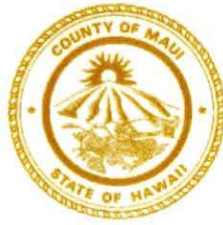


**RICHARD T. BISSEN, JR.**  
Mayor

**RICHARD E. MITCHELL, ESQ.**  
Director

**SAUMALU MATA'AFU**  
Deputy Director



**DEPARTMENT OF HOUSING**  
COUNTY OF MAUI  
2065 MAIN STREET, SUITE 108  
WAILUKU, MAUI, HAWAII 96793  
PHONE: (808) 270-7351  
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March 25, 2025

Honorable Richard T. Bissen, Jr.  
Mayor, County of Maui  
200 South High Street  
Wailuku, Hawaii 96793

APPROVED FOR TRANSMITTAL

A handwritten signature in black ink, appearing to read "Richard T. Bissen, Jr.", written over a green horizontal line. To the right of the signature, the date "4-1-25" is handwritten in black ink. Below the signature line, the word "Mayor" is printed in green on the left and "Date" is printed in green on the right.

For Transmittal to:

Honorable Tasha Kama, Chair  
Housing and Land Use Committee  
Maui County Council  
200 South High Street  
Wailuku, Hawaii 96793

Dear Chair Kama:

**SUBJECT: BILL 22 (2024), BILL 12 (2023), AND BILL 74 (2023)  
RELATING TO RESIDENTIAL WORKFORCE HOUSING  
DEED RESTRICTIONS (HLU-24)**

The Department of Housing (Department) is in receipt of the Housing & Land Use (HLU) Committee's letter dated March 11, 2025, concerning the above-referenced subject matter. Both the HLU Committee's questions and the Department's responses are noted below:

- 1. Explain whether the Department could assist deed-restricted homeowners with selling their homes by identifying potential buyers.**

Section 2.96.060(B)(2), Maui County Code, applies to owners of residential workforce housing units who want to sell their property during the deed restricted period. Under the Code, the County retains the right of first refusal to purchase the unit and has ninety days from the owner's official request to sell to respond. See Section 2.96.060(B)(2)(c).

If the County declines to exercise its right of first refusal, the Owner may sell the unit to a qualified residential workforce housing buyer who is able to obtain a mortgage. As with any real estate transaction, the owner of the deed-restricted home works directly with their realtor to list the property and identify the deed restrictions pertaining to the property, including the income limitations, in the Realtor's Association's Multiple Listing Service (MLS) listing for the property. The MLS listing is broadly available to any realtor or potential buyer. There is no value in the Department attempting to recreate this national service. The potential buyer is allowed to choose their lender. A lender's approval for a mortgage is issued within weeks of purchase and based on the buyer's current financial ability.

The Department's County Housing Program's Division has five fully funded equivalent personnel positions. Two of those positions are vacant and a third will be vacant in a month due to retirement. The Department is neither staffed nor funded to take on the expansive work of identifying and qualifying households, as distinguished from a borrower and prospective buyer, where one or more individuals in that household may wish to purchase a residential workforce unit. Currently, the Department verifies that a "household" qualifies, after the lender qualifies the borrowers and once an offer is made. Qualifying the household requires review of all the financial information relating to the household. To do this work broadly to create a list of qualified households for owners of all deed-restricted homes would be administratively unreasonable.

As noted above, once an owner receives an offer to purchase their deed-restricted home, the Department's involvement is limited to reviewing and verifying the potential buyers' household income and the lender's approval to purchase the unit. If the Department gets involved in developing, vetting, and maintaining a list of interested buyers by household, it not only creates a significant administrative burden on the Department, but it will likely cause unnecessary delays and result in significant additional costs to the process.

**2. Provide your comments on House Bill 739 and its companion, Senate Bill 490.**

While the Department is supportive of the legislative intent of both House Bill (HB) 739 and Senate Bill (SB) 490, it has concerns relating to the proposed program's implementation.

HB 739 requires counties to be responsible for administering, validating, and ensuring compliance with proposed deed restriction program. The program also requires the Department to purchase and own deed restrictions. The bill allows the counties to establish and collect fees and premiums to cover costs; however, there is no dedicating funding to staff, train, enforce, and otherwise administer the program rules.

The Department would need to meet annual reporting requirements that continue for the length of the recorded deed restrictions, potentially into perpetuity, even if the program's funding is terminated at some point in the future. Additional skilled staff would be needed to price the deed restrictions for each eligible property owner on a case-by-case basis.

**3. Which nationwide deed restricted programs do you recommend the Committee review as it considers the County's deed restrictions?**

The Department has not conducted a nationwide review of deed restriction programs. A nationwide review would require staff to review each state and county's deed restriction program and complete an analysis on each to formulate a recommendation. The Department does not have the staff or funding to complete this type of review request. There are several rocky mountain communities on the mainland, the town of Vail's InDeed Program and Craig Housing Authority's program in Colorado, for example, who are experiencing a high demand for resort and second homes that, like Maui, are squeezing out local residents.

**4. On average, how much does the County subsidize for each affordable housing unit? Please consider Affordable Housing Fund grants, fee waivers, and regulatory exemptions when calculating the amount.**

The average amount of subsidy per unit for the Fiscal Year 2025 Affordable Housing Fund rental projects is \$178,857. The average subsidy per unit for the Fiscal Year 2024 Affordable Housing Fund for-sale projects was \$154,582.

The Department does not have information or data relating to the monetary values of fee waivers and regulatory exemptions.

**5. A resource person proposed a program where deed-restricted homeowners could pay an amount equal to the subsidy for their home's construction, potentially with interest, into the Affordable Housing Fund in exchange for removing their deed restrictions. Please provide your comments on the proposal.**

If the County intends to develop and maintain an inventory of residential workforce housing units sufficient to meet the needs of the community, removing deed restrictions and imposing short deed restrictions would be counterproductive. Allowing residential workforce housing owners to repay the equivalent amount of the subsidy to remove deed restrictions will reduce the workforce housing inventory and introduce the need to build additional deed restricted units before an adequate inventory has been developed.

The amount repaid into the Affordable Housing Fund would be less effective over time as construction costs increase. Homeowners with financial means to repay the Affordable Housing Fund subsidy could instead sell the property to an income-qualified residential workforce buyer. Alternatively, they could maintain ownership of the property beyond the deed restricted period to have access to the full amount of equity.

**6. Are housing association fees considered by lenders when determining whether to provide a loan for a housing project? Why or why not?**

The Department defers this question to lenders in Maui County to discuss their policies relating to homeowner association fees.

Should you have any questions, please contact me or the Department at (808) 270-7110 or email me at [director.housing@co.maui.hi.us](mailto:director.housing@co.maui.hi.us).

Sincerely,

A handwritten signature in blue ink, appearing to read 'R. Mitchell', with a large, stylized flourish extending to the left.

RICHARD E. MITCHELL, ESQ.  
Director of Housing

## HLU Committee

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**From:** Michelle L. Santos <Michelle.Santos@co.maui.hi.us>  
**Sent:** Tuesday, April 1, 2025 10:16 AM  
**To:** HLU Committee  
**Cc:** Cynthia E. Sasada; Erin A. Wade; Josiah K. Nishita; Kelii P. Nahooikaika; Amanda M. Martin; Richard E. Mitchell; Saumalu Mataafa  
**Subject:** MT#11029 Bill 22, Bill 12, Bill 74  
**Attachments:** MT#11029-HLU Committee.pdf