

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, December 14, 2022, at 8:30 a.m., or soon thereafter, at the Council Chambers, 4396 Rice Street, Room 201, Historic County Building, Lihu'e, on the following:

Bill No. 2891

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

This Bill proposes to amend Chapter 5A, Kaua'i County Code 1987, as amended, relating to Real Property Tax, by allowing any newly classified Residential Investor property owner to apply for a tax credit limited only to the 2022 tax year, by meeting the requirements provided by Sec. 5A-11.4 or by providing an executed copy of a rental agreement running through October 1 of the prior year, and an "Annual Long-Term Lease Application Verification for the Reclassification of Residential Investor Properties." This Proposed Draft Bill also supports current long-term rentals by providing a tax credit.

Bill No. 2892

A BILL FOR AN ORDINANCE AMENDING CHAPTER 5A, SECTION 12.7(b) AND ADDING A NEW SECTION 12.15, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO REAL PROPERTY TAXES, APPEALS SETTLED BY DIRECTOR

This Bill proposes to amend Chapter 5A, Kaua'i County Code 1987, as amended, relating to real property taxes, by amending Section 12.7(b) and adding a new Section 12.15, to allow the Director of Finance to review any appeal filed at the Board of Review or Tax Appeal Court. This Bill further allows the Director to make an offer of settlement of the appeal, subject to further review and approval by the Board of Review or Tax Appeal Court.

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 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. 2891 and Bill No. 2892 were passed on first reading and ordered to print by the Council of the County of Kaua'i at its meeting held on November 16, 2022, by the following vote:

AYES:	Carvalho, Chock, Cowden, DeCosta, Evslin, Kualii, Kaneshiro	TOTAL – 7,
NOES:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Lihu'e, Hawai'i
November 22, 2022

/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 – November 30, 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 KAUA'I, STATE OF HAWAII:

SECTION 1. Findings and Purpose. The Council finds that many Residential Investor property owners could have qualified for a lower property tax rate, but did not file the proper forms. The Residential Investor tax class is intended to help incentivize property owners to long-term rent their property. Taxing occupied homes at the higher Residential Investor tax class is counter to the purpose of the tax class and could result in the sale of occupied housing or an increase in rents to pay for the additional tax burden.

The Council finds that some relief should be granted for those homes that were either long-term rented or owner-occupied as of September 30 of the prior year, but failed to file the proper forms.

The purpose of this Bill is as follows:

- Provides for any newly classified Residential Investor property owner to apply for a tax credit limited only to the 2022 tax year, by meeting the requirements provided by Sec. 5A-11.4 or by providing an executed copy of a rental agreement running through October 1 of the prior year, and an "Annual Long-Term Lease Application Verification for the Reclassification of Residential Investor Properties." Should the Director of Finance determine that a property was eligible for another tax rate classification for the 2022 tax year, a tax credit of the difference between the amount paid under the Residential Investor tax classification for the prior year and the amount the owner would have paid under the Residential tax class for the prior year shall be applied to the owner's tax year bill for the following tax year, and all penalties and interest for delinquent payment shall be waived.
- Support current long-term rentals by providing a tax credit, while reminding owners of the process to submit the proper documentation to change tax classifications.

Applicants shall have sixty (60) days from the effective date of this Ordinance to apply for this tax credit.

SECTION 2. Chapter 5A, Section 5A-1.1, Kaua'i 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] are not eligible for the [home exemption,] Home Exemption, are improved with a dwelling unit(s), are 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) or more."

SECTION 3. Chapter 5A, Section 5A-3.2, Kaua'i County Code 1987, as amended, is hereby amended in part to add a new 5A-3.2(e) to read as follows:

"(e) For the 2022 tax year, any property owner whose property was re-classified as Residential Investor may apply for a tax differential by meeting the requirements provided by Sec. 5A-11.4, other than filing a timely application, or by providing evidence of a long-term rental agreement, such as an executed copy of a rental agreement running through October 1 of the prior year, and an "Annual Long-Term Lease Application Verification for the Reclassification of Residential Investor Properties." Should the Director of Finance determine that a property was eligible for another tax rate classification for the 2022 tax year, a tax differential of the variance between the amount paid under the Residential Investor tax classification for the prior year and the amount the owner would have paid under the Residential tax class for the prior year shall be applied to the owner's tax year bill for the following tax year. Furthermore, for eligible owners all penalties and interest for delinquent payment for the 2022 tax year shall be waived. Applicants shall have sixty (60) days from the effective date of Ordinance No. *** to apply for this tax differential."

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

"(d) For the purposes of this Article, the Residential Investor tax rate classification shall be applied to properties that [do not qualify] are not eligible for the Home Exemption, are improved with a dwelling unit(s), are 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) or more."

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. When revising, compiling, or printing this Ordinance for inclusion in the Kaua'i County Code 1987, as amended, the designated Ordinance number of this Ordinance shall be substituted for the *** placeholders.

SECTION 8. This Ordinance shall take effect upon approval, terminate on September 30, 2023, and shall not supersede Ordinance No. 1130 and Ordinance No. 1132.

Introduced by:



LUKE A. EVSLIN



MASON K. CHOCK

DATE OF INTRODUCTION:

November 16, 2022

Lihu'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. 2891, which was passed on first reading and ordered to print by the Council of the County of Kaua'i at its meeting held on November 16, 2022, by the following vote:

FOR PASSAGE:	Carvalho, Chock, Cowden, DeCosta, Evslin, Kualii, Kaneshiro	TOTAL - 7,
AGAINST PASSAGE:	None	TOTAL - 0,
EXCUSED & NOT VOTING:	None	TOTAL - 0,
RECUSED & NOT VOTING:	None	TOTAL - 0.

Lihu'e, Hawai'i
November 17, 2022


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

**A BILL FOR AN ORDINANCE AMENDING CHAPTER 5A, SECTION 12.7(b)
AND ADDING A NEW SECTION 12.15, KAUA'I COUNTY CODE 1987, AS
AMENDED, RELATING TO REAL PROPERTY TAXES, APPEALS SETTLED
BY DIRECTOR**

BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF KAUA'I, STATE OF HAWAII:

SECTION 1. Chapter 5A, Article 12, Section 5A-12.7(b) Kaua'i County Code 1987, as amended, is hereby amended to read as follows:

"(b) The Board shall hold public meetings at some central location in the County commencing not later than January 15th of each year and shall hear, as speedily as possible, all appeals presented for each year. The Board shall have the power and authority to decide all questions of fact and all questions of law, excepting questions involving the Constitution or laws of the United States, necessary to the determination of the objections raised by the owner or the County in the notice of appeal; provided, that the Board shall not have power to determine or declare an assessment illegal or void. Without prejudice to the generality of the foregoing, the Board shall have power to allow or disallow exemptions or dedications pursuant to law whether or not previously allowed or disallowed by the Director and to increase or lower any assessments. The Board shall have the power to change a property's tax rate classification where the preponderance of the evidence proves the tax rate classification is incorrect according to Sec. 5A-6.4 or the Real Property Tax Classification Rules. The Board shall have the power to review and approve settlements between the Director and the owner as provided in Sec. 5A-12.15."

SECTION 2. Chapter 5A, Article 12, Kaua'i County Code 1987, as amended, is hereby amended to add a new section to read as follows:

"Sec. 12.15 Appeals Settled by Director.

(a) The Director may review any appeal filed at Board of Review or Tax Appeal Court.

(b) For each appeal reviewed by the Director, the Director may make an offer of settlement of the appeal, subject to further review and approval by the Board of Review or Tax Appeal Court.

(c) No later than ninety (90) days following the close of each tax year, the Director shall submit to the County Clerk a report of all settlements entered into by the Director and approved by the Board of Review or Tax Appeal Court during the tax year. The report shall detail the name of the taxpayer, the tax parcel involved, any allowed exemption, credit, dedication, or tax classification change and the amount of the assessment as initially determined and as settled.”

SECTION 3. 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 4. Material to be deleted 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, upon its approval, is retroactive to the furthest extent permitted by law, provided the report required by Section 12.15(c) shall be due starting the close of the tax year following approval.

Introduced by:



LUKE A. EVSLIN



MASON K. CHOCK

DATE OF INTRODUCTION:

November 16, 2022

Līhu'e, Kaua'i, Hawai'i

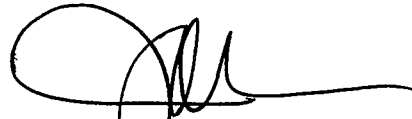
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CERTIFICATE OF THE COUNTY CLERK

I hereby certify that heretofore attached is a true and correct copy of Bill No. 2892, which was passed on first reading and ordered to print by the Council of the County of Kaua'i at its meeting held on November 16, 2022, by the following vote:

FOR PASSAGE:	Carvalho, Chock, Cowden, DeCosta, Evslin, Kualii, Kaneshiro	TOTAL - 7,
AGAINST PASSAGE:	None	TOTAL - 0,
EXCUSED & NOT VOTING:	None	TOTAL - 0,
RECUSED & NOT VOTING:	None	TOTAL - 0.

Lihu'e, Hawai'i
November 17, 2022



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