

February 10, 2026, Committee meeting

BFED-17

BUDGET, FINANCE, AND ECONOMIC DEVELOPMENT COMMITTEE
Amendment Summary Form

Legislation: Bill 116 (2024), amending Chapters 3.36 and 3.40, Maui County Code, relating to below-market affordable housing leases, exemptions, and annual reporting.

Proposer: Yuki Lei K. Sugimura, Chair
Budget, Finance, and Economic Development Committee.

Description: The proposed CD1 version of Bill 116:

- a) Requires real property granted for lease or rental to be reported in Appendix B-1 of the annual budget ordinance.
- b) Requires County agencies with grants to provide an annual compliance summary under chapter 3.36 and a financial summary that includes the total amount awarded for each grant recipient and, for grants related to leases of real property, costs, revenue sources, total taxpayer subsidy, and a justification to continue the leases in the next fiscal year.
- c) Incorporates technical and conforming revisions, including revisions to account for the passage of other legislation.

Motion: Move to replace Bill 116 with the attached CD1 version.

Effect: See attached markup of the proposed Bill 116, CD1, with added text shown in highlight and deleted text shown in strikethrough.

Attachments: Proposed CD1 version and a mark-up of the proposed CD1 version.

bfed:misc:017aASF01:kes

ORDINANCE NO. _____

BILL NO. 116, CD1 (2024)

A BILL FOR AN ORDINANCE AMENDING CHAPTER 3.36, MAUI COUNTY CODE, TO EXEMPT CERTAIN BELOW-MARKET LEASES FOR AFFORDABLE HOUSING OR RESIDENTIAL WORKFORCE HOUSING PROGRAMS, AND CHAPTER 3.40, MAUI COUNTY CODE, ON BIDDING REQUIREMENTS, AND TO REQUIRE ADDITIONAL FINANCIAL REPORTING FOR LEASED PROPERTY

BE IT ORDAINED BY THE PEOPLE OF THE COUNTY OF MAUI:

SECTION 1. This Ordinance's purpose is to amend Chapters 3.36 and 3.40, Maui County Code, to exempt certain below-market leases for affordable housing or residential workforce housing programs from grant requirements under Chapter 3.36, and bidding requirements under Chapter 3.40, and to require additional financial reporting for County property leased under those programs.

SECTION 2. Section 3.36.120, Maui County Code, is amended to read as follows:

“3.36.120 Monitoring and [evaluation.] financial reporting. A. The agency [shall] must monitor [every] each grant to ensure compliance with this chapter[.] and with any subrecipient grant requirements applicable to the County or any lessee.

B. Real property granted for lease or rental must also be reported in Appendix B-1 of the annual budget ordinance.

[B]C. Within eight weeks after the end of [the] each fiscal year, the agency [shall] must transmit to the mayor and council an evaluation of [every] each grant [which was appropriated] managed by the agency during [the] that fiscal year. The report [shall contain] must include: [a summary of whether each grant attained the intended results in the manner contemplated.]

1. A summary of compliance with this chapter. If the grant is subject to grant or subrecipient requirements, the report must also address whether the County and any lessee have complied with those requirements.
2. An assessment of whether each grant achieved its intended results.
3. A financial summary that includes:
 - a. The total amount awarded for each grant recipient.
 - b. For grants related to leases of real property:
 - i. The total operating costs incurred during that fiscal year for each lease, including direct and indirect costs such as repair and maintenance, debt service, property management, and other related expenditures.
 - ii. The total revenues used to fund each lease, including lease payments, grants, contracts, special purpose revenues, general fund appropriations, and other sources.
 - iii. The total amount of taxpayer funding used to subsidize each lease.
 - iv. A justification for the lease's continuation in the next fiscal year."

SECTION 3. Section 3.36.150, Maui County Code, is amended to read as follows:

“3.36.150 Applicability. A. All grants of County funds and County real property, including improvements, are subject to this chapter, except for grants under chapter 3.34. Nothing in chapter 3.36 restricts the council from appropriating grants for public purposes, [except for noncompliance under section 3.36.130, provided] except that sections 3.36.070 to 3.36.140 must apply.

B. Real property granted for lease or rental below fair market value, within the price range set by the director of finance to individuals or families earning no more than 140 percent of the County's area median income, as determined by the United States Department of Housing and Urban Development, under an agency program, is not subject to this chapter, except that section 3.36.120 applies.”

SECTION 4. Section 3.40.060, Maui County Code, is amended to read as follows:

“3.40.060 Bidding required. Unless expressly excepted in section 3.40.180[,] or section 3.40.190, no real property or any concession or concession space in any building or on any land owned by or under the jurisdiction of the County [shall] may be leased, rented, or let except under contract let after public advertisement for sealed tenders in the manner provided in this chapter.

SECTION 5. Section 3.40.180, Maui County Code, is amended to read as follows:

“3.40.180 Leases—Exemptions from bidding. The director of finance may award contracts to lease, rent or let property on terms, conditions, and rentals [which] that have been approved by the corporation counsel without calling for public bids when:

A. Real property, [and/or] including improvements [thereon have] has been acquired by the County by eminent domain proceedings, negotiated purchase, or exchange, and where the [finance director] director of finance determines that the immediate use by the County of the property acquired is not necessary. The property [shall] must be rented on a month-to-month tenancy and [shall] be revocable at the option of the County after the tenant has been given thirty days[‘] written notice to vacate. The total tenancy under [any such] the lease or rental agreement [shall] must not exceed the period of one year from the date of the execution of [such] the lease or rental agreement. No renewal or extension of the tenancy beyond the one-year period [shall] may be permitted without consent of the council by resolution. The provisions [of this subsection shall] do not [be construed as prohibiting] prohibit the director of finance from leasing, renting, or letting the property by public bidding and for a period in excess of one year, [pursuant to the provisions of] as provided in this chapter.

B. Real property, including improvements, [thereon are] is to be leased, rented, or let to employees of the County or the state. The property [shall] must be leased, rented, or let only under the following conditions:

1. The party or parties to whom the property is leased, rented, or let must be and continue to be an employee of the County or the state during the term of the demise[; and].

2. The leasing, renting, or letting of property to the employee must be necessary [in order] to perform the service of [his] the employee’s employment.

C. Real property, including improvements, [thereon are] is to be leased, rented, or let to the state or its political subdivisions, the United States or other states and territories, or their political subdivisions, the [state university or any of its colleges] University of Hawai'i, the [Board of Education] board of education, and other government agencies authorized to hold real property in [lease-hold] leasehold.

D. Real property, [and/or] including improvements, [thereon are] is to be leased or let for a period not to exceed [fourteen] 14 days. No extension of [such] the lease [shall] may be permitted without calling for public bids.

E. Real property is to be leased, rented, or set aside without any charge or at a charge below fair market value."

SECTION 6. Section 3.40.190, Maui County Code, is amended to read as follows:

"3.40.190 Concessions—[Exemption]exemptions from bidding. A. The bidding requirements [of this chapter shall] do not apply to concession space or space on public property set aside for the following purposes:

1. Operation of ground transportation services at airports[;].

2. Lei vendors[;].

3. Airline and aircraft operations[;].

4. Coin-operated vending machines, except coin-operated insurance vending machines[;].

5. Operations on concessions set aside without any charge[;].

6. Operation of concessions for the use of [handicapped] persons with disabilities, or blind persons[;].

7. Operation of concessions [on] under permits revocable on notice of [thirty] 30 days or less[; provided, that no such permits shall be issued unless the premises covered therein shall no longer be used for the existing purposes and that the permit is issued as a temporary use of the premises until the governmental agency proceeds to apply the premises for the new use thereof; and provided further, that no permits shall may be issued for more than one year]. A permit may be issued only if the premises will no longer be used for the existing purpose, the permit provides only a temporary use of the premises for the new purpose, and the permit term is no more than one year.

B. The bidding requirements [of this section shall] do not apply to [any] a nonrenewable disposition granting rights for a period [not in excess] of [fourteen] 14 days, or less.

C. The bidding requirements do not apply to concession or concession spaces to be leased, rented, or set aside without any charge or at a charge below fair market value.”

SECTION 7. Material to be repealed is bracketed. New material is underscored. In printing this bill, the County Clerk need not include the brackets, the bracketed material, or the underscoring.

SECTION 8. This Ordinance takes effect on approval.

APPROVED AS TO FORM AND LEGALITY:

Department of the Corporation Counsel
County of Maui

bfed:misc:017abill01

INTRODUCED BY:

A handwritten signature in black ink, appearing to read "Alice L. Lee".

ALICE L. LEE

Upon the request of the Mayor.

ORDINANCE NO. _____

BILL NO. 116, CD1 (2024)

A BILL FOR AN ORDINANCE AMENDING CHAPTER 3.36, MAUI COUNTY CODE, RELATING TO THE MAUI COUNTY GRANTS PROGRAM, AND CHAPTER 3.40, MAUI COUNTY CODE, RELATING TO CONCESSION AWARDS TO EXEMPT CERTAIN BELOW-MARKET LEASES FOR AFFORDABLE HOUSING OR RESIDENTIAL WORKFORCE HOUSING PROGRAMS FROM CHAPTER 3.36 GRANT REQUIREMENTS AND RENTAL OR LEASE OF COUNTY CHAPTER 3.40 BIDDING REQUIREMENTS, AND TO REQUIRE ADDITIONAL FINANCIAL REPORTING FOR LEASED PROPERTY

BE IT ORDAINED BY THE PEOPLE OF THE COUNTY OF MAUI:

SECTION 1. This Ordinance's purpose is to amend Chapters 3.36 and 3.40, Maui County Code, to exempt real property to be leased or rented at a charge below fair market value in connection with certain below-market leases for affordable housing or residential workforce housing program of an agency programs from grant requirements related to under Chapter 3.36 and bidding and grants of public property requirements under Chapter 3.40, and to require additional financial reporting for County property leased under those programs.

SECTION 2. Section 3.36.120, Maui County Code, is amended to read as follows:

“3.36.120 Monitoring and [evaluation.] financial reporting. A. The agency [shall] must monitor [every] each grant to ensure compliance with this chapter[.] and with any subrecipient grant requirements applicable to the County or any lessee.

B. Real property granted for lease or rental must also be reported in Appendix B-1 of the annual budget ordinance.

[B]C. Within eight weeks after the end of [the] each fiscal year, the agency [shall] must transmit to the mayor and the council an evaluation of [every] each grant [which was appropriated] managed by the agency during [the] that fiscal year. The report [shall contain] must include: [a summary of whether each grant attained the intended results in the manner contemplated.]

1. A summary of compliance with this chapter. If the grant is subject to grant or subrecipient requirements, the report must also address whether the County and any lessee have complied with those requirements.
2. An assessment of whether each grant achieved its intended results.
3. A financial summary that includes:
 - a. The total amount awarded for each grant recipient.
 - b. For grants related to leases of real property:
 - i. The total operating costs incurred during that fiscal year for each lease, including direct and indirect costs such as repair and maintenance, debt service, property management, and other related expenditures.
 - ii. The total revenues used to fund each lease, including lease payments, grants, contracts, special purpose revenues, general fund appropriations, and other sources.
 - iii. The total amount of taxpayer funding used to subsidize each lease.
 - iv. A justification for the lease's continuation in the next fiscal year."

SECTION 3. Section 3.36.150, Maui County Code, is amended to read as

follows:

3.36.150 Applicability. A. All grants of County funds and County real property, including improvements, are subject to this chapter, except as described in section 3.36.150(B), for grants under chapter 3.34. Nothing in this chapter [shall restrict] 3.36 restricts the council from appropriating grants for public purposes, [except for noncompliance under section 3.36.130, provided] except that sections 3.36.070 to 3.36.140 [shall] must apply.

B. Real property to be leased granted for lease or rented at a charge rental below fair market value, within the price range established set by the director for persons of finance, to individuals or families whose incomes are identified as earning no more than 140

percent or less of the County's area median income for the County, as determined by the United States Department of Housing and Urban Development in connection with a program of, under an agency program is not subject to this chapter.", except that section 3.36.120 applies."

SECTION 34. Section 3.40.180060, Maui County Code, is amended to read as follows:

"3.40.060 Bidding required. Unless expressly excepted in section 3.40.180[,] or section 3.40.190, no real property or any concession or concession space in any building or on any land owned by or under the jurisdiction of the County [shall] may be leased, rented, or let except under contract let after public advertisement for sealed tenders in the manner provided in this chapter.

SECTION 5. Section 3.40.180, Maui County Code, is amended to read as follows:

"3.40.180 Leases—Exemptions] exemptions from bidding. The director of finance may award contracts to lease, rent or let property on terms, conditions and rentals [which] that have been approved by the corporation counsel without calling for public bids when:

A. Real property, [and/or] including improvements [thereon have] has been acquired by the County by eminent domain proceedings, negotiated purchase or exchange, and where the [finance director] director of finance determines that the immediate use by the County of the property acquired is not necessary. The property [shall] must be rented on a month-to-month tenancy and [shall] be revocable at the option of the County after the tenant has been given [thirty] 30 days' days written notice to vacate. The total tenancy under [any such] the lease or rental agreement [shall] must not exceed the period of one year from the date of the execution of [such] the lease or rental agreement. No renewal or extension of the tenancy beyond the one-year period [shall] may be permitted without consent of the council by resolution. The provisions of this subsection [shall] may do not [be construed as prohibiting] prohibit the director of finance from leasing, renting, or letting the property by public bidding and for a period in excess of one year, [pursuant to the provisions of] as provided in this chapter.

B. Real property, including improvements-[thereon are] is to be leased, rented, or let to employees of the County or the [state] State. The property [shall] must be leased, rented, or let only under the following conditions:

1. The party or parties to whom the property is leased, rented, or let must be and continue to be an employee of the County or the [state] State during the term of the demise[; and].

2. The leasing, renting, or letting of property to the employee must be necessary [in order] to perform the service of [his] the employee's employee's employment.

C. Real property, including improvements-[thereon are] is to be leased, rented, or let to the [state] State or its political subdivisions, the United States or other states and territories, or their political subdivisions, the [state] State university or any of its colleges] University of Hawai'i, the [Board of Education,] board of education, and other government agencies authorized to hold real property in [lease-hold] leasehold.

D. Real property, [and/or] including improvements-[thereon are] is to be leased or let for a period not to exceed [fourteen] 14 days. No extension of [such] the lease [shall] may be permitted without calling for public bids.

E. Real property to be leased, rented, or set aside without any charge or at a charge below fair market value."."

SECTION 46. Section 3.40.190, Maui County Code, is amended to read

as follows:

3.40.190 Concessions—[Exemptions] exemptions from bidding. A. The bidding requirements of this chapter [shall] do not apply to concession space or space on public property set aside for the following purposes:

1. Operation of ground transportation services at airports[;].

2. Lei vendors[;].

3. Airline and aircraft operations[;].

4. Coin-operated vending machines, except coin-operated insurance vending machines[;].

5. Operations on concessions set aside without any charge[;].

6. Operation of concessions for the use of [handicapped] persons with disabilities, or blind persons[;].

7. Operation of concessions ~~[on]~~ under permits revocable on notice of [thirty] 30 days or less; ~~[;]~~ provided, that no such permits ~~[shall]~~ may be issued unless the premises covered ~~[therein shall]~~ will no longer be used for the existing purposes and that the permit is issued as a temporary use of the premises until the governmental agency proceeds to apply the premises for the new use ~~[thereof]~~; ~~[;]~~ and provided further, that no permits ~~[shall]~~ may be issued for more than one year. ~~[.]~~ A permit under this paragraph may be issued only if the premises will no longer be used for the existing purpose, the permit provides only a temporary use of the premises for the new purpose, and the permit term is no more than one year.

B. The bidding requirements of this ~~[section]~~ chapter ~~do not apply to~~ any ~~[a]~~ nonrenewable disposition granting rights for a period ~~[not in excess]~~ of ~~[fourteen]~~ 14 days, ~~[or less]~~.

C. The bidding requirements of this ~~seetion~~ chapter do not apply to concession or concession spaces to be leased, rented, or set aside without any charge or at a charge below fair market value."."

SECTION 57. Material to be repealed is bracketed. New material is underscored. In printing this bill, the County Clerk need not include the brackets, the bracketed material, or the underscoring.

SECTION 68. This Ordinance takes effect on approval.