

NOTICE OF PUBLICATION AND NOTICE OF PUBLIC HEARING

THE COUNTY CLERK
COUNTY OF KAUAI

Notice is hereby given that the Council of the County of Kaua'i will hold a public hearing on Wednesday, July 20, 2022, 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. 2872

A BILL FOR AN ORDINANCE AMENDING CHAPTER 5A, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO REAL PROPERTY TAX (*Tiered Residential Investor & Vacation Rental Tax Classifications*)

The purpose of this Bill is to amend the "Residential Investor" and "Vacation Rental" tax rate classifications to incentivize long-term rentals and to shift some of the financial burden of funding government services to those more capable of paying. It proposed to amend in part the definition of "Residential Investor" from that which has an assessed value of one million three hundred thousand dollars (\$1,300,000) or more, to an assessed value of one million dollars (\$1,000,000) or more. Further, the Bill creates a tiered rate system for properties classified as "Residential Investor" or "Vacation Rental," which assigns taxes according to the valuation of the property. The three (3) tiers are: Tier 1 – property valued at up to one million dollars (\$1,000,000); Tier 2 – property valued in excess of one million dollars (\$1,000,000) up to three million dollars (\$3,000,000); and Tier 3 – property valued in excess of three million dollars (\$3,000,000). Based on the value of a property, one or more tiered tax rates will apply.

All interested persons who wish to present their comments may do so at the public hearing. Written testimony prior to the hearing would be appreciated. Written testimony can be submitted to the Office of the County Clerk, Council Services Division by mail, facsimile, or via E-mail to counciltestimony@kauai.gov. Copies of this Bill are available at the Office of the County Clerk, Council Services Division.

(The Council Committee or Council may amend this Bill at their subsequent meetings. Meeting notices are posted at least six (6) days in advance at the County Clerk's Office and the public may also testify at any of these meetings.)

CERTIFICATE OF THE COUNTY CLERK

I hereby certify that the foregoing Bill No. 2872 was passed on first reading and ordered to print by the Council of the County of Kaua'i at its meeting held on June 15, 2022, by the following vote:

AYES:	Carvalho, Chock, Cowden, Evslin, Kuali'i, Kaneshiro	TOTAL - 6,
NOES:	DeCosta	TOTAL - 1,
EXCUSED & NOT VOTING:	None	TOTAL - 0,
RECUSED & NOT VOTING:	None	TOTAL - 0.

Līhu'e, Hawai'i
June 16, 2022

/s/ Scott K. Sato
Deputy 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 – June 22, 2022)

**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 KAUAI, STATE OF HAWAII:

SECTION 1. Findings and Purpose. The Council finds that as identified in the General Plan, the County of Kauai is in the midst of a dire housing crisis and is in need of an additional nine thousand (9,000) housing units over the next twenty (20) years. Despite this crisis, the 2020 Census found that there were five thousand four hundred forty-five (5,445) vacant homes on Kauai, which represents nearly one (1) in five (5) homes on the island.

The purpose of this Bill is to amend the "Residential Investor" and "Vacation Rental" tax rate classifications to incentivize long-term rentals and to shift some of the financial burden of funding government services to those more capable of paying. The amendments to these tax rate classifications are intended to address the housing crisis by encouraging owners to turn their vacant homes and vacation rentals into long-term rentals, thus qualifying for the lower "Residential" tax class rates. Owners of "Vacation Rental" tax class properties intending to reclassify property to the "Residential" tax class rates based on this provision, must comply with the County's Criteria For Change To Tax Classification form.

SECTION 2. Chapter 5A, Section 5A-1.1, Kauai County Code 1987, as amended, is hereby amended in part by amending the definition of "Residential Investor" to read as follows:

"Residential Investor" shall mean a tax rate classification applied to properties that do not qualify for the home exemption, are improved with a dwelling unit(s), not vacant land, are not being rented on a long-term basis, and have an assessed value of [one million three hundred thousand dollars (\$1,300,000)] one million dollars (\$1,000,000) or more."

SECTION 3. Chapter 5A, Section 5A-6.3(c), Kauai County Code 1987, as amended, hereby adds a three (3) tier tax rate for properties classified as "Residential Investor" or "Vacation Rental" to read as follows:

"Sec. 5A-6.3 Real Property Tax; Determination of Rates.

Unless a different meaning is clearly indicated by the context, as used in this Section:

(a) "Net taxable real property" means the fee simple fair market value of property determined pursuant to this Chapter, which the Director certifies as the tax base as provided by law less exemptions as provided by law and, in all cases where appeals from the Director's assessment are then unsettled, less fifty percent (50%) of the value in dispute.

(b) The Council shall annually set the tax rates for the classes of real property established in accordance with Section 5A-6.4. A resolution setting the tax rates shall be adopted on or before June 20th preceding the tax year for which property tax revenues are to be raised according to the following procedures:

(1) The Council shall advertise its intention to set the tax rates and the date, time, and place of a public hearing in a newspaper of general circulation. The date of the public hearing shall be not less than ten (10) days after the advertisement is first published and shall set forth the proposed tax rates to be considered by the Council.

(2) After the public hearing provided for in Paragraph (1) of this Subsection, the Council shall re-advertise and reconvene within three (3) weeks to adopt a resolution setting the tax rates for the tax year for which property tax revenues are to be raised. The advertisement shall state the rates proposed to be set and the date, time, and place of the meeting scheduled for setting such rates. The date, time, and place of the meeting shall also be announced at the public hearing required by Paragraph (1). If the resolution setting the tax rates is not adopted within three (3) weeks from the public hearing required by Paragraph (1) of this Subsection, the Council shall again advertise and meet as required by Paragraph (1).

(3) If, after adopting the proposed tax rates as provided by Paragraphs (1) and (2) of this Subsection, the Council determines that it requires a further increase or decrease in a tax rate or fails to act in any specified period, the Council shall re-advertise and follow the requirements of Paragraphs (1) and (2).

(c) The Council shall set the tax rates for each class of real property for a tax year using the following method:

(1) Net taxable real property within each class shall be assigned a percentage of the total revenue to be derived from all real property.

(2) The percentage of revenue to be raised from net taxable real property within each class shall be multiplied by the total revenue to be raised from all real property in order to determine the amount of revenue to be derived from that class.

(3) The amount of revenue to be raised from each class shall be divided by the net taxable real property of that class to determine the applicable tax rate. The tax rate shall be expressed as a dollar amount per one thousand dollars (\$1,000.00) of net taxable real property.

(4) Notwithstanding any provision to the contrary, rates for property classified as "Residential Investor" or "Vacation Rental," shall be assigned to one (1) or more of the following three (3) tiers based on the valuation of the property:

(A) Tier 1: applied to the net taxable value of property up to one million dollars (\$1,000,000);

(B) Tier 2: applied to the net taxable value of property in excess of one million dollars (\$1,000,000) up to three million dollars (\$3,000,000);

(C) Tier 3: applied to the net taxable value of property in excess of three million dollars (\$3,000,000).

(d) The Council shall notify the Director of the tax rates set for a tax year before the commencement of that tax year. Upon receipt of the notification, the Director shall employ such rates in the levying of property taxes as provided by this Chapter.

(e) The Director shall, on or before March 15th preceding the tax year, furnish the Council with a calculation certified as being as nearly accurate as may be, of the net taxable real property within the County, separately stated for each class established in accordance with Sec. 5A-6.4, plus such additional data relating to the property tax base as may be necessary.

(f) Insofar as the validity of any tax rate is concerned, the provisions of Subsections (b) and (e) of this Section as to dates, shall be deemed directory; provided that all other provisions of Subsections (b) and (e) and all provisions of Subsections (c) and (d) of this Section shall be deemed mandatory.

(g) Notwithstanding any provision to the contrary, there shall be levied upon each individual parcel of real property taxable under this Chapter a minimum real property tax of one hundred dollars (\$100.00) for tax year 2014 and one hundred fifty dollars (\$150.00) every year thereafter, except as follows:

Type of Property	Minimum Tax
Department of Hawaiian Home Land property as defined by Sec. 5A-11.23(a) =	\$0
Public utilities that have elected to be taxed pursuant to Sec. 5A-8.3(e) =	\$0
Roads that exist as individual parcels, lots, or common elements =	\$0
Public property that is exempt pursuant to Sec. 5A-11.17 =	\$0
Homeowners with income exemption per Sec. 5A-11.4(d) =	\$50 for tax year 2014 \$75 thereafter

The solid waste fee, or any other fee applicable to an owner's property, is not a tax, and is not counted toward the minimum real property tax."

SECTION 4. Chapter 5A, Section 5A-6.4, Kaua'i County Code 1987, as amended, is hereby amended to read as follows:

"Sec. 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 unless otherwise provided in this Chapter:

- (1) Residential.
- (2) Vacation Rental.
 - (A) Tier 1: Up to \$1,000,000;
 - (B) Tier 2: In excess of \$1,000,000 up to \$3,000,000;
 - (C) Tier 3: In excess of \$3,000,000.
- (3) Commercial.
- (4) Industrial.
- (5) Agricultural.
- (6) Conservation.
- (7) Hotel and Resort.
- (8) Homestead.
- (9) Residential Investor.
 - (A) Tier 1: Up to \$1,000,000;
 - (B) Tier 2: In excess of \$1,000,000 up to \$3,000,000;
 - (C) Tier 3: In excess of \$3,000,000.
- (10) Commercialized Home Use.

Vacant property shall be classified as zoned until actual use is established. For the tax year 2014, any owner shall be allowed to submit a new "Use Survey Form" to the Department of Finance, Real Property Tax Assessment Division by December 31, 2014. Should the Director determine that a property was designated an incorrect tax rate classification for tax year 2014, a tax credit of the difference shall be applied to the owner's 2015 tax year bill and all penalties and interest for delinquent payment shall be waived.

(b) When property is divided into condominium units, each unit shall be (1) classified upon consideration of 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 which are used for no other purpose than as the owner's principal residence shall be classified as "homestead" provided that the owner has applied for and has been granted a home exemption according to Sec. 5A-11.4. The homestead class shall also include parcels used as the owner's principal residence which are being assessed according to their agricultural use as provided in Sec. 5A-9.1; provided that the owner has been granted a home exemption and that no portion of the parcel be used for a purpose other than the owner's principal residence and agriculture. The agricultural use shall be limited to the cultivation of crops, pasturing of animals, and cultivation of aquaculture products, and uses which directly support the agricultural activity such as windbreaks, access roads, irrigation ditches and sheltering of farm machinery. Uses which are primarily commercial or industrial in nature, such as importing, selling, refining or distributing agricultural products, shall not qualify for the homestead class. The residentially-used portions of agricultural land shall be assessed according to their value in residential use. The homestead 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 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 30th prior to the applicable tax year. The homestead class shall also include parcels that have applied for and have been deemed a long term affordable rental pursuant to Sec. 5A-11A.1. "Homestead" shall mean properties which are used exclusively as the owner's principal residence, except as otherwise provided in this Section. Uses which shall not qualify as "homestead" include, but are not limited to, the following: (1) real property which is used for commercial, income producing purposes, except for the agricultural, licensed day care, and long term affordable rental uses provided above; and (2) real property which is used for residential rental purposes, whether for long term or short term, except as provided above and otherwise in this Chapter.

(d) For the purposes of this Article, the tax rate classification for Residential Investor shall be applied to properties that do not qualify for the home exemption, are improved with a dwelling unit(s), [and] not vacant land, are not being rented on a long-term basis, and have an assessed value of [one million three hundred thousand dollars (\$1,300,000.00)] one million dollars (\$1,000,000) or more.

(e) 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 "commercialized home use" set forth in subsection (f).

(f) Parcels which are utilized for multiple purposes, one of which is use as the taxpayer's principal residence as of the date of assessment, shall be classified as "commercialized home use" provided that the taxpayer has received a home use exemption on the property pursuant to Sec. 5A-11.4.

(g) The owner may appeal the property's tax rate classification as in the case of an appeal from an assessment.

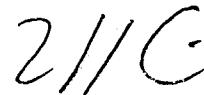
(h) Owners of "Vacation Rental" tax class properties intending to reclassify property to the "Residential" tax class rate based on this provision, must: 1) change the use of the property to a long-term rental; and 2) complete and comply with the County's Criteria For Change To Tax Classification form."

SECTION 5. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or application of the Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable.

SECTION 6. 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 7. This Ordinance shall take effect for the Tax Year beginning July 1, 2023.

Introduced by:



LUKE A. EVSLIN


MASON K. CHOCK

DATE OF INTRODUCTION:

June 15, 2022

Lihue, Kauai, Hawaii

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CERTIFICATE OF THE COUNTY CLERK

I hereby certify that heretofore attached is a true and correct copy of Bill No. 2872, which was passed on first reading and ordered to print by the Council of the County of Kaua'i at its meeting held on June 15, 2022, by the following vote:

FOR PASSAGE:	Carvalho, Chock, Cowden, Evslin, Kuali'i, Kaneshiro	TOTAL – 6,
AGAINST PASSAGE:	DeCosta	TOTAL – 1,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Līhu‘e, Hawai‘i
June 16, 2022



Scott K. Sato
Deputy County Clerk, County of Kaua'i