

NOTICE OF PUBLICATION AND NOTICE OF PUBLIC HEARING

Notice is hereby given that the Kaua'i County Council will hold a public hearing on Tuesday, March 25, 2025, at 8:30 a.m., or soon thereafter, at the Council Chambers, 4396 Rice Street, Room 201, Historic County Building, Lihu'e, on the following:

Bill No. 2944

A BILL FOR AN ORDINANCE AMENDING CHAPTER 5A, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO REAL PROPERTY TAX (*New tax classification "Long-Term Affordable Rental"*)

This Bill proposes to amend Chapter 5A, Kaua'i County Code 1987, as amended, relating to real property tax. The purpose of this Bill is to remove long-term affordable rental properties from the owner-occupied tax classification and reassign it to a new classification, "Long-Term Affordable Rental." Creating a new tax classification for long-term affordable rentals allows for a more accurate representation of the actual use and assists in defining key housing and economic statistics when planning and decision making is necessary.

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. Written testimony may be submitted via 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 No. 2944 during the February 26, 2025 Council Meeting, by the following vote:

AYES:	Bulosan, Carvalho, Cowden, Holland, Kaneshiro, Kualii, Rapozo	TOTAL - 7,
NOES:	None	TOTAL - 0,
EXCUSED & NOT VOTING:	None	TOTAL - 0,
RECUSED & NOT VOTING:	None	TOTAL - 0.

Lihu'e, Hawaii
February 27, 2025

/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 – March 7, 2025)

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

BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF KAUA'I, STATE OF HAWAII:

SECTION 1. Purpose. The Purpose of this Ordinance is to remove long-term affordable rental properties from the owner-occupied tax classification and reassign it to a new classification, "Long-Term Affordable Rental." Creating a new tax classification for long-term affordable rentals allows for a more accurate representation of the actual use and assists in defining key housing and economic statistics when planning and decision making is necessary.

SECTION 2. Chapter 5A, Section 5A-6.4, Kaua'i County Code 1987, as amended, is hereby amended as follows:

"§5A-6.4 Real Property Tax Rate Classifications.

(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 Affordable Rental.

(b) When property is divided into condominium units, each unit shall be: (1) classified based on its actual use into one (1) of the general classes in the same manner as other property, and (2) deemed a parcel and assessed separately.

(c) Parcels that are used for no other purpose than as the owner's principal residence shall be classified as Owner-Occupied provided that the owner has applied for and has been granted a home exemption according to Section 5A-11.4.

Notwithstanding any provision in this Chapter to the contrary, if a Home Exemption is disallowed pursuant to Section 5A-11.1(e), the tax classification shall be reclassified and reassessed and taxes for those years shall be recalculated without the exemption, and the assessment cap reset, at the same time the exemption is disallowed. Additionally, where the disallowance of the Home Exemption is made for up to three (3) tax years (current plus two (2) prior) as allowed under Section 5A-11.1(e), a taxpayer who benefited from the three percent (3%) assessment cap shall have the assessment reset to the actual market value in those affected tax years. The Owner-Occupied class shall also include parcels used as the owner's principal residence that are being assessed according to their agricultural use as provided in Section 5A-9.1; provided that the owner has been granted a Home Exemption and no portion of the parcel be used for a purpose other than the owner's principal residence and agriculture. Dedicated land, as defined in Section 5A-9.1, on which refining or industrial use occurs shall not qualify for the Owner-Occupied class. The Owner-Occupied class shall also include parcels used as day care centers by licensed day care providers; provided that the owner has been granted a Home Exemption [or is renting a Long-Term Affordable Rental to a tenant in accordance with Section 5A-11A.1], no portion of the parcel is used for any other commercial activity, and that owner has provided a current copy of their day care provider license or their tenant's day care provider license to the Director on or before September 30 prior to the applicable tax year. [The Owner-Occupied class shall also include parcels that have applied for and have been deemed a Long-Term Affordable Rental and residential leases of state-owned property pursuant to Section 5A-11A.1.]

(d) If a property has multiple actual uses, it shall be classified as the use with the highest tax rate, unless it satisfies the criteria for classification as Owner-Occupied Mixed-Use set forth in Subsection (e). To determine the "highest tax rate" if a class has tiered tax rates, the lowest tier tax rate shall be used. Tax rates of the prior tax year shall be used to determine the "highest tax rate."

(e) Parcels that are used for multiple purposes, one of which is use as the taxpayer's principal residence as of the date of assessment, shall be classified as Owner-Occupied Mixed-Use, provided that the taxpayer has received a Home Exemption on the property pursuant to Section 5A-11.4 and that the taxpayer's use of the property as their principal residence does not constitute a minor or ancillary use of the entire parcel. Notwithstanding any provision in this Chapter to the contrary, if a Home Exemption is disallowed pursuant to Section 5A-11.1(e), the tax classification shall be reclassified and reassessed and taxes for those years shall be recalculated without the exemption, and the assessment cap reset, at the same time the exemption is disallowed. Additionally, where the disallowance of the Home Exemption is made for up to three (3) tax years (current plus two (2) prior) as allowed under Section 5A 11.1(e), a taxpayer who benefited from the three percent (3%) assessment cap shall have the assessment reset to the actual market value in those affected tax years.

(f) Notwithstanding any provision in this Chapter to the contrary, if during an assessment year, the actual use of a parcel is found to be not in conformance with its tax classification and that a higher tax rate would result if the parcel were classified according to its actual use, the parcel shall be reclassified and reassessed and taxes for those years during which such actual use failed to conform with the classification for up to three (3) tax [years] years (current plus two (2) prior) shall be recalculated, and if applicable, without the exemption, and the assessment cap reset, at the same time the exemption is disallowed.

(g) The Long-Term Affordable Rental class shall include parcels that have applied for and have been deemed a Long-Term Affordable Rental and residential leases of state-owned property pursuant to Section 5A-11A.1. The Long-Term Affordable Rental class shall also include parcels used as day care centers by licensed day care providers; provided that the owner is renting a Long-Term Affordable Rental to a tenant in accordance with Section 5A-11A.1, no portion of the parcel is used for any other commercial activity, and that owner has provided a current copy of their tenant's day care provider license to the Director on or before September 30 prior to the applicable tax year. Notwithstanding any provision in this Chapter to the contrary, if the beneficial tax rate for property used as Long-Term Affordable Rental and residential leases of state-owned property is revoked pursuant to Section 5A-11A.1(e), the tax classification shall be reclassified and reassessed and taxes for those years shall be recalculated without the beneficial tax rate, and the assessment cap reset, at the same time the beneficial tax rate is revoked. Additionally, where the revocation of the beneficial tax rate is made for up to three (3) tax years (current plus two (2) prior) as allowed under 5A-11A.1(e), a taxpayer who benefited from the three percent (3%) assessment cap shall have the assessment reset to the actual market value in those affected tax years.

[(g)] (h) The owner may appeal the property's tax rate classification to the Board of Review as provided in Article 12."

SECTION 3. Chapter 5A, Section 5A-11A.1, Kaua'i County Code 1987, as amended, is hereby amended as follows:

"§5A-11A.1 Beneficial Tax Rate for Property Used for Long-Term Affordable Rental and Residential Leases of State-Owned Property.

(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 Kaua‘i median household income as defined by the Kaua‘i County Housing Agency Rental Housing Guidelines.

“Residential leases of state-owned property” means leases or revocable permits issued by the State of Hawai‘i for a residential dwelling occupied as a principal home.

(b) Any owner of real property that is rented or leased as a long-term affordable rental shall receive the [Owner-Occupied] Long-Term Affordable Rental tax rate as provided in Section 5A-6.4; provided that all dwellings on the property are long-term affordable rentals [or owner-occupied] or residential leases of state-owned property.

(c) Any owner 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 [Owner-Occupied] Long-Term Affordable Rental tax rate as provided in Section 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 [Owner-Occupied] Long-Term Affordable Rental 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 as applicable to long-term affordable rentals, 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 when applying to a long-term affordable rental property, it 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 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 affordable rental or as residential leases of state-owned property due to the

sale of the property or conversion to another use. If there is 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. If the Director is of the view that, for any year the beneficial tax rate should not be allowed, in whole or in part, the Director may, for up to three (3) tax years (current plus two (2) prior), revoke the beneficial tax rate, in whole or in part, and reset the assessment cap, and may add to the assessment list the amount of value involved, in the manner provided by Section 5A-3.4 for the assessment of omitted property.

(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, 2025), with changes to impact the Tax Year beginning July 1, 2026.

Introduced by: /s/ MEL RAPOZO

DATE OF INTRODUCTION:

February 26, 2025

Līhu‘e, Kaua‘i, Hawai‘i

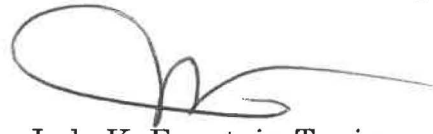
V:\BILLS\2024-2026 TERM\Bill No. 2944 Long-Term Affordable Rental (MR) CNT_ss.docx

CERTIFICATE OF THE COUNTY CLERK

I hereby certify that heretofore attached is a true and correct copy of Bill No. 2944, which was passed on first reading and ordered to print by the Council of the County of Kaua'i at its meeting held on February 26, 2025, by the following vote:

FOR PASSAGE:	Bulosan, Carvalho, Cowden, Holland, Kaneshiro, Kualii, Rapozo	TOTAL – 7,
AGAINST PASSAGE:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Līhu'e, Hawai'i
February 27, 2025



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