

OFFICE OF
THE COUNTY CLERK
COUNTY OF KAUAI

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, March 27, 2024, 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. 2914

A BILL FOR AN ORDINANCE AMENDING CHAPTER 7A, ARTICLE 9, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO GOVERNMENT ASSISTANCE FOR WORKFORCE HOUSING

This Bill proposes to add a new Subsection 7A-9.4.1 to Chapter 7A, Article 9, Kaua'i County Code 1987, as amended, relating to Government Assistance for Workforce Housing. This Bill proposes to implement a Residential Workforce Housing Credit System, which will provide a new non-governmental source of financing for affordable housing while simultaneously providing additional pathways to generate market rate housing quicker.

Bill No. 2915

A BILL FOR AN ORDINANCE AMENDING CHAPTER 7A, ARTICLE 5, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO HOUSING ELIGIBILITY AND SELECTION

This Bill proposes to amend Chapter 7A, Article 5, Kaua'i County Code 1987, as amended, relating to Housing Eligibility and Selection. This Bill proposes to add provisions authorizing the Housing Agency to approve the use of various preferences to prioritize amongst otherwise eligible Homebuyer list participants, including project employee, geographical, and other as established by rule.

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. 2914 and Bill No. 2915 during the February 28, 2024 Council Meeting, by the following vote:

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

Līhu'e, Hawai'i
February 29, 2024

/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, 2024)

**A BILL FOR AN ORDINANCE AMENDING CHAPTER 7A, ARTICLE 9,
KAUAI COUNTY CODE 1987, AS AMENDED,
RELATING TO GOVERNMENT ASSISTANCE FOR WORKFORCE HOUSING**

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

SECTION 1. Findings and Purpose. The purpose of this Ordinance is to provide a new non-governmental source of financing for affordable housing projects while simultaneously providing an additional pathway to generate market rate housing more quickly.

SECTION 2. Chapter 7A, Article 9 (Government Assistance for Workforce Housing), Kaua'i County Code 1987, as amended, is hereby amended by adding a new Subsection 7A-9.4.1, as follows:

"Sec. 7A-9.4.1 Residential Workforce Housing Credits.

(a) The Housing Agency may issue credits, upon request by a developer, provided that:

(1) Each workforce unit constructed in the subject development shall be encumbered by a recorded deed restriction that meets the requirements of this Chapter.

(2) Each residential workforce unit shall be sold or rented to an income qualified individual.

(3) Credits may only be issued for each residential workforce housing unit sold or rented to an income eligible individual in the appropriate income group, that is in excess of the residential workforce housing otherwise required in this Chapter.

(4) For units sold or rented to income eligible individuals earning one hundred twenty percent (120%) or less of Kaua'i Median Area Income, only seventy-five percent (75%) of the excess workforce units sold or rented shall be eligible for credits.

(5) For projects sold or rented to income eligible individuals earning eighty percent (80%) or less of Kaua'i Median Area Income, all of the excess workforce units sold or rented shall be eligible for credits.

(b) A credit may satisfy the requirement for any type of unit constructed for any income group in accordance with the requirements of Article 2.

(c) The number of credits issued shall be set forth in a workforce housing agreement.

(d) Credits may be transferred to other developers to satisfy part or all of the workforce housing requirements imposed on them, provided that the developer receiving the credits may only utilize the credits subject to the geographic requirements set out in Section 7A-2.5.

(e) The original recipient or holder of housing credits shall be required to report the transfer of credits to any other developer or project.

(f) If the project applying for the excess credits was developed with a direct subsidy from the federal, state, or county governments, the Director shall either: (1) discount the excess credits earned by the value of the subsidy, or (2) require that the Agency or other public entity subsidizing the project share equitably in the proceeds from the transfer of the excess credits."

SECTION 3. If any provision of this Ordinance or application thereof to any person, persons, or circumstances is held invalid, the invalidity does not affect the other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end, the provisions of this Ordinance are severable.

SECTION 4. 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 5. This Ordinance shall take effect upon its approval.

Introduced by:


KIPUKAI KUALITI
(By Request)

DATE OF INTRODUCTION:

February 28, 2024

Līhu'e, Kaua'i, Hawai'i

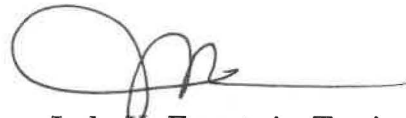
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CERTIFICATE OF THE COUNTY CLERK

I hereby certify that heretofore attached is a true and correct copy of Bill No. 2914, 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 28, 2024, by the following vote:

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

Līhu'e, Hawai'i
February 29, 2024



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

**A BILL FOR AN ORDINANCE AMENDING CHAPTER 7A, ARTICLE 5,
KAUA'I COUNTY CODE 1987, AS AMENDED,
RELATING TO HOUSING ELIGIBILITY AND SELECTION**

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

SECTION 1. Chapter 7A, Section 7A-5.2 (For-Sale Housing), Kaua'i County Code 1987, as amended, is hereby amended, as follows:

“(a) General Provisions.

(1) Qualified Buyers. All County housing programs, including workforce housing developments required by this Chapter, which assist residents to become fee simple or leasehold homeowners, are restricted to qualified buyers, as defined herein, except where sales may become market sales pursuant to Section 7A-6.1(j).

(2) Application. Each program or project shall establish interested households for that program or project by requiring the interested household to submit a written application provided or approved by the Housing Agency and any other documents required by the Housing Agency to establish eligibility.

(3) Eligibility. The Housing Agency shall review all purchase applications to determine eligibility pursuant to the specific program or project eligibility criteria established for that program or project.

(A) Income qualification shall be determined on gross annual income and based on documentation provided by the housing applicant, including the three (3) most current pay stubs and the two (2) most currently filed Federal income tax returns from all employed adults in the applicant's household.

(B) Kaua'i residency shall be determined on documentation provided by the applicant that indicates the applicant has a residence address on the Island of Kaua'i.

(C) Not owning real estate suitable for residential purposes shall be determined primarily from documentation provided by the housing applicant and may be verified by the Housing Agency.

(4) Preferences. The Housing Agency may approve various preferences to prioritize otherwise eligible applicants including:

(A) Project Employee Preferences. Workforce housing units built by a developer for projects that generate workforce housing requirements may be sold with a preference to employees of the project.

(B) Geographical Preferences. One (1) or more geographical preference may be imposed giving preference to qualified residents that live in a specified geographical area surrounding or adjacent to the project or that are employed within a specific geographical area surrounding or adjacent to the project. A geographical preference may also be extended to qualified residents whose immediate family lives in a specified geographical area surrounding or adjacent to the project; or

(C) Other preferences to be established by rule.

(b) Selection. The selection list or lists shall be utilized by the developer to determine the numerical order to offer to sell workforce housing units to qualified buyers. Selection lists shall be established as follows:

(1) All applicable housing units shall first be offered to individuals on the mortgage-ready Kaua'i resident home-buyer list, in the order of their home-buyer number, subject to any preferences, and who otherwise qualify pursuant to any project-specific qualifying criteria, before any housing units are offered for sale to qualified buyers not on the mortgage-ready home-buyer list.

(2) After all individuals on the mortgage-ready home-buyer list have had an opportunity to purchase, a public lottery shall be conducted to establish a selection list for any project that anticipates more applicants than the number of housing units available. If the number of housing units available is equal to or greater than the number of anticipated applicants, selection may be established by a first-come, first-served basis or by lottery.

(A) The decision to utilize either the lottery or the first-come, first-served process shall be determined by the developer prior to the sales notice date.

(B) A lottery that has multiple preferences shall include all applicants in a single lottery. The selection list will be produced by applying applicant preferences and lottery numbers to sort all applicants into a selection list that has:

(i) The qualified buyer applicant with the lowest selection number (first) being a household that has the highest and the most preferences available and has the lowest lottery number, and

(ii) The qualified buyer applicant with the highest selection number (last) being a household that has no preferences and the highest lottery number.

(C) In a project that utilizes the first-come, first-served method, the developer shall utilize sorting method as utilized with a lottery, but substitute the date and time of receipt of a completed application in place of a lottery number to establish the numerical order.

(D) Projects that are developed in phases shall phase their respective restricted marketing periods and phase their respective application and selection processes.

(c) Priorities and Preferences for Sales by Lottery. After all applicable housing units in a project have been first offered for sale to all residents on the mortgage-ready home-buyer list, a development using a lottery to determine sales sequence for other buyers shall sort the lottery list by giving applicants priority as follows:

(1) First Priority—Homeownership Education. The first opportunity to purchase a workforce for-sale housing unit after home-buyer list residents have had the opportunity to purchase shall be given to income qualified buyers that have completed a qualified homeownership education course, as determined by the Housing Agency, consisting of at least eight (8) hours of classroom education, plus credit and mortgage ready counseling. To receive the homeownership education priority, a qualified buyer shall register with the Housing Agency and provide the Housing Agency with a copy of their homeownership education class graduation certificate. The Housing Agency shall determine which providers of homeownership education have the curriculum that qualifies graduates for the homeownership priority.

(2) Second Priority—Project Employee Preferences. Fifty percent (50%) of the total workforce housing units built by the developer for projects that generate workforce housing requirements of twenty (20) housing units or more shall be sold with a preference to employees of the developer and employees within the development area of the project as determined by the Housing Agency.

(3) Third Priority—Geographical Preferences. One (1) or more geographical preference may be imposed on the required workforce housing units giving preference to qualified residents that live in a specified geographical area surrounding or adjacent to the project or that are employed within a specific geographical area surrounding or adjacent to the project. A geographical preference may also be extended to qualified residents whose immediate family lives in a specified geographical area surrounding or adjacent to the project.

(4) A project that is assisted with government financing may disregard any priority or preference provided by this Chapter that violates Federal fair housing law.”

SECTION 2. Chapter 7A, Section 7A-5.3(b)(2), Kaua'i County Code 1987, as amended, is hereby amended, as follows:

“(2) Second Priority—Geographical Preferences. At initial occupancy, one (1) or more geographical preference may be imposed on the required workforce housing units giving preference to qualified residents that live in a specified geographical area surrounding or adjacent to the project or that are employed within a specific geographical area surrounding or adjacent to the project. A geographical preference may also be extended to qualified residents whose immediate family lives in a specified geographical area surrounding or adjacent to the project.”

SECTION 3. If any provision of this Ordinance or application thereof to any person, persons, or circumstances is held invalid, the invalidity does not affect the other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end, the provisions of this Ordinance are severable.

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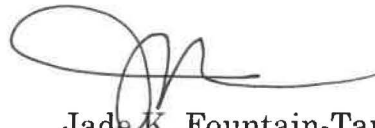
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CERTIFICATE OF THE COUNTY CLERK

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Līhu'e, Hawai'i
February 29, 2024



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