

RECEIVED

23 AUG 10 AM 11:52

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. 2901

A BILL FOR AN ORDINANCE AMENDING CHAPTER 5A, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO REAL PROPERTY TAX (*RPT Reform Tax Year 2024*)

This Bill proposes to effectuate various substantive and non-substantive changes to Kaua'i County Code 1987, as amended, Chapter 5A, specifically: (1) increasing the exemption amounts of Section 5A-11.4 (Homes); (2) amending Section 5A-11.22 (Historic Residential Real Property Dedicated for Preservation, Exemption) to clarify both the exemption's scope and its definition of "residential"; (3) repealing (deleting) the no longer needed programs codified at Section 5A-11.7 (Person Affected with Leprosy), Section 5A-11.11 (Property Used in Manufacture of Pulp and Paper), Section 5A-11.14 (Exemptions for Air Pollution Control Facility), Section 5A-11.16 (Exemptions for Air Pollution Control Facility), and Section 5A-11.31 (Automatic Fire Suppression System Exemption); (4) changing the term "owner" to "taxpayer" at Section 5A-12.1 (Appeals); (5) amending Section 5A-11A.3 (Assessment Cap for Home Exemption Property and Property Used For Long Term Affordable Rental) to remove the assessment cap's three percent (3%) "floor" and other updates; and (6) creating a new section entitled "Assessment Cap for Other Than Home Exemption Property and Property Used For Long-Term Affordable Rental" stating in part: "All property not eligible for the three percent (3%) assessment cap under Section 5A-11.3 shall receive a twenty percent (20%) assessment cap." This Proposed Draft Bill would take effect upon its approval (which therefore would impact the Tax Year beginning July 1, 2024).

Bill No. 2902

A BILL FOR AN ORDINANCE AMENDING CHAPTER 5A, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO REAL PROPERTY TAX (*RPT Reform Tax Year 2025*)

This Bill proposes to effectuate various substantive and non-substantive changes to Kaua'i County Code 1987, as amended, Chapter 5A, specifically: (1) amending Section 5A-11.6 (Homes of Totally Disabled Veterans) to be renamed "Homes of Disabled Veterans" and to expand the exemption to apply to specified disabled veterans who are eighty percent (80%) to totally disabled; (2) amending Section 5A-11.8 (Exemption, Persons with Impaired Sight or Hearing and Persons Totally Disabled) to delete the term "Totally" in the title and to expand the exemption of fifty thousand dollars (\$50,000.00) to apply to specified disabled veterans who are less than eighty percent (80%) disabled; (3) amending Section 5A-11A.2 (Limitation of Taxes for Home Preservation) to increase the allowable income of all owners from one hundred thousand dollars (\$100,000.00) to two hundred thousand dollars (\$200,000.00) and increase the minimum property net taxable assessed value from seven hundred fifty thousand dollars (\$750,000.00) to one million dollars (\$1,000,000.00); (4) amending Section 5A-11A.1 (Beneficial Tax Rate for Property Used for Long-Term Affordable Rental) by amending the

definition of “Long-term affordable rental limit” from: “the midpoint of the maximum rental limits for each unit type using between up to 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” to “up to eighty percent (80%) of the Kauaʻi median household income as defined by the Kauaʻi County Housing Agency Rental Housing Guidelines” and other updates; (5) creating a new exemption entitled “Exemption for Property Used for Long-Term Gap Housing Rental” for “each unit type up to one hundred percent (100%) of the Kauaʻi median household income as defined by the Kauaʻi County Housing Agency Rental Housing Guidelines; (6) amending Section 5A-11A.3 (Assessment Cap for Home Exemption Property and Property Used For Long Term Affordable Rental) to remove the assessment cap’s three percent (3%) “floor” and other updates; and (7) creating a new section entitled “Assessment Cap for Other Than Home Exemption Property and Property Used For Long-Term Affordable Rental” stating in part: “All property not eligible for the three percent (3%) assessment cap under Section 5A-11.3 shall receive a twenty percent (20%) assessment cap.” This Proposed Draft 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.

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 Kauaʻi County Council passed on first reading and ordered to print Bill Nos. 2901 and 2902 during the August 9, 2023 Council Meeting, by the following vote:

AYES:	Bulosan, Carvalho, Cowden, DeCosta, Kagawa, Kualifi Rapozo	TOTAL – 7,
NOES:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Lihu'e, Hawai'i
August 10, 2023

/s/ Jade K. Fountain-Tanigawa
County Clerk, County of Kauaʻi

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)

ORDINANCE NO. _____

BILL NO. 2901

**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. Chapter 5A, Section 5A-11.4 (Homes), Kaua'i County Code 1987, as amended, is hereby amended in part by amending its Subsection 5A-11.4(c) to read as follows:

“(c) As of the date of assessment on October 1, upon application by any individual or individuals, the principal home shall be exempt only to the following extent from property assessment:

(1) Totally exempt where the value of the property is not in excess of [one hundred sixty thousand dollars (\$160,000.00);] one hundred eighty thousand dollars (\$180,000.00);

(2) Where the value of such property is in excess of [one hundred sixty thousand dollars (\$160,000.00),] one hundred eighty thousand dollars (\$180,000.00), the exemption shall be the amount of [one hundred sixty thousand dollars (\$160,000.00).] one hundred eighty thousand dollars (\$180,000.00).

Provided:

(A) That no such exemption shall be allowed to any corporation, copartnership, or company;

(B) That the exemption shall not be allowed on more than one (1) home for any one (1) taxpayer;

(C) That where the taxpayer has acquired the taxpayer's home by a deed, the deed shall have been recorded on or before September 30 immediately preceding the year for which the exemption is claimed;

(D) That a husband and wife 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 be entitled to one-half (1/2) of one (1) exemption, for a maximum period of two (2) years;

(E) That a person living on-premises, a portion of which is used for commercial purposes, shall be placed in the Owner-Occupied Mixed-Use class.

(F) That a property transferred for the purpose of conveying real property for the following shall be exempt so long as the real property is owned and occupied as the same owner's principal home:

(1) Grantor to the grantor's revocable living trust;

(2) Grantor's revocable living trust to grantor;

(3) Taxpayer and spouse;

(4) Surviving spouse who maintains portion of ownership and resides on property, but deceased spouse's interest is transferred to another party;

(5) Life Estate; or

(6) Any other method of property transfer for the purpose of conveying real property which the Director of Finance finds to be similar in nature to those listed in this Section."

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

"(e) For a taxpayer who is at least sixty (60) years of age, but not yet seventy (70) years of age, the amount of [one hundred eighty thousand dollars (\$180,000.00)] two hundred thousand dollars (\$200,000.00) shall replace the exemption amount referenced in Subsection [(a).] (c). For a taxpayer who is seventy (70) years of age or over, the amount of [two hundred thousand dollars (\$200,000.00)] two hundred twenty thousand dollars (\$220,000.00) shall replace the exemption amount referenced in Subsection [(a).] (c)."

SECTION 3. Chapter 5A, Section 5A-11.22 (Historic Residential Real Property Dedicated for Preservation, Exemption), Kaua'i County Code 1987, as amended, is hereby amended to read as follows:

"(a) Portions of residential real property which are dedicated and approved by the Director of Finance as provided for by this Section, shall be exempt from real property taxation to the following extent:

(1) Those residential properties qualifying for a home exemption under Section 5A-11.4 [and those residential properties owned by a nonprofit organization as defined in Section 5A-11.10(c)] shall be exempt to the extent of one hundred percent (100%) of the assessed value of real property as determined by the Director of Finance pursuant to Subsection (c) of this Section, except that the minimum tax provision of Sec. 5A-6.3(g) shall apply; and

(2) All other qualifying residential properties shall be exempt to the extent of seventy-five percent (75%) of the assessed value of the real property as determined by the Director of Finance pursuant to Subsection (c).

“Residential” as used in this Subsection shall mean improved with a building designed for or adapted to residential use and currently used solely as a dwelling[.] for human habitation. Residential shall not include a property which is provided to transient occupants for compensation or fees, including club fees, or as part of interval ownership involving persons unrelated by blood, with a duration of occupancy of one hundred eighty (180) days or less.”

SECTION 4. Chapter 5A, Section 5A-11.7 (Person Affected with Leprosy), Kaua‘i County Code 1987, as amended, is hereby amended by repealing (deleting) Section 5A-11.7 in its entirety and designating the deleted Section as “Reserved,” as follows:

“[Sec. 5A-11.7 Person Affected with Leprosy.

Any person who has been declared by authority of law to be a person affected with leprosy in the communicable stage and is admitted to a hospital for isolation treatment, shall, so long as he or she is so hospitalized, and thereafter for so long as such person has been so declared to be therefrom temporarily released, shall, so long as he or she remains or continues under temporary release, be exempted from real property taxes on all real property owned by him or her on the date when he or she was declared to be a person so affected with leprosy, up to, but not exceeding, a taxable value of fifty thousand dollars (\$50,000.00).]

Sec. 5A-11.7 Reserved.”

SECTION 5. Chapter 5A, Section 5A-11.11 (Property Used in Manufacture of Pulp and Paper), Kaua‘i County Code 1987, as amended, is hereby amended by repealing (deleting) Section 5A-11.11 in its entirety and designating the deleted Section as “Reserved,” as follows:

“[Sec. 5A-11.11 Property Used in Manufacture of Pulp and Paper.

All property in the County, both real and personal, actually and solely used or to be used, whether by the owner or lessee thereof, in connection with the manufacture of pulp and paper from bagasse fibre, shall be exempt from property taxes for a period

of five (5) years from the first day of January following commencement of construction of a plant or plants on the property for such purpose.]

Sec. 5A-11.11 Reserved.

SECTION 6. Chapter 5A, Section 5A-11.14 (Exemptions for Air Pollution Control Facility), Kaua'i County Code 1987, as amended, is hereby amended by repealing (deleting) Section 5A-11.14 in its entirety and designating the deleted Section as "Reserved," as follows:

"[Sec. 5A-11.14 Exemptions for Air Pollution Control Facility.

(a) The value of all property in the County (not including a building and its structural components, other than a building which is exclusively a treatment facility) actually and solely used or to be used as an air pollution control facility as the term is defined in Chapter 237, H.R.S., shall be exempted from the measure of the taxes imposed by this Chapter; provided, however, the property exemption shall be applicable only with respect to a certified facility which is property (1) the construction, reconstruction or erection of which is completed by the taxpayer after June 30, 1969, or (2) acquired by the taxpayer after June 30, 1969, if the original use of the property commences with the taxpayer after June 30, 1969; provided, further, the facility is placed in service by the taxpayer before July 1, 1975.

(b) Application for the exemption provided herein shall first be made with the Director of Health who shall, if satisfied that the facility meets the pollution emission criteria established by the State Department of Health, certify to that fact. Upon receipt of the certification from the State Department of Health, the Director shall exempt the facility from the tax imposed by this Chapter. A new certificate shall be obtained from the State Director of Health and filed with the Director every two (2) years certifying that the pollution control facility complies with the pollutant emission criteria established by the State Department of Health. The Director shall furnish all forms required by this Section.

(c) The Director shall, pursuant to Chapter 91, H.R.S., promulgate rules and regulations necessary to administer this Section.]

Sec. 5A-11.14 Reserved.

SECTION 7. Chapter 5A, Section 5A-11.16 (Exemptions for Air Pollution Control Facility), Kaua'i County Code 1987, as amended, is hereby amended by repealing (deleting) Section 5A-11.16 in its entirety and designating the deleted Section as "Reserved," as follows:

"[Sec. 5A-11.16 Fixtures Used in Manufacturing or Producing Tangible Personal Products.

There shall be exempted and excluded from the measure of the taxes imposed by this Chapter, all fixtures which are categorized as machinery and other mechanical or other allied equipment which are primarily and substantially used in manufacturing or producing tangible personal products.]

Sec. 5A-11.16 Reserved.

SECTION 8. Chapter 5A, Section 5A-11.31 (Automatic Fire Suppression System Exemption), Kaua'i County Code 1987, as amended, is hereby amended by repealing (deleting) Section 5A-11.31 in its entirety and designating the deleted Section as "Reserved," as follows:

"[Sec. 5A-11.31 Automatic Fire Suppression System Exemption.

(a) Definitions. When used in this Section:

"Automatic fire suppression system" means an integrated system of underground and overhead piping designed in accordance with fire protection engineering standards, the properties of which shall include:

(1) That the portion of the automatic fire suppression system that is aboveground shall consist of a network of specially sized or hydraulically designed piping installed in a building, structure, or area, generally overhead and to which sprinklers are connected in a systematic pattern;

(2) That the valve controlling each system riser shall be located in the system riser or its supply piping;

(3) That each sprinkler system riser shall include a device for activating an alarm when the system is in operation; and

(4) That the device shall be normally activated by heat from a fire and discharges water over the fire area.

"Owner" shall have the meaning ascribed to it in Sec. 5A-7.1, Kaua'i County Code 1987, as amended.

(b) Application for Eligibility. Application for the exemption provided by this Section shall be made with the Director of Finance on or before September 30 preceding the tax year for which the exemption is claimed. The Director of Finance may require the taxpayer to furnish reasonable information in order to ascertain the validity of the claim for exemption under this Section, and may adopt rules and regulations to implement this Section.

(c) Partial Valuation Exemption. Residential buildings or accessory buildings to a residence certified as containing an automatic fire suppression system shall receive an exemption of \$40,000 per residence.

(d) Automatic Repeal. Upon adoption of an ordinance or an amendment to state statute establishing mandatory installation of an automatic fire suppression system in residential buildings, this Section shall be repealed in its entirety.]

Sec. 5A-11.31 Reserved.

SECTION 9. Chapter 5A, Section 5A-12.1 (Appeals), Kaua'i County Code 1987, as amended, is hereby amended to read as follows:

"In the case of a real property tax appeal, any [owner] taxpayer shall first appeal to the Board of Review pursuant to Section 232-16, H.R.S. Appeals to the Board of Review shall be on grounds as provided in Sec. 5A-12.3. With the exception of appeals of corrected assessments, appeals to the Board of Review shall be filed on or before December 31st preceding the tax year, as provided in this Article. With respect to appeals of corrected assessments, whether corrected for omitted property pursuant to Sec. 5A-3.4(a) or corrected for any other reason, appeals to the Board of Review shall be filed within thirty (30) days after the date of mailing the notice of corrected assessment. Where such an appeal is based upon the grounds that the assessed value of the real property for tax purposes is excessive, the valuation claimed by the [owner] taxpayer in the appeal shall be admissible in evidence, in any subsequent condemnation action involving the property, as an admission that the fair market value of the real property as of the date of assessment is no more than the value arrived at when the assessed value from which the [owner] taxpayer appealed is adjusted to one hundred percent (100%) fair market value; provided, that such evidence shall not in any way affect the right of the [owner] taxpayer to any severance damages to which he or she may be entitled."

SECTION 10. Chapter 5A, Section 5A-11A.3 (Assessment Cap for Home Exemption Property and Property Used For Long Term Affordable Rental), Kaua'i County Code 1987, as amended, is hereby amended by amending the title of the Section and amending its contents to read as follows:

"Sec. 5A-11A.3 Assessment Cap for Home Exemption Property and Property Used For [Long Term] Long-Term Affordable Rental.

(a) Any owner who has a home exemption pursuant to Sec. 5A-11.4, Kaua'i County Code 1987, as amended, or receives the beneficial tax rate due to a [long term] long-term affordable rental pursuant to Sec. 5A-11A.1 shall receive [an Assessment Cap.] three percent (3%) assessment cap.

(b) The Director shall note on the notice of assessment or tax bill, or both, that the property receives the [Assessment Cap.] three percent (3%) assessment cap.

(c) Property receiving the [Assessment Cap] assessment cap shall be taxed in the following manner:

(1) The property shall be assessed based on its market value, provided that, any increase [or decrease] in assessed value from the prior tax year shall not exceed three percent (3%).

(A) Any improvements [that are undertaken on] to the property, including, but not limited to: new construction, renovations, and partial demolition, [etc., and such improvements] that increase [or decrease] the fair market value of the property, the assessment shall be increased based on the value of the improvements undertaken, notwithstanding the assessment cap limits.

(B) If property receiving the assessment cap subsequently increases [or decreases] in assessed value due solely to actions of the owner, such as but not limited to, the creation of a subdivision or condominium property regime, consolidation of lots or land area, or change in zoning, the assessment cap shall be reset to market value in the year of the change.

(C) If there is an error in the assessment for any year, the correction of which is not permitted under the terms of Section 5A-1.19, the assessment for the next year shall be based on what the assessment would have been for the previous year without the error.

(D) The gain or loss of an agricultural dedication, breach, or expiration of a dedication, or change in status to another real property program that affect the value shall be excluded from the three percent (3%) assessment cap limit.

(2) In the case of properties that are multiuse parcels or structures, the entire property shall receive the assessment cap, but shall be classified and taxed at the highest applicable tax rate in accordance with Section 5A-6.4 based on the property's actual use.

(d) The Director shall calculate the assessment cap as prescribed in subsection (c).

(e) Upon transfer or sale of property, real property assessments shall be reset to reflect the current market value of the property.

(f) The transfer of property for the purpose of conveying real property shall be excluded from subsection (e) if the same owner continues to maintain a home exemption pursuant to Section 5A-11.4(a) of Kaua'i County Code 1987, as amended. [For the tax year 2017, any owner who transfers property pursuant to Section 5A-11.4(a) shall file a notice of property transfer with the Department of Finance, Real Property Tax Division, on or before September 30, 2017 to receive a real property tax adjustment to reset the real property's assessment to the assessed value at the time of the transfer.]”

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

“Sec. 5A-11A. Assessment Cap for Other Than Home Exemption Property and Property Used For Long-Term Affordable Rental.

(a) All property not eligible for the three percent (3%) assessment cap under Section 5A-11.3 shall receive a twenty percent (20%) assessment cap.

(b) The Director shall note on the notice of assessment or tax bill, or both, that the property receives the twenty percent (20%) assessment cap.

(c) Property receiving the assessment cap shall be taxed in the following manner:

(1) The property shall be assessed based on its market value, provided that, any increase in assessed value from the prior tax year shall not exceed twenty percent (20%).

(A) Any improvements to the property, including, but not limited to: new construction, renovations, and partial demolition, that increase the fair market value of the property, the assessment shall be increased based on the value of the improvements undertaken, notwithstanding the assessment cap limits.

(B) If property receiving the assessment cap subsequently increases in assessed value due solely to actions of the owner, such as but not limited to, the creation of a subdivision or condominium property regime, consolidation of lots or land area, or change in zoning, the assessment cap shall be reset to market value in the year of the change.

(C) If there is an error in the assessment for any year, the correction of which is not permitted under the terms of Section 5A-1.19, the assessment for the next year shall be based on what the assessment would have been for the previous year without the error.

(D) The gain or loss of an agricultural dedication, breach, or expiration of a dedication, or change in status to another real property program that affect the value shall be excluded from the twenty percent (20%) assessment cap limit.

(2) In the case of properties that are multi-use parcels or structures, the entire property shall receive the twenty percent (20%) assessment cap, but shall be classified and taxed at the highest applicable tax rate based on the property's actual use.

(d) The Director shall calculate the assessment cap as prescribed in subsection (c).

(e) Upon transfer or sale of property, real property assessments shall be reset to reflect the current market value of the property."

SECTION 12. 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 13. 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 14. Notwithstanding any law, rule, or provision to the contrary, exemptions and tax limitations approved prior to the effective date of this Ordinance shall remain valid until the end of their originally-approved periods unless terminated or canceled as allowed by law.

SECTION 15. This Ordinance shall take effect upon its approval (which therefore impacts the Tax Year beginning July 1, 2024).

Introduced by:



MEL RAPOZO

DATE OF INTRODUCTION:

August 9, 2023

Līhu'e, Kaua'i, Hawai'i

V:\BILLS\2022-2024 TERM\Bill RPT Amendments Tax Year 2024 MR (JA 08-01-2023) LC.docx

CERTIFICATE OF THE COUNTY CLERK

I hereby certify that heretofore attached is a true and correct copy of Bill No. 2901, 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, DeCosta, Kagawa, Kualii, Rapozo	TOTAL – 7,
AGAINST PASSAGE:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Lihu'e, Hawai'i
August 10, 2023



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

**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. Chapter 5A, Section 5A-11.6 (Homes of Totally Disabled Veterans), Kaua'i County Code 1987, as amended, is hereby amended by amending the title of the Section and amending its contents to read as follows:

"Sec. 5A-11.6 Homes of [Totally] Disabled Veterans.

(a) Real property [owned and occupied as a home by any person] for which a home exemption under Section 5A-11.4 has been established by a disabled veteran who is eighty percent (80%) to totally disabled due to injuries received while on duty [with] as a member of the armed forces of the United States[, or owned by any such person together with his or her spouse and occupied by either or both spouses as a home, or owned and occupied by a widow or widower of such totally disabled veteran who shall remain unmarried and who shall continue to own and occupy the premises as a home, is hereby] shall be exempted from all property taxes, other than special assessment, provided[:] that:

(1) [That such total disability was incurred while on duty as a member of the armed forces of the United States, and that the] The Director may require proof of [total] the disability.

(2) [That the home] This exemption shall be granted only as long as the disabled veteran claiming the exemption remains eighty percent (80%) to totally disabled.

(3) [That the] This exemption shall not be allowed on more than one (1) [house] home for any one (1) [person.] disabled veteran.

(4) [That a person living on the premises, a portion of which is] This exemption shall not apply to any portion of the property used for [commercial purposes, shall not be entitled to an exemption with respect to such portion, but shall be entitled to an exemption with respect to the portion used exclusively as a home; provided that this exemption shall not apply to any structure, including the land thereunder, which is used for commercial purposes.] purposes other than the disabled veteran's owner-occupied home under Section 5A-11.4.

[(b) For the purposes of this Section, the word "home" includes the entire homestead when it is occupied by a qualified [totally] disabled veteran as a home;

houses where the disabled veteran owner sublets not more than one (1) room to a tenant; and premises held under an agreement to purchase the same for a home where the agreement has been duly entered into and recorded prior to October 1st preceding the tax year for which exemption is claimed, whereby the purchaser agrees to pay all taxes while purchasing the premises. The subletting by the disabled veteran of not more than one (1) room to a tenant shall not affect this exemption.]

(b) Following the death of the disabled veteran, the surviving spouse, civil union partner, or reciprocal beneficiary may continue to receive this exemption, or may apply for this exemption based on the disabled veteran's eligibility posthumously, for real property for which a home exemption has been established by the surviving spouse, civil union partner, or reciprocal beneficiary, provided that:

(1) The disabled veteran was eighty percent (80%) to totally disabled at the time of death and otherwise eligible to receive this exemption.

(2) The exemption shall end upon the death of the surviving spouse, civil union partner, or reciprocal beneficiary, or if they remarry or enter into a new civil union or reciprocal beneficiary relationship."

SECTION 2. Chapter 5A, Section 5A-11.8 (Exemption, Persons with Impaired Sight or Hearing and Persons Totally Disabled), Kaua'i County Code 1987, as amended, is hereby amended by amending the title of the Section and amending its contents to read as follows:

"Sec. 5A-11.8 Exemption, Persons with Impaired Sight or Hearing and Persons [Totally] Disabled.

Any person who qualifies under the following Subsection (a), (b), [or](c), or (d) shall be allowed to apply for only one (1) of [said exemptions.] the following exemptions:

(a) Any person who is blind as defined in HRS Section 235-1[, H.R.S.,] shall, so long as his or her sight is so impaired, be exempt from real property taxes on all real property owned by him or her up to, but not exceeding a taxable value of fifty thousand dollars (\$50,000.00). The impairment of sight shall be certified to on forms prescribed by the Director of Finance or by the State Department of Taxation on the basis of a written report on an examination performed by a qualified ophthalmologist or a qualified optometrist.

(b) Any person who is totally disabled, as defined in HRS Section 235-1 [, H.R.S.,] shall, so long as he or she is totally disabled, be exempt from real property taxes on all real property owned by him or her up to, but not exceeding a taxable value of fifty thousand dollars (\$50,000.00). The disability shall be certified to by a physician licensed under HRS Chapter 453, [Hawai'i Revised Statutes, or] HRS Chapter 460, [Hawai'i Revised Statutes,] or both, on forms prescribed by the Director of Finance or by the State Department of Taxation.

(c) Any person who is deaf, as defined in HRS Section 235-1[, H.R.S.,] shall, so long as his or her hearing is so impaired, be exempt from real property taxes on all real property owned by him or her up to, but not exceeding a taxable value of fifty thousand dollars (\$50,000.00). The impairment of hearing shall be certified on forms prescribed by the Director of Finance or by the State Department of Taxation on the basis of a written report on an examination performed by a qualified otolaryngologist.

(d) Any person who is a disabled veteran and is less than eighty percent (80%) disabled due to injuries received while on duty as a member of the armed forces of the United States shall, so long as he or she is disabled, be exempt from real property taxes on all real property owned by him or her up to, but not exceeding a taxable value of fifty thousand dollars (\$50,000.00). The disability shall be certified on forms prescribed by the Director of Finance."

SECTION 3. Chapter 5A, Section 5A-11A.2 (Limitation of Taxes for Home Preservation), Kaua'i County Code 1987, as amended, is hereby amended in part by amending its Subsection 5A-11A.2(c) and (d) to read as follows:

"(c) In order to receive the home preservation tax limit, the homeowner shall meet the following criteria at the time of application:

(1) The homeowner property [has a] receives the Owner-Occupied tax rate or qualifies for [a] the Owner-Occupied tax rate for the tax year the home preservation tax limit is to be applied.

(2) The homeowner does not own real property other than the property at issue in the application.

(3) The homeowner property has had a home exemption for a minimum of ten (10) years without change in ownership other than transfers between family members.

(4) If there are multiple dwellings on the property, each dwelling is occupied by an owner-occupant.

(5) The homeowner property has a net taxable assessed value exceeding [seven hundred fifty thousand dollars (\$750,000.00).] one million dollars (\$1,000,000.00).

(6) The income of all owners does not exceed [one] two hundred thousand dollars [(\$100,000.00).] (\$200,000.00).

(7) There are no delinquent real property taxes on the homeowner property.

(d) The homeowner shall apply for the home preservation tax limit annually on or before September 30th preceding the tax year the home preservation tax limit is to be applied. [For the tax year 2014 only, the homeowner shall apply for the home preservation tax limit on or before August 8, 2014.]”

SECTION 4. Chapter 5A, Section 5A-11A.1 (Beneficial Tax Rate for Property Used for Long-Term Affordable Rental), Kaua’i 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] up to 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.”

(b) Any owner [who owns] of real property that is rented or leased as a long-term affordable rental shall receive the Owner-Occupied 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 Owner-Occupied 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 Owner-Occupied 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] 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.

[(f)] (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 5. 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 up to one hundred percent (100%) 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 an exemption of one hundred fifty thousand dollars (\$150,000.00).

(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 exemption, provided that the day care center is operated out of the long-term market rate rental dwelling. A day care center operating out of a separate dwelling on the property that is not a long-term market rate rental shall not qualify for the Long-Term Gap Housing Rental exemption.

(d) The owner may apply for the Long-Term Gap Housing Rental exemption on a single year or multi-year basis. An owner with a multi-year written lease agreement may apply to receive the exemption 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 exemption tax period, the owner may file a new application to receive the exemption 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 exemption. 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. If there is a change in the use as a long-term gap housing rental, the exemption 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 exemption shall become due and payable.

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

SECTION 6. Chapter 5A, Section 5A-11A.3 (Assessment Cap for Home Exemption Property and Property Used For Long Term Affordable Rental), Kaua'i County Code 1987, as amended, is hereby amended by amending the title of the Section and amending its contents to read as follows:

““Sec. 5A-11A.3 Assessment Cap for Home Exemption Property and Property Used For [Long Term] Long-Term Affordable Rental.

(a) Any owner who has a home exemption pursuant to Sec. 5A-11.4, Kaua'i County Code 1987, as amended, or receives the beneficial tax rate due to a [long term] long-term affordable rental pursuant to Sec. 5A-11A.1 shall receive [an Assessment Cap.] three percent (3%) assessment cap.

(b) The Director shall note on the notice of assessment or tax bill, or both, that the property receives the [Assessment Cap.] three percent (3%) assessment cap.

(c) Property receiving the [Assessment Cap] assessment cap shall be taxed in the following manner:

(1) The property shall be assessed based on its market value, provided that, any increase [or decrease] in assessed value from the prior tax year shall not exceed three percent (3%).

(A) Any improvements [that are undertaken on] to the property, including, but not limited to: new construction, renovations, and partial demolition, [etc., and such improvements] that increase [or decrease] the fair market value of the property, the assessment shall be increased based on the value of the improvements undertaken, notwithstanding the assessment cap limits.

(B) If property receiving the assessment cap subsequently increases [or decreases] in assessed value due solely to actions of the owner, such as but not limited to, the creation of a subdivision or condominium property regime, consolidation of lots or land area, or change in zoning, the assessment cap shall be reset to market value in the year of the change.

(C) If there is an error in the assessment for any year, the correction of which is not permitted under the terms of Section 5A-1.19, the assessment for the next year shall be based on what the assessment would have been for the previous year without the error.

(D) The gain or loss of an agricultural dedication, breach, or expiration of a dedication, or change in status to another real property program that affect the value shall be excluded from the three percent (3%) assessment cap limit.

(2) In the case of properties that are multiuse parcels or structures, the entire property shall receive the assessment cap, but shall be classified and taxed at the highest applicable tax rate in accordance with Section 5A-6.4 based on the property's actual use.

(d) The Director shall calculate the assessment cap as prescribed in subsection (c).

(e) Upon transfer or sale of property, real property assessments shall be reset to reflect the current market value of the property.

(f) The transfer of property for the purpose of conveying real property shall be excluded from subsection (e) if the same owner continues to maintain a home exemption pursuant to Section 5A-11.4(a) of Kaua'i County Code 1987, as amended. [For the tax year 2017, any owner who transfers property pursuant to Section 5A-11.4(a) shall file a notice of property transfer with the Department of Finance, Real Property Tax Division, on or before September 30, 2017 to receive a real property tax adjustment to reset the real property's assessment to the assessed value at the time of the transfer.]”

SECTION 7. Chapter 5A, Article 11A (Limitation of Taxes), Kaua'i County Code 1987, as amended, is hereby amended by establishing a new Section to be appropriately designated and to read as follows: to read as follows:

“Sec. 5A-11A. Assessment Cap for Other Than Home Exemption Property and Property Used For Long-Term Affordable Rental.

(a) All property not eligible for the three percent (3%) assessment cap under Section 5A-11.3 shall receive a twenty percent (20%) assessment cap.

(b) The Director shall note on the notice of assessment or tax bill, or both, that the property receives the twenty percent (20%) assessment cap.

(c) Property receiving the assessment cap shall be taxed in the following manner:

(1) The property shall be assessed based on its market value, provided that, any increase in assessed value from the prior tax year shall not exceed twenty percent (20%).

(A) Any improvements to the property, including, but not limited to: new construction, renovations, and partial demolition, that increase the fair market value of the property, the assessment shall be increased based on the value of the improvements undertaken, notwithstanding the assessment cap limits.

(B) If property receiving the assessment cap subsequently increases in assessed value due solely to actions of the owner, such as but not limited to, the creation of a subdivision or condominium property regime, consolidation of lots or land area, or change in zoning, the assessment cap shall be reset to market value in the year of the change.

(C) If there is an error in the assessment for any year, the correction of which is not permitted under the terms of Section 5A-1.19, the assessment for the next year shall be based on what the assessment would have been for the previous year without the error.

(D) The gain or loss of an agricultural dedication, breach, or expiration of a dedication, or change in status to another real property program that affect the value shall be excluded from the twenty percent (20%) assessment cap limit.

(2) In the case of properties that are multi-use parcels or structures, the entire property shall receive the twenty percent (20%) assessment cap, but shall be classified and taxed at the highest applicable tax rate based on the property's actual use.

(d) The Director shall calculate the assessment cap as prescribed in subsection (c).

(e) Upon transfer or sale of property, real property assessments shall be reset to reflect the current market value of the property."

SECTION 8. 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 9. 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 10. Notwithstanding any law, rule, or provision to the contrary, exemptions and tax limitations approved prior to the effective date of this Ordinance shall remain valid until the end of their originally-approved periods unless terminated or canceled as allowed by law.

SECTION 11. 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/MEL RAPOZO

DATE OF INTRODUCTION:

August 9, 2023

Līhu'e, Kaua'i, Hawai'i

V:\BILLS\2022-2024 TERM\Bill No. 2902 RPT Amendments Tax Year 2025 JA_dmc.docx

CERTIFICATE OF THE COUNTY CLERK

I hereby certify that heretofore attached is a true and correct copy of Bill No. 2902, 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, DeCosta, Kagawa, 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
August 10, 2023


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