

OFFICE OF
THE COUNTY CLERK
COUNTY OF KAUAI

NOTICE OF PUBLICATION AND NOTICE OF PUBLIC HEARING

Notice is hereby given that the Council of the County of Kaua'i will hold a public hearing on Wednesday, October 23, 2019, at 1:30 p.m., or soon thereafter, at the Council Chambers, 4396 Rice Street, Room 201, Historic County Building, Līhu'e, on the following:

Bill No. 2740

A BILL FOR AN ORDINANCE AMENDING CHAPTER 8, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO ADDITIONAL RENTAL UNITS

This Bill proposes to amend Chapter 8, Kaua'i County Code 1987, as amended, by amending Subsection 8-3.a(i), Fee Exemptions, to establish an exemption from the filing and processing fee for Class I Zoning Permits for Additional Rental Units (ARUs) that are certified by the Housing Agency as affordable housing and that conform to provisions of the County's affordable housing program.

This Bill further amends Article 30, Additional Rental Units, by establishing an ARU Subsidy within the Housing Development Fund for the purpose of subsidizing efforts associated with the Department of Water's Facilities Reserve Charge (FRC) for ARUs certified by the Housing Agency as affordable housing, and establishing an ARU Subsidy Repayment schedule for failure to meet the three-year affordable rental program commitment. An ARU Subsidy Repayment constitutes a lien upon the real property in which the ARU is situated and is enforceable by legal action, including foreclosure proceedings and reimbursement for all costs of collection including reasonable attorneys' fees. The Housing Agency shall promulgate rules and regulations to implement this section within twelve months from approval of this Ordinance.

Bill No. 2741

A BILL FOR AN ORDINANCE AMENDING CHAPTER 11A, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO ENVIRONMENTAL IMPACT ASSESSMENT ON LAND DEVELOPMENT

This Bill proposes to amend Chapter 11A, Kaua'i County Code 1987, as amended, by amending Section 11A-2.1, Exemptions, to establish an exemption from Environmental Impact Assessment Fees for Additional Rental Units (ARUs) that are certified as affordable housing pursuant to Sec. 2-1.16, Kaua'i County Code 1987, as amended.

Bill No. 2740 and Bill No. 2741 are part of a package of six (6) proposals (along with Bill No. 2742, Bill No. 2743, Bill No. 2744, and Bill No. 2745) intended to incentivize the development of Additional Rental Units (ARUs).

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 the Bills are available at the Office of the County Clerk, Council Services Division.

(The Council Committee or Council may amend these Bills 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. 2740 and Bill No. 2741 were passed on first reading and ordered to print by the Council of the County of Kaua'i at its meeting held on September 25, 2019, by the following vote:

AYES: Brun, Chock, Cowden, Evslin, Kaneshiro	TOTAL – 5,
NOES: None	TOTAL – 0,
EXCUSED & NOT VOTING: Kagawa, Kualii	TOTAL – 2,
RECUSED & NOT VOTING: None	TOTAL – 0.

Lihu'e, Hawai'i
September 25, 2019

/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 – October 2, 2019)

**A BILL FOR AN ORDINANCE AMENDING CHAPTER 8,
KAUAI COUNTY CODE 1987, AS AMENDED,
RELATING TO ADDITIONAL RENTAL UNITS**

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

SECTION 1. Chapter 8, Kaua'i County Code 1987, as amended, is hereby amended by amending subsection 8-3.1(i) to read as follows:

“(i) Fee Exemptions.

(1) A Zoning Permit application for a housing project or portions of housing projects that are developed to be affordable to low-income households as determined by the Housing Director or authorized representative of the County Housing Agency shall be exempt from the filing and processing fee required in Subsection (b)(1), provided such projects conform to applicable provisions of the County's affordable housing program.

(2) A Zoning Permit application for a housing project or portions of housing projects that are developed to be affordable to gap-group households as determined by the Housing Director or authorized representative of the County Housing Agency shall be exempt from one-half (1/2) of the filing and processing fee required in Subsection (b)(1), provided such projects conform to applicable provisions of the County's affordable housing program.

(3) No exemptions shall be afforded for such housing projects from any fees or costs arising from compliance with Subsection (f)(4) or (h) of this Section.

(4) A Zoning Permit application for an additional rental unit certified by the Housing Agency as affordable housing shall be exempt from the filing and processing fee required in Subsection (c)(1), provided such project conforms to applicable provisions of the County's affordable housing program.”

SECTION 2. Chapter 8, Article 30, Kaua'i County Code 1987, as amended, is hereby amended by adding a new Subsection to be appropriately designated and to read as follows:

“Additional Rental Unit (ARU) Subsidy; Purpose. There is hereby established and created an account to be known as the “Additional Rental Unit (ARU) Subsidy” within the Housing Development Fund (Fund No. 512) for the purpose of subsidizing efforts associated with the Facilities Reserve Charge (FRC).

Administration. The County Housing Agency shall certify an applicant’s qualification to receive an Additional Rental Unit (ARU) Subsidy. Applications for an ARU Subsidy shall be processed on a first-come, first-served basis, subject to funding availability. Copies of all ARU Subsidy Applications, regardless of affordability certification result, shall be provided to the Planning Department, the Public Works Department-Wastewater Division, and the Public Works Department-Building Division prior to any waiver of fees.

Appropriation of Funds. An appropriation of \$113,200 from the Housing Development Fund shall be set aside to assist property owners with efforts associated with the Facilities Reserve Charge. Annual appropriations from the Housing Development Fund shall be subject to Council approval. Any balance remaining in the Additional Rental Unit (ARU) Subsidy account at the end of any fiscal year shall not lapse. The moneys in the Additional Rental Unit (ARU) Subsidy account shall not be used for any purpose except those listed in this section. Any violation of the affordable housing restrictions required by the Housing Agency may result in an ARU Subsidy Repayment as follows:

<u>Number of days in Affordable Rental Program</u>	<u>Percent of ARU Subsidy Repayment</u>
<u>Less than or equal to 365 days (1 year)</u>	<u>100%</u>
<u>Less than or equal to 730 days (2 years)</u>	<u>75%</u>
<u>Less than or equal to 1,095 days (3 years)</u>	<u>50%</u>

Repayment. The ARU Subsidy Repayment constitutes a lien upon the real property in which the ARU is situated. The lien may be recorded in the appropriate land record system. After any failure to pay the amount due, the lien may be enforced by any legal action, including foreclosure proceedings. In the event legal action is instituted for collection, the County shall be reimbursed for all costs of collection including reasonable attorneys’ fees.

Rules and Regulations. The Kaua‘i County Housing Agency is hereby authorized and directed to promulgate rules and regulations as may be necessary to implement subsection 8-30.1(g) within twelve (12) months from approval of this Ordinance.

Preemption. Nothing in this section shall be construed to preempt or prohibit the authority in any other provision of the Kaua'i County Code 1987, as amended."

SECTION 3. 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 applications 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 4. Material to be repealed is bracketed. New 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 need not be included.

SECTION 5. This Ordinance shall take upon its approval.

Introduced by: /s/ LUKE A. EVSLIN
/s/ MASON K. CHOCK

DATE OF INTRODUCTION:

September 25, 2019

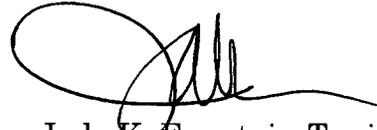
Līhu'e, Kaua'i, Hawai'i

CERTIFICATE OF THE COUNTY CLERK

I hereby certify that heretofore attached is a true and correct copy of Bill No. 2740, which was passed on first reading and ordered to print by the Council of the County of Kaua'i at its meeting held on September 25, 2019, by the following vote:

FOR PASSAGE:	Brun, Chock, Cowden, Evslin, Kaneshiro	TOTAL – 5,
AGAINST PASSAGE:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	Kagawa, Kualii	TOTAL – 2,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Lihu'e, Hawai'i
September 25, 2019



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

ORDINANCE NO. _____

BILL NO. 2741

**A BILL FOR AN ORDINANCE AMENDING CHAPTER 11A,
KAUAI COUNTY CODE 1987, AS AMENDED,
RELATING TO ENVIRONMENTAL IMPACT ASSESSMENT
ON LAND DEVELOPMENT**

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

SECTION 1. Chapter 11A, Kauai County Code 1987, as amended, is hereby amended by adding a new subsection to Sec. 11A-2.1, Exemptions, to read as follows:

“(k) An Additional Rental Unit (“ARU”) that is certified by the Housing Agency that the ARU qualifies as affordable housing pursuant to Sec. 2-1.16 of the Kauai County Code 1987, as amended.”

SECTION 2. 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 applications 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.

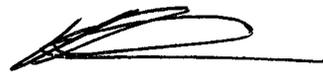
SECTION 3. New material is underscored. When revising, compiling, or printing this Ordinance for inclusion in the Kauai County Code 1987, as amended, the underscoring need not be included.

SECTION 5. This Ordinance shall take upon its approval.

Introduced by:



LUKE A. EVSLIN



MASON K. CHOCK

DATE OF INTRODUCTION:

September 25, 2019

Lihu'e, Kauai, Hawaii

V:\BILLS\2018-2020 TERM\Amend EIA - Evslin and Chock (AMK:aa)

CERTIFICATE OF THE COUNTY CLERK

I hereby certify that heretofore attached is a true and correct copy of Bill No. 2741, which was passed on first reading and ordered to print by the Council of the County of Kaua'i at its meeting held on September 25, 2019, by the following vote:

FOR PASSAGE:	Brun, Chock, Cowden, Evslin, Kaneshiro	TOTAL - 5,
AGAINST PASSAGE:	None	TOTAL - 0,
EXCUSED & NOT VOTING:	Kagawa, Kualii	TOTAL - 2,
RECUSED & NOT VOTING:	None	TOTAL - 0.

Lihu'e, Hawai'i
September 25, 2019



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