



A BILL FOR AN ORDINANCE

RELATING TO THE REAL PROPERTY TAX EXEMPTION FOR SCHOOLS.

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

SECTION 1. Purpose. The purpose of this ordinance is to modify the requirements regarding the real property tax exemption for schools to include nonprofit and for-profit group child care centers.

SECTION 2. Section 8-10.1, Revised Ordinances of Honolulu 1990 ("Claims for certain exemptions"), as amended, is amended by amending subsections (a) and (d) to read as follows:

"Sec. 8-10.1 Claims for certain exemptions.

- (a) None of the exemptions from taxation granted in Sections 8-10.4, 8-10.6 through 8-10.11, 8-10.24, 8-10.27, 8-10.29, [and] 8-10.32, and 8-10. shall be allowed in any case, unless the claimant shall have filed with the department of budget and fiscal services on or before September 30th preceding the tax year for which such exemption is claimed, a claim for exemption in such form as shall be prescribed by the department.
- (b) A claim for exemption, once allowed, shall have continuing effect until:
 - (1) The exemption is disallowed;
 - (2) The assessor voids the claim after first giving notice (either to the claimant or to all claimants in the manner provided for by this chapter) that the claim or claims on file will be voided on a certain date, not less than 30 days after such notice;
 - (3) The five-year period for exemption, as allowed in Sections 8-10.4(e) and 8-10.11, expires; or
 - (4) The report required by subsection (d) is made.
- (c) A claimant may file a claim for exemption even though there is on file and in effect a claim covering the same premises or a claim previously filed and disallowed or otherwise voided. However, no such claim shall be filed if it is identical with one already on file and having continuing effect. The report required by subsection (d) of this section may be accompanied by or combined with a new claim.
- (d) The owner of any property which has been allowed an exemption under Sections 8-10.4, 8-10.6 through 8-10.11, 8-10.24, 8-10.27, 8-10.29, [or] 8-10.32, or 8-10. has a duty to report to the assessor within 30 days after such owner or property ceases to qualify for such an exemption for, among others, the following reasons:
 - (1) The ownership of the property has changed;
 - (2) A change in the facts previously reported has occurred concerning the occupation, use or renting of the premises, buildings or other improvements thereon; or
 - (3) A change in status has occurred which affects the owner's exemption.Such report shall have the effect of voiding the claim for exemption previously filed, as provided in subsection (b)(4) of this section. The report shall be sufficient if it identifies the property involved, states the change in facts or status, and requests that the claim for exemption previously filed be voided.



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In the event the property comes into the hands of a fiduciary who is answerable as provided for by this chapter, the fiduciary shall make the report required by this subsection within 30 days after the assumption of the fiduciary's duties or within the time otherwise required, whichever is later.

A penalty shall be imposed for the failure to make the report required by this subsection. The amount of the penalty shall be the lesser of: (A) \$200.00 for each year that the change in facts remains unreported; or (B) the amount of the taxes due for the property computed without the claim for exemption as of October 1st immediately preceding the tax year in which the report was due. In addition to this penalty, the taxes due on the property plus any additional penalties and interest thereon shall be a paramount lien on the property as provided for by this chapter.

- (e) If the assessor is of the view that, for any tax year, the exemption should not be allowed, in whole or in part, the assessor may at any time within five years of October 1st of that year disallow the exemption for that year, in whole or in part, and may add to the assessment list for that year the amount of value involved, in the manner provided for by this chapter for the assessment of omitted property."

SECTION 3. Section 8-10.10, Revised Ordinances of Honolulu 1990 ("Exemption—Charitable purposes"), as amended, is amended by amending subsections (a) and (b) to read as follows:

"(a) There shall be exempt from real property taxes real property, or a portion thereof, designated in subsection (b) or (c) of this section and meeting the requirements stated therein, actually and (except as otherwise specifically provided) exclusively used for nonprofit purposes. If an exemption is claimed under one of these subsections (b) and (c), an exemption for the same property, or a portion thereof, may not also be claimed under the other of these subsections.

(b) This subsection applies to property, or a portion thereof, owned in fee simple, leased or rented for a period of one year or more, by the person using the property for the exempt purposes, hereinafter referred to as the person claiming the exemption. If the property, or a portion thereof, for which exemption is claimed is leased or rented, the lease or rental agreement shall be in force and recorded in the bureau of conveyances[.] or filed in the office of the assistant registrar of the land court. Exemption is allowed by this subsection to the following property:

(1) Property used for school purposes including:

(A) Kindergartens, grade schools, junior high schools and high schools, which carry on a program of instruction meeting the requirements of the compulsory school attendance law, HRS Section [298-9] 302A-1132, or which are for preschool children who have attained or will attain the age of five years on or before December 31st of the school year; provided, that any claim for exemption based on any of the foregoing uses shall be accompanied by a certificate issued by or under the authority of the department of education stating that the foregoing requirements are met.

(B) Junior colleges or colleges carrying on a general program of instruction of college level. The property exempt from taxation under this paragraph is limited to buildings for educational purposes (including dormitories), housing owned by the school or college and used as residence for personnel employed at the school or college, campus and athletic grounds, and realty used for vocational purposes incident to the school or college.



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(C) Group child care centers, which meet the child care facilities requirements of HRS Chapter 346, Part VIII; provided, that any claim for exemption based on the foregoing use shall be accompanied by a certificate issued by or under the authority of the department of human services stating that the foregoing requirements are met. As used herein, "group child care centers" means a facility other than a residence, maintained by an individual, organization, or agency for the purpose of providing child care for preschool age children ages two years to six years and infants and toddlers ages six weeks to 36 months.

- (2) Property used for hospital and nursing home purposes, including housing for personnel employed at the hospital; in order to qualify under this paragraph the person claiming the exemption shall present with the claim a certificate issued by or under the authority of the state department of health that the property for which the exemption is claimed consists in, or is a part of, hospital or nursing home facilities which are properly constituted under the law and maintained to serve, and which do serve the public.
- (3) Property used for church purposes, including incidental activities, parsonages and church grounds, the property exempt from taxation being limited to realty exclusive of burying grounds (exemption for which may be claimed under paragraph (4) of this subsection).
- (4) Property used as cemeteries (excluding, however, property used for cremation purposes) maintained by a religious society, or by a corporation, association or trust organized for such purpose.
- (5) Property dedicated to public use by the owner, which dedication has been accepted by the state or county, reduced to writing, and recorded in the bureau of conveyances; and property which has been set aside for public use and actually used therefor for a period not less than five years.
- (6) Property owned by any nonprofit corporation, admission to membership of which is restricted by the corporate charter to members of a labor union; property owned by any government employees' association or organization, one of the primary purposes of which is to improve employment conditions of its members; property owned by any trust, the beneficiaries of which are restricted to members of a labor union; property owned by any association or league of federal credit unions chartered by the United States, the sole purpose of which is to promote the development of federal credit unions in the state.

Notwithstanding any provision in this section to the contrary, the exemption shall apply to property or any portion thereof which is leased, rented or otherwise let to another, if such leasing, renting or letting is to a nonprofit association, organization or corporation."

SECTION 4. Chapter 8, Article 10, Revised Ordinances of Honolulu 1990, as amended ("Exemptions"), is amended by adding a new section to be appropriately designated by the revisor of ordinances and to read as follows:

"Sec. 8-10. Exemption - For-Profit Group Child Care Centers.

- (a) Real property, or a portion thereof, used for a for-profit group child care center shall be exempt from property taxes provided that:



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- (1) The property is actually and exclusively used for a group child care center;
 - (2) If an exemption is claimed under this section, an exemption for the same property may not also be claimed under any other section.
 - (3) The property is owned in fee simple, leased or rented for a period of one year or more, by the person using the property for the exempt purposes, hereinafter referred to as the person claiming the exemption.
 - (4) If the property for which exemption is claimed is leased or rented, the lease or rental agreement shall be in force and recorded in the bureau of conveyances or filed in the office of the assistant registrar of the land court.
 - (5) The group child care center meets the child care facilities requirements of HRS Chapter 346, Part VIII; and
 - (6) Any claim for exemption based on the foregoing use shall be accompanied by a certificate issued by or under the authority of the department of human services stating that the foregoing requirements are met.
- (b) For purposes of this section, the term "group child care center" means a facility other than a residence, maintained by an individual, organization, or agency for the purpose of providing child care for preschool age children ages two years to six years and infants and toddlers ages six weeks to 36 months."

SECTION 5. Ordinance material to be repealed is bracketed. New ordinance 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, bracketed material, or the underscoring.



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SECTION 6. This ordinance shall take effect upon its approval and shall apply to tax years beginning July 1, 2010 and thereafter.

INTRODUCED BY:

Todd Apo

DATE OF INTRODUCTION:

April 15, 2009

Honolulu, Hawaii

Councilmembers

APPROVED AS TO FORM AND LEGALITY:

Guan A. Bender

Deputy Corporation Counsel

APPROVED this 30th day of July, 2009.

Mufi Hannemann

MUFU HANNEMANN, Mayor
City and County of Honolulu

CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII
CERTIFICATE

ORDINANCE **09-24**

BILL 39 (2009), CD1, FD1

Introduced: 04/15/09 By: TODD APO

Committee: BUDGET

Title: A BILL FOR AN ORDINANCE RELATING TO THE REAL PROPERTY TAX EXEMPTION FOR SCHOOLS.

Links: [BILL 39 \(2009\)](#)
[BILL 39 \(2009\), CD1](#)
[BILL 39 \(2009\), CD1, FD1](#)
[CR-188](#)
[CR-224](#)

NOTE: COUNCILMEMBER BARBARA MARSHALL PASSED AWAY ON SUNDAY, FEBRUARY 22, 2009. ALTHOUGH THERE IS A VACANCY, THE COUNCIL CONTINUES TO OPERATE IN ACCORDANCE WITH THE 9 MEMBERS IT IS ENTITLED TO PURSUANT TO SECTION 3-102, REVISED CHARTER OF THE CITY AND COUNTY OF HONOLULU 1973, AS AMENDED. HOWEVER, THE CERTIFICATE WILL NOT REFLECT THE VACANCY ON THE VOTE RECORDED FOR THIS ITEM.

COUNCIL	04/22/09	BILL 39 (2009) PASSED FIRST READING AND REFERRED TO BUDGET COMMITTEE.				
	APO Y	BAINUM Y	CACHOLA Y	DELA CRUZ Y	DJOU A	
	GARCIA Y	OKINO Y	TAM Y			

NOTE: IKAIKA ANDERSON WAS SWORN IN AND TOOK OFFICE AS A MEMBER OF THE HONOLULU CITY COUNCIL ON THURSDAY, MAY 14, 2009 REPRESENTING DISTRICT III.

PUBLISH	05/16/09	PUBLIC HEARING NOTICE PUBLISHED IN THE HONOLULU STAR BULLETIN.				
SPECIAL BUDGET	05/18/09	CR-188 – BILL REPORTED OUT OF COMMITTEE FOR PASSAGE ON SECOND READING AND SCHEDULING OF A PUBLIC HEARING.				
COUNCIL/PUBLIC HEARING	05/27/09	CR-188 ADOPTED AND BILL 39 PASSED SECOND READING; PUBLIC HEARING CLOSED AND REFERRED TO BUDGET COMMITTEE.				
	ANDERSON Y	APO Y	BAINUM N	CACHOLA Y	DELA CRUZ Y	
	DJOU Y	GARCIA Y	OKINO Y	TAM Y		

PUBLISH	06/03/09	SECOND READING NOTICE PUBLISHED IN THE HONOLULU STAR BULLETIN.				
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NOTE: COUNCILMEMBER DUKE BAINUM PASSED AWAY ON TUESDAY, JUNE 9, 2009. ALTHOUGH THERE IS A VACANCY, THE COUNCIL CONTINUES TO OPERATE IN ACCORDANCE WITH THE 9 MEMBERS IT IS ENTITLED TO PURSUANT TO SECTION 3-102, REVISED CHARTER OF THE CITY AND COUNTY OF HONOLULU 1973, AS AMENDED. HOWEVER, THE CERTIFICATE WILL NOT REFLECT THE VACANCY ON THE VOTE RECORDED FOR THIS ITEM.

BUDGET	07/01/09	CR-224 – BILL REPORTED OUT OF COMMITTEE FOR PASSAGE ON THIRD READING AS AMENDED IN CD1 FORM.				
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COUNCIL	07/15/09	BILL 39 (20090), CD1 AMENDED TO FD1.							
ANDERSON	Y	APO	Y	CACHOLA	Y	DELA CRUZ	Y	DJOU	Y
GARCIA	Y	OKINO	Y	TAM	Y				
CR-224 ADOPTED AND BILL 39, CD1, FD1 PASSED THIRD READING.									
ANDERSON	Y	APO	Y	CACHOLA	Y	DELA CRUZ	Y	DJOU	Y
GARCIA	Y	OKINO	Y	TAM	Y				


BERNICE K. N. MAU, CITY CLERK


TODD K. APO, CHAIR AND PRESIDING OFFICER