

Notice is hereby given that the Council of the County of Kaua'i will hold a public hearing on Wednesday, August 18, 2021, at 1:30 p.m., or soon thereafter, at the Council Chambers, 4396 Rice Street, Room 201, Historic County Building, Lihue, on the following:

Bill No. 2828

A BILL FOR AN ORDINANCE AMENDING CHAPTER 5A, KAUAI COUNTY CODE 1987, AS AMENDED, ESTABLISHING A COMMERCIAL VEHICULAR RENTAL REAL PROPERTY TAX CLASS

This Bill proposes to amend Chapter 5A, Kaua'i County Code 1987, as amended, establishing a new Commercial Vehicular Rental real property tax class for rental car usage to distinguish it from other properties in the Industrial tax class. This Bill quantifies a Commercial Vehicular Rental operation as having a fleet size of more than ten (10) vehicles.

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 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. 2828 was passed on first reading and ordered to print by the Council of the County of Kaua'i at its meeting held on July 21, 2021, by the following vote:

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

Lihue, Hawaii
July 21, 2021

/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 - July 30, 2021)

**A BILL FOR AN ORDINANCE AMENDING CHAPTER 5A,
KAUAI COUNTY CODE 1987, AS AMENDED,
ESTABLISHING A COMMERCIAL VEHICULAR RENTAL REAL
PROPERTY TAX CLASS**

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

SECTION 1. Purpose. The County has experienced direct and indirect impacts to county infrastructure and the general welfare as a consequence of the over-abundance of vehicular car usage on the island of Kauai. Rental car activities facilitate a high volume of movement and human impact across the island.

Beyond the impact to road infrastructure, increased car usage has oversubscribed the capacity of highways leading to delays and loss of time, caused over usage of public parking areas, facilitated the oversubscription of public recreation places, and increased the frequency of emergency response calls.

While the current tax class of usage encompassing rental car activities is the industrial class, it is clear the impacts of that real property usage facilitating more vehicular usage on the island of Kauai does not remain within the confines of the parcel taxed. Most other industrial usages typically sit within that particular parcel, and do not drastically spread its impacts to municipal services with such broad geographic reach and frequency.

To the extent that counties, in exercising their constitutionally-granted exclusive power to tax real property do not run afoul of the federal or state constitutions, they may act as they see fit. This taxing power provision of state constitution generally reserves taxing power over real property exclusively for the counties. This bill strictly falls within the power to tax real property, and is not facilitating a tax on personal property.

It is clear that rental car usage must be distinguished from the industrial class to provide for more fair analysis in setting tax rates as part of the County's obligation to more-fairly distribute the cost burden of municipal operations and services based on the impact of activities facilitated by a property's type of usage. This ordinance creates a new tax class to provide for that fairer distribution during the annual setting of real property tax rates as required by Charter.

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

(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.
- (3) Commercial.
- (4) Industrial.
- (5) Agricultural.
- (6) Conservation.
- (7) Hotel and Resort.
- (8) Homestead.
- (9) Residential Investor.
- (10) Commercialized Home Use.
- (11) Commercial Vehicular Rental.

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, and have an assessed value of one million three hundred thousand dollars (\$1,300,000.00) or more.

(e) For the purposes of this Article, the tax rate classification for Commercial Vehicular Rental shall be defined as properties that accommodate operations of rental car activity with fleet sizes of more than ten (10) motor vehicles. Rental car activity includes properties in which businesses, persons, agencies, corporations, limited liability companies, limited liability partnerships, partnerships, sole proprietorships, or any other entities rent or share vehicles via peer-to-peer platforms for short periods of time, generally ranging from a few hours to a few weeks. Where a physical point of commercial transaction for rental car activity is not identifiable, the property where a vehicle is registered shall be determined by the property that accommodates operations and shall be classified as Commercial Vehicular Rental. Commercial Vehicular Rental shall not include properties facilitating vehicular rental or services strictly for the transport or movement of chattel, or for mass-transportation usage, or vehicle loaners from car dealerships.

[(e)] (f) 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 (g) [(f)]. If a portion of a Hotel or Resort property is used for Commercial Vehicular Rental, only the portion of the

property attributable to Commercial Vehicular Rental will be classified and taxed at the Commercial Vehicular Rental rate.

[(f)] (g) 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[.] and provided that Commercial Vehicular Rental usage is prohibited.

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

SECTION 3. Chapter 5A, Section 11.4(c)(2)(E), Kaua'i County Code 1987, as amended, is hereby amended:

(E) That real property owned and occupied by a person living on-premises, a portion of which is used for commercial purposes, shall be placed in the commercialized home use class[.]; with the exception of Commercial Vehicular Rental usage. Any principal home with Commercial Vehicular Rental use shall be classified as Commercial Vehicular Rental and shall not receive a home use exemption.

SECTION 4. Chapter 5A, Section 11A.1(b) Kaua'i County Code 1987, as amended, is hereby amended:


(b) Any owner who owns real property that is rented or leased as a long-term affordable rental shall receive the homestead tax rate as provided in Sec. 5A-6.4 provided that all dwellings on the property are long-term affordable rentals or owner-occupied, with the exception of properties used for Commercial Vehicular Rental, which shall be classified as Commercial Vehicle Rental.

SECTION 5. Severability. 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 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 upon its approval.

Introduced by:



LUKE A. EVSLIN
(By Request)

DATE OF INTRODUCTION:

July 21, 2021

Līhu'e, Kaua'i, Hawai'i

V:\BILLS\2020-2022 TERM\2021-299 DOF - Bill For Ordinance_Rental Car Taxation (7-12-21)

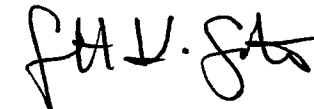
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CERTIFICATE OF THE COUNTY CLERK

I hereby certify that heretofore attached is a true and correct copy of Bill No. 2828, which on first reading was ordered to print by the Council of the County of Kaua'i at its meeting held on July 21, 2021, by the following vote:

FOR PASSAGE:	Carvalho, Chock, DeCosta, Evslin, Kualii, Kaneshiro	TOTAL - 6,
AGAINST PASSAGE:	Cowden	TOTAL - 1,
EXCUSED & NOT VOTING:	None	TOTAL - 0,
RECUSED & NOT VOTING:	None	TOTAL - 0.

Lihu'e, Hawai'i
July 21, 2021



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