

## NOTICE OF PUBLICATION AND NOTICE OF PUBLIC HEARING

Notice is hereby given that the Kaua'i County Council will hold a public hearing on Wednesday, September 6, 2023, at 8:30 a.m., or soon thereafter, at the Council Chambers, 4396 Rice Street, Room 201, Historic County Building, Līhu'e, on the following:

Bill No. 2903

A BILL FOR AN ORDINANCE AMENDING CHAPTER 5A, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO REAL PROPERTY TAX (*Long-Term Gap Housing Rental*)

This Bill proposes to create a new exemption entitled "Exemption for Property Used for Long-Term Gap Housing Rental" for each unit type up to one hundred forty percent (140%) of the Kaua'i median household income as defined by the Kaua'i County Housing Agency Rental Housing Guidelines. Program participants would be placed in a new "Long-Term Gap Housing Rental" tax rate classification. This Bill also makes minor changes to Section 5A-11A.1 (Long-Term Affordable Rental program) for consistency with existing language. This Bill would take effect upon its approval (allowing codification, creation of forms, and applications due by September 30, 2024), with changes to impact the Tax Year beginning July 1, 2025.

Bill No. 2904

A BILL FOR AN ORDINANCE AMENDING CHAPTER 5A, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO REAL PROPERTY TAX (*Separated Married Persons*)

This Bill proposes to: grant separated married persons each their own full Home Exemption, make the separation easier to establish with the Department of Finance, and increase the two-year maximum allowance of this benefit to five (5) years. This Bill also takes the opportunity to formally modernize the language to include civil unions (though lack of this language has not impacted civil union partners because superseding state law would control in this matter).

Any person may testify at the public hearing, and at any Council and Committee Meeting (at which time any Bill may be amended). Meeting notices and full-text Bills are available at least six (6) days in advance at the Office of the County Clerk, Council Services Division and [kauai.gov/Government/Council/Webcast-Meetings](http://kauai.gov/Government/Council/Webcast-Meetings). Written testimony may be submitted via [counciltestimony@kauai.gov](mailto:counciltestimony@kauai.gov), mail, or fax. For further information, please call (808) 241-4188.

### CERTIFICATE OF THE COUNTY CLERK

I hereby certify that the Kaua'i County Council passed on first reading and ordered to print Bill Nos. 2903 and 2904 during the August 9, 2023 Council Meeting, by the following vote:

AYES:	Bulosan, Carvalho, Cowden, Kagawa, Kualī'i, Rapozo	TOTAL – 6,
NOES:	DeCosta	TOTAL – 1,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Līhu'e, Hawai'i  
August 10, 2023

/s/ Jade K. Fountain-Tanigawa  
County Clerk, County of Kaua'i

NOTE: IF YOU NEED AN AUXILIARY AID/SERVICE, OTHER ACCOMMODATION DUE TO A DISABILITY, OR AN INTERPRETER FOR NON-ENGLISH SPEAKING PERSONS, PLEASE CONTACT THE OFFICE OF THE COUNTY CLERK, COUNCIL SERVICES DIVISION AT (808) 241-4188 OR COKCOUNCIL@KAUAI.GOV AS SOON AS POSSIBLE. REQUESTS MADE AS EARLY AS POSSIBLE WILL ALLOW ADEQUATE TIME TO FULFILL YOUR REQUEST.

UPON REQUEST, THIS NOTICE IS AVAILABLE IN ALTERNATE FORMATS SUCH AS LARGE PRINT, BRAILLE, OR ELECTRONIC COPY.

(One publication – The Garden Island – August 15, 2023)

**A BILL FOR AN ORDINANCE AMENDING CHAPTER 5A, KAUAI COUNTY  
CODE 1987, AS AMENDED, RELATING TO REAL PROPERTY TAX**

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BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF KAUAI, STATE  
OF HAWAII:

SECTION 1. Chapter 5A, Section 5A-6.4 (Real Property Tax Rate Classifications), Kauai County Code 1987, as amended, is hereby amended by amending Subsection (a) to read as follows:

“(a) For purposes of tax rates, real property shall be classified into one (1) of the following general classes according to the property’s actual use, and vacant property shall be classified as zoned until actual use is established, unless otherwise provided in this Chapter:

- (1) Non-Owner-Occupied Residential.
- (2) Vacation Rental.
- (3) Commercial.
- (4) Industrial.
- (5) Agricultural.
- (6) Conservation.
- (7) Hotel and Resort.
- (8) Owner-Occupied.
- (9) Owner-Occupied Mixed-Use.
- (10) Long-Term Gap Housing Rental.”

SECTION 2. Chapter 5A, Section 5A-11A.1 (Beneficial Tax Rate for Property Used for Long-Term Affordable Rental), Kauai County Code 1987, as amended, is hereby amended to read as follows:

“(a) Definitions. As used in this Section:

“Dwelling” means a building or portion thereof designed or used exclusively for residential occupancy and having all necessary facilities for permanent residency such as living, sleeping, cooking, eating and sanitation.

“Long-term affordable rental” means a dwelling subject to a written lease agreement signed by the owner or the owner’s duly assigned representative with a term of one (1) year or more and at a monthly rent not to exceed the maximum housing cost based on the long-term affordable rental limit for the year in which the owner files his or her application.

“Long-term affordable rental limit” means the midpoint of the maximum rental limits for each unit type using between eighty percent (80%) and one hundred percent (100%) of the Kauaʻi median household income as defined by the Kauaʻi County Housing Agency Rental Housing Guidelines.

(b) Any owner [who owns] of real property that is rented or leased as a long-term affordable rental shall receive the homestead tax rate as provided in Sec. 5A-6.4 provided that all dwellings on the property are long-term affordable rentals or owner-occupied.

(c) Any owner [who owns] of real property that is rented or leased as a long-term affordable rental of which their tenant is operating a day care center as a licensed day care provider shall be an allowed activity under this Section and shall receive the homestead tax rate as provided in Sec. 5A-6.4, provided that the day care center is operated out of the long-term affordable rental dwelling. A day care center operating out of a separate dwelling on the property that is not a long-term affordable rental shall not qualify for the homestead tax rate.

(d) The owner may apply for the beneficial tax rate on a single year or multi-year basis. An owner with a multi-year written lease agreement may apply to receive the beneficial tax rate for each year that the lease agreement is in effect up to a maximum of three (3) years, provided that rent in each year of the lease does not exceed the long term affordable rental limits at the time of application. At the expiration of the multi-year beneficial tax period, the owner may file a new application to receive the beneficial tax rate as long as the property adheres to the long term affordable rental requirements at the time of the new application.

(e) The owner shall file his or her application annually in a form prescribed by the Director of Finance by September [30th] 30 prior to the [fiscal] tax year beginning July [1st] 1 for the beneficial tax rate. The owner shall notify the Director of Finance within thirty (30) calendar days if the property is no longer being rented or leased as a long-term affordable rental due to the sale of the property or conversion to [short-term rental.] another use. Should there be a change in the use as a long-term affordable rental, the beneficial tax rate shall be automatically revoked and all differences in the amount of taxes that should be due for the remainder of the tax year without the beneficial tax rate shall become due and payable.

[(f) For the 2018 tax year, any owner who owns real property that is rented or leased as a long-term affordable rental may apply for the beneficial tax rate for Long Term Affordable Rental provided that the monthly rent amount stated in their written lease agreement does not exceed the most

current long-term affordable rental limit established by the Department of Finance, Real Property Tax Assessment Division or the previously established 2015 rental limit, whichever is higher. The owner shall file an application with the Department of Finance, Real Property Tax Assessment Division by September 30, 2017. Hereafter, the long-term affordable rental limit shall be determined by the Department of Finance, Real Property Tax Assessment Division by October 1st using the most current Kaua'i County Housing Agency Affordable Rental Housing Guidelines, provided that the 2015 tax year rates shall be set as the minimum floor for the County's Long-Term Affordable Rental Program.]

[(g)] (f) The Director may adopt rules and prescribe forms."

SECTION 3. Chapter 5A, Article 11 (Exemptions), Kaua'i County Code 1987, as amended, is hereby amended by establishing a new Section to be appropriately designated and to read as follows:

**"Sec. 5A-11. Exemption for Property Used for Long-Term Gap Housing Rental.**

(a) Definitions. As used in this Section:

"Dwelling" means a building or portion thereof designed or used exclusively for residential occupancy and having all necessary facilities for permanent residency such as living, sleeping, cooking, eating, and sanitation.

"Long-term gap housing rental" means a dwelling subject to a written lease agreement signed by the owner or the owner's duly assigned representative with a term of one (1) year or more and at a monthly rent not to exceed the maximum housing cost based on the long-term gap housing rental limit for the year in which the owner files his or her application.

"Long-term gap housing rental limit" means the maximum rental limits for each unit type using one hundred forty percent (140%) of the Kaua'i median household income as defined by the Kaua'i County Housing Agency Rental Housing Guidelines.

(b) Any owner of real property that is rented or leased as a long-term gap housing rental shall receive the Long-Term Gap Housing Rental tax rate as provided in Sec. 5A-6.4 provided that all dwellings on the property are long-term gap housing rentals.



(c) Any owner of real property that is rented or leased as a long-term gap housing rental of which their tenant is operating a day care center as a licensed day care provider shall be an allowed activity under this Section and shall receive the Long-Term Gap Housing Rental tax rate as provided in Sec. 5A-6.4, provided that the day care center is operated out of the long-term gap housing rental dwelling. A day care center operating out of a separate dwelling on the property that is not a long-term gap housing rental shall not qualify for the Long-Term Gap Housing Rental tax rate.

(d) The owner may apply for the Long-Term Gap Housing Rental tax rate on a single year or multi-year basis. An owner with a multi-year written lease agreement may apply to receive the beneficial tax rate for each year that the lease agreement is in effect up to a maximum of three (3) years, provided that rent in each year of the lease does not exceed the long-term gap housing rental limits at the time of application. At the expiration of the multi-year beneficial tax period, the owner may file a new application to receive the beneficial tax rate as long as the property adheres to the long-term gap housing rental requirements at the time of the new application.

(e) The owner shall file his or her application annually in a form prescribed by the Director of Finance by September 30 prior to the tax year beginning July 1 for the beneficial tax rate. The owner shall notify the Director of Finance within thirty (30) calendar days if the property is no longer being rented or leased as a long-term gap housing rental due to the sale of the property or conversion to another use. Should there be a change in the use as a long-term gap housing rental, the beneficial tax rate shall be automatically revoked and all differences in the amount of taxes that should be due for the remainder of the tax year without the beneficial tax rate shall become due and payable.

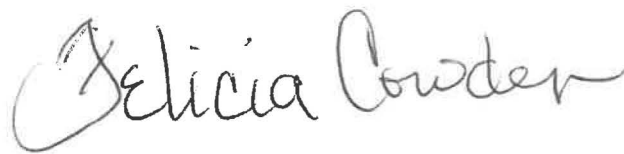
(f) The Director may adopt rules and prescribe forms."

SECTION 4. If any provision of this Ordinance or application thereof to any person or circumstance is held invalid, the invalidity does not affect the other provisions or applications of this Ordinance that can be given effect without the invalid provision or application, and to this end, the provisions of this Ordinance are severable.

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 Kaua'i County Code 1987, as amended, the brackets, bracketed material, and underscoring shall not be included.

SECTION 6. This Ordinance shall take effect upon its approval (allowing codification, creation of forms, and applications due by September 30, 2024), with changes to impact the Tax Year beginning July 1, 2025.

Introduced by:

A handwritten signature in black ink that reads "Felicia Cowden". The signature is fluid and cursive, with the first name "Felicia" being more prominent than the last name "Cowden".

FELICIA COWDEN

DATE OF INTRODUCTION:

**August 9, 2023**

Līhu'e, Kaua'i, Hawai'i

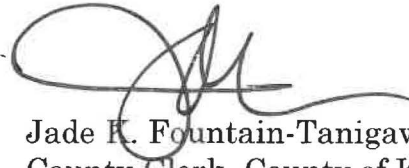
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CERTIFICATE OF THE COUNTY CLERK

I hereby certify that heretofore attached is a true and correct copy of Bill No. 2903, which was passed on first reading and ordered to print by the Council of the County of Kaua'i at its meeting held on August 9, 2023, by the following vote:

FOR PASSAGE:	Bulosan, Carvalho, Cowden, Kagawa, Kuali'i, Rapozo	TOTAL – 6,
AGAINST PASSAGE:	DeCosta	TOTAL – 1,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Līhu'e, Hawai'i  
August 10, 2023



Jade K. Fountain-Tanigawa  
County Clerk, County of Kaua'i



ORDINANCE NO. \_\_\_\_\_

BILL NO. 2904

**A BILL FOR AN ORDINANCE AMENDING CHAPTER 5A, KAUAI COUNTY  
CODE 1987, AS AMENDED, RELATING TO REAL PROPERTY TAX**

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BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF KAUAI, STATE  
OF HAWAII:

SECTION 1. Chapter 5A, Section 5A-11.4 (Homes), Kaua'i County  
Code 1987, as amended, is hereby amended by amending Subsection (c)(2)(D) to read  
as follows:

“(D) That [a husband and wife] two (2) individuals related by  
marriage or civil union shall not be permitted exemption of separate homes  
owned by each of them, unless they are living separate and apart, [pursuant  
to a court issued separation order] in which case they shall each be entitled to  
[one-half (1/2) of] one (1) exemption, for a maximum period of [two (2)] five (5)  
years[.]; provided that living separate and apart shall be proven by  
submission of either: a court-issued separation order or affidavits from both  
persons attesting to the separate living arrangements along with copies of  
State of Hawai'i N-11 income tax forms that had been separately filed by both  
persons citing their respective home addresses;”

SECTION 2. If any provision of this Ordinance or application thereof to  
any person or circumstance is held invalid, the invalidity does not affect the other  
provisions or applications of this Ordinance that can be given effect without the  
invalid provision or application, and to this end, the provisions of this Ordinance  
are severable.

SECTION 3. Ordinance material to be repealed is bracketed. New  
Ordinance material is underscored. When revising, compiling, or printing this  
Ordinance for inclusion in the Kaua'i County Code 1987, as amended, the brackets,  
bracketed material, and underscoring shall not be included.

SECTION 4. This Ordinance shall take effect upon its approval  
(allowing codification, creation of forms, and applications due by  
September 30, 2024), with changes to impact the Tax Year beginning July 1, 2025.

Introduced by:/s/FELICIA COWDEN

DATE OF INTRODUCTION:

**August 9, 2023**

Lihu'e, Kaua'i, Hawai'i

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CERTIFICATE OF THE COUNTY CLERK

I hereby certify that heretofore attached is a true and correct copy of Bill No. 2904, which was passed on first reading and ordered to print by the Council of the County of Kaua'i at its meeting held on August 9, 2023, by the following vote:

FOR PASSAGE:	Bulosan, Carvalho, Cowden, Kagawa, Kuali'i, Rapozo	TOTAL – 6,
AGAINST PASSAGE:	DeCosta	TOTAL – 1,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Līhu'e, Hawai'i  
August 10, 2023

  
Jade K. Fountain-Tanigawa  
County Clerk, County of Kaua'i