of the floor area of the dwelling unit that is an empty home and dividing it by the cumulative square footage of the floor area of all of the dwelling units on the residential property.

For example, if a residential property has a tax assessed value of \$4,000,000, a total of 5,000 square feet for all dwelling units on the residential property, and a dwelling unit of 1,000 square feet that is an empty home, the proportionate square footage of that empty home is 20 percent (1,000 divided by 5,000); the tax assessed value attributable to that empty home would be \$800,000 (\$4,000,000 times 20 percent); and the empty homes tax at a 3 percent tax rate would be \$24,000 (\$800,000 times 3 percent).

- (d) *Annual tax.* The empty homes tax is levied annually, in addition to any other taxes applicable to the property and imposed by any other laws of the State or city.

§ 8-__3 Tax revenues.

Revenues from the empty homes tax collected under this article must be earmarked as follows:



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- (a) As authorized by the Charter, at least 20 percent shall be deposited into the affordable housing fund to be used as provided by Charter § 9-204;
- (b) Revenues from the empty homes tax collected from this article that are not deposited into the affordable housing fund shall be deposited into the general fund; provided that:
 - (1) At least 20 percent of revenues from the empty homes tax shall be used to increase the city's supply of affordable housing for persons earning 140 percent or less of the area median income as determined by the United States Department of Housing and Urban Development annually for the Honolulu Metropolitan Statistical area, as adjusted for household size; and
 - (2) At least 10 percent of revenues from the empty homes tax shall be used to address homelessness.
- (c) Notwithstanding any provision to the contrary, up to 5 percent of the revenues from the empty homes tax may be used to support the administrative costs of implementing and enforcing this article, including the costs of additional staff.

§ 8-__4 Exemptions.

A dwelling unit on residential property is an empty home unless it qualifies for any of the following exemptions:

- (1) The dwelling unit is the principal residence of one or more of the owners of the property for at least six months in the tax year;
- (2) The dwelling unit is the principal residence of a renter or other permitted occupant of the property for at least six months in the tax year. Multiple rental or occupancy periods may be aggregated for the calculation of the six-month period;
- (3) The dwelling unit or residential property is subject to a probate court proceeding or the title to the property is the subject of pending litigation before a court of competent jurisdiction during a tax year; provided that such exemption is only valid for the tax years during which such court action was active, resolved, and for the following tax year;



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- (4) An owner who occupied the dwelling unit as their principal residence died during the tax year, which caused the residential property to be transferred by will, intestate succession, or operation of law, to a new owner; provided that such exemption is only valid for the tax year during which such death occurred and for the following five tax years; properties most recently transferred by will, intestate succession, or operation of law, to a new owner shall be afforded the same five-year exemption beginning during the tax year of this measure's adoption.
- (5) The owner, renter, or permitted occupant of the dwelling unit is undergoing medical care, including but not limited to residing in an assisted living facility, or providing medical care as a caregiver, which requires the owner, renter, or permitted occupant to reside in a place other than the dwelling unit, for longer than six months during the tax year;
- (6) The occupant of the dwelling unit who has legal occupancy rights to the residential property is deployed outside of the city on active duty with the armed forces of the United States during the tax year;
- (7) The dwelling unit is determined to be a "substandard building" as defined in § 16A-2.1, and there is a pending application for a building permit for major construction, repair, or renovation to the dwelling unit that would resolve the conditions that render the dwelling unit a "substandard building"; provided that the exemption may only be claimed for the dwelling unit while any building permits remain open, until and including the tax year during which a certificate of occupancy is issued for the work completed under the building permit or the dwelling unit is otherwise lawfully occupiable;
- (8) The dwelling unit or property has an open building permit for major construction, repair, or renovation to the dwelling unit that reasonably requires the occupant to reside in a different dwelling unit during construction; provided that this exemption may only be claimed for the dwelling unit while the building permit remains open, until and including the tax year during which a certificate of occupancy is issued for the work completed under the building permit or the dwelling unit is otherwise lawfully occupiable;



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- (9) The dwelling unit or property is the subject of active efforts during the prior tax year to sell or rent the property (as evidenced by active advertising of the property, a listing in the multiple listing service, and related evidence of active sale or rental efforts), or 100 percent of the legal interest in the property was sold or 100 percent of the ownership was transferred during the tax year; provided that the exemption must not be claimed for the sale of property for more than one tax year in any five-year period;
- (10) The dwelling unit is a part of a State-licensed residential home for senior citizens, persons with medical or mental disabilities, or is a State-licensed halfway house;
- (11) The dwelling unit is owned or operated by a nonprofit organization, and the dwelling unit is used to provide temporary housing for individuals as part of the organization's mission (e.g., a group living facility for victims of domestic abuse, homeless persons, mentally ill persons, or disabled persons);
- (12) The dwelling unit is owned by a nonprofit organization; provided that the dwelling unit was used during the tax year for operations of the nonprofit organization;
- (13) The property is owned or controlled by the federal government, the State government, a political subdivision of the State government, or the city;
- (14) The city is prohibited under federal or State law from imposing an empty home tax on the owner of the dwelling unit; provided that the exemption is only for so long as, and to the extent that, the city is prohibited from imposing the tax on all owners of the dwelling unit; or
- (15) The property is a bed and breakfast home or a transient vacation unit that is provided to transient occupants for compensation for not less than six months in the tax year and is operating in compliance with all applicable laws.



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§ 8-__5 Administration.

- (a) *Notification of empty homes tax.* The city shall notify all residential property owners of the empty homes tax assessment and rate, informing them that their upcoming property tax liability is subject to increase absent a property status declaration that claims an applicable exemption.
- (b) *Property status declaration.* On or before _____ of each year, the city must mail to each owner of residential property, at the owner's address appearing on the real property tax roll, either a property status declaration form or instructions on how and when to make a property status declaration online. The mailing is deemed to have been received by the owner five days after mailing.
- (c) *Audits and investigations.* The city may conduct audits and investigations to determine the validity of property status declarations made for any residential property and may require owners or occupants of the property to provide information at any time up to three years after the tax year in which the empty homes tax is due.
- (d) *Evidence of property status.* To assist with the city's audits and investigations, the city may require an owner of residential property, and any purported tenant or other occupant of the property, to submit additional evidence to verify a property status declaration and the status of the property. The evidence may include copies or certified copies of any documentation and sworn declarations relevant to any claim of exemption made by the owner regarding the empty homes tax, including but not limited to:
 - (1) Proof of principal place of residence of the owner, tenant, or other occupant for at least six months in the tax year, including vehicle registration, government-issued personal identification, driver's license, utilities records, a mailing address used for personal bank and credit accounts, or a current record of a real property tax homeowner exemption issued by the city's department of budget and fiscal services, real property assessment division;
 - (2) Tenancy agreements, occupancy agreements, and proof of income and general excise taxes paid for rental income;
 - (3) Proof of receiving or providing medical care by the owner or tenant that precluded occupancy of the dwelling unit;



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- (4) Proof of sale or transfer of ownership; or evidence of sale activity efforts, such as a listing in the multiple listing service for the property;
 - (5) Death certificate;
 - (6) Court orders and proceedings;
 - (7) Proof of military orders of deployment;
 - (8) Building permits and applications; and
 - (9) Notices of violation and notices of order issued under Chapter 16A that state that the dwelling unit is a substandard building.
- (e) *Inspections.* Upon advance written notice to the owner of the residential property, the city may conduct inspections of the residential property for the purpose of determining the accuracy of the information provided about the property or dwelling unit and whether the property or dwelling unit is subject to the empty homes tax.
- (f) *Notice of assessment.* Based on the owner's property status declaration and other information, the city shall mail a notice of assessment to each owner of residential property on or before _____ of each year. The notice must state the following:
- (1) The city's initial determination of whether a tax under this article is payable, and if so, the amount of the empty homes tax owing and the manner of and deadline for payment of the empty homes tax;
 - (2) That the city's initial determination is subject to potential investigation and audit;
 - (3) The amount of the empty homes tax payable for the tax year if the residential property is found not to qualify for any exemption; and
 - (4) How an owner may file an appeal.
- (g) *Supplemental notice of assessment.* If, as a result of the investigation, audit, or other information, the city determines that the city's initial determination is not accurate, the city shall issue a supplemental notice of assessment for the empty



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homes tax, stating the subsequent determination of the empty homes tax owing, if any, and the manner of and deadline for payment of the empty homes tax.

- (h) *Appeals.* The director shall adopt rules for owners of residential property to appeal any notice of assessment or supplemental notice of assessment.
- (i) *Extension.* An owner may request a ___-day extension of the deadline for filing a property status declaration by submitting to the director within ___ days before the deadline for filing a property status declaration:
 - (1) The appropriate information as determined by the director, on a form or in the manner prescribed by the director; and
 - (2) A late filing penalty of 5 percent of the amount of the empty homes tax for the residential property calculated pursuant to § 8-___.2(b); provided that whether the owner intends to or qualifies to claim an exemption from the empty homes tax on any portion of the property does not reduce the late filing penalty.

The late filing penalty is nonrefundable even if the owner later claims an exemption from the empty homes tax on any portion of the property.

- (j) *Grace period.* During the first tax year to which the empty homes tax applies, the director shall mail written notice to each owner of residential property who fails to timely file a property status declaration within ___ days following the deadline for property status declarations. The notice must inform the owner that they may file a property status declaration within a grace period of ___ days following the mailing date of the notice without penalty. The notice must also state that if the owner does not file a property status declaration within the grace period, a late filing penalty in the amount of \$___ will be added to the empty homes tax. If the owner does not file a property status declaration within the grace period, the director shall promptly mail written notice to the owner to inform the owner of the increased amount assessed and owed, which must include the late filing penalty.
- (k) *Public education program.* Prior to the due date for property status declarations for the first tax year to which the empty homes tax applies, the director shall provide a public education program that strives to build understanding and support for the empty homes tax among property owners and the general public.



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§ 8-___.6 Responsibilities of owners of residential property.

(a) *Declaration and attestation.* An owner of residential property shall:

- (1) Submit a completed annual property status declaration to the city on or before _____ of each year;
- (2) Accurately attest to the use and occupancy status of all dwellings on the property during the tax year; and
- (3) Truthfully state whether each dwelling on the property qualifies for any exemption from the empty homes tax, and, if so, specify which exemption and the justification for claiming the exemption,

provided that this subsection shall not apply if the owner has provided to the city a current record of a real property tax homeowner exemption issued by the city's department of budget and fiscal services, real property assessment division.

(b) *False declarations.* An owner may not make a false property status declaration nor fail to correct, within 15 days of discovery of a false declaration, a previously filed property status declaration that the owner later learns was false.

(c) *Properties with multiple dwelling units.* To assist the city in determining the assessed value for each dwelling unit on residential property parcels containing multiple dwelling units, including but not limited to apartment buildings and duplex units, the owner of the property shall annually report on the property status declaration form the total number of dwelling units on the residential property, the apartment number or other designated name of each dwelling unit, the total square footage of the floor area associated with each dwelling unit, and the occupancy status of each dwelling unit on the residential property.

(d) *Additional information upon request.* An owner or purported tenant or occupant of residential property shall provide any information and submit any evidence, including any sworn declaration that is requested by the city as authorized by law, relevant to the determination of whether the empty homes tax may be assessed and collected, within the time requested by the city.

(e) *Tax deadline.* The empty homes tax is due and must be paid by the owner of the residential property on or before the deadline set forth in the notice of assessment or supplemental notice of assessment.



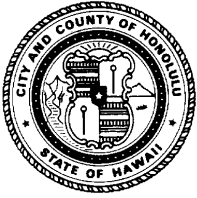
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§ 8-___.7 Failure to declare property status or comply with information requests; false claims—Penalties.

- (a) Notwithstanding any provision to the contrary, a dwelling unit is considered to be an empty home and is subject to the empty homes tax if the owner fails to submit a property status declaration as required by § 8-___.6 or makes a false claim of exemption from the empty homes tax.
- (b) *Violation.* A person has violated this article and is liable for the penalties imposed under this section if the person:
 - (1) Fails to submit a property status declaration as required by § 8-___.6 or makes a false claim of exemption from the empty homes tax; or
 - (2) Singly or jointly with any other person, fails to comply with a request, order, direction, or notice by the city under § 8-___.6(d).
- (c) *Penalties.*
 - (1) Any person violating this section is liable for a civil penalty of not less than \$250 and not more than \$10,000 per violation, upon reasonable notice.
 - (2) Any person engaging in a continuing violation of this section after the second request by the city pursuant to § 8-___.6(d) is liable for a civil penalty of not less than \$250 and not more than \$10,000 for each day that the violation continues, upon reasonable notice.
 - (3) Penalties under this section are and become a part of the empty homes tax and must be collected as a part thereof.

§ 8-___.8 Failure to timely pay empty homes tax—Penalties; foreclosure.

- (a) In addition to any other penalties, any person who fails to timely pay the real property empty homes tax assessed pursuant to § 8-___.2, is subject to nonpayment penalties as follows:
 - (1) One percent of the empty homes tax due and payable within the first year of nonpayment (the first year following the deadline for payment set forth in the notice of assessment or supplemental notice of assessment);



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- (2) Two percent of all accrued empty homes taxes due and payable within the second year of nonpayment, whether or not the years of nonpayment are sequential; or
 - (3) Three percent of all accrued empty homes taxes due and payable within the third and each subsequent year, whether or not the years of nonpayment are sequential.
- (b) Penalties under this section are and become a part of the empty homes tax and must be collected as a part thereof.
- (c) *Foreclosure.* The city may foreclose on any residential property for which the empty homes tax, including any penalties, has not been paid for at least three consecutive years following the city's mailing to the owner of the residential property, pursuant to this article, a notice of assessment, supplemental notice of assessment, or notice of penalties owing.

§ 8-___.9 Appeals.

Appeals of penalties assessed under § 8-___.7 or § 8-___.8 may be made in accordance with the rules adopted pursuant to § 8-___.5(h).

§ 8-___.10 Annual report.

Not later than September 30 of each year, the director shall submit to the council a report providing, for the current fiscal year, information regarding the empty homes taxes levied, including the number and locations of involved properties, the amounts levied, and the number and status of the appeals filed."

SECTION 3. The Revisor of Ordinances shall, pursuant to the Revisor's authority under SECTION 2 of Ordinance 23-7, update the Reporting Requirements Table to include the reporting requirements enacted by SECTION 2 of this ordinance.



HONOLULU CITY COUNCIL
KE KANIHELA O KE KALANA O HONOLULU
CITY AND COUNTY OF HONOLULU

ORDINANCE _____

BILL 46 (2024), CD2

A BILL FOR AN ORDINANCE

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

INTRODUCED BY:

Tommy Waters

Radiant Cordero

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:

Empty Homes Tax; Residential Properties; Vacant Property; Transient Vacation Unit; Bed and Breakfast Home; Real Property Tax; Principal Residence; Traveling Nurse; Active Military; Armed Forces; Homelessness; Exemptions; Affordable Housing Fund; Charter; Earmark; Area Median Income ("AMI"); Rulemaking Authority; Foreclosure; Appeal; Violation; Penalties

Description:

Establishes an empty homes tax ("EHT") as a supplemental real property tax on dwelling units, transient vacation units, and bed and breakfast homes on residential property that are vacant for a certain number of days each year and provides exemptions from the EHT. Defines "Residential Property" to be property classified as residential, residential A, bed and breakfast home, or transient vacation pursuant to Section 8-7.1 of the Revised Ordinances of Honolulu 2021 ("ROH") or dedicated for residential use pursuant to ROH Section 8-7.5. Defines "Principal Residence" to include a residential property that is leased or rented to a traveling nurse contracted to work or an active member of the armed forces of the United States stationed in Hawai'i.

Requires revenues collected from the EHT to be earmarked for certain uses. Requires that at least 20 percent of the revenues be deposited into the Affordable Housing Fund as authorized by and to be used in accordance with the City Charter; further provides that the balance of the EHT revenues be deposited into the general fund with at least 20 percent used to increase the City's affordable housing inventory for persons earning 140 percent or less of the area median income for Honolulu and at least 10 percent be used to address homelessness. Allows for up to 5 percent of the EHT revenues collected to be used to support administrative and enforcement costs.

Requires residential property owners to annually submit a property status declaration. Provides rulemaking authority. Establishes violations and penalties, including foreclosure of real properties having delinquent empty homes taxes and penalties for at least three consecutive years after notice of delinquency. Applies to the 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.