

REQUEST FOR LEGAL SERVICES

Date: October 10, 2022

From: Keani N.W. Rawlins-Fernandez, Chair
Budget, Finance, and Economic Development Committee

TRANSMITTAL

Memo to: DEPARTMENT OF THE CORPORATION COUNSEL
Attention: Kristina Toshikiyo, Esq.

Subject: BILL 102, CD1 (BFED-110)

Background Data: Please review the attached bill. Please transmit response to
bfed.committee@mauicounty.us.

Work Requested: ☒ FOR APPROVAL AS TO FORM AND LEGALITY

☐ OTHER:

Requestor's signature  Keani N.W. Rawlins-Fernandez	Contact Person <u>Lesley Milner</u> (Telephone Extension: <u>7886</u>)
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☐ ROUTINE (WITHIN 15 WORKING DAYS)

☐ RUSH (WITHIN 5 WORKING DAYS)

☐ PRIORITY (WITHIN 10 WORKING DAYS)

☐ URGENT (WITHIN 3 WORKING DAYS)

☒ SPECIFY DUE DATE (IF IMPOSED BY SPECIFIC CIRCUMSTANCES): October 12, 2022

REASON: For posting on the October 21, 2022, Council agenda.

FOR CORPORATION COUNSEL'S RESPONSE

ASSIGNED TO:	ASSIGNMENT NO.	BY:
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TO REQUESTOR: ☐ APPROVED ☐ DISAPPROVED ☐ OTHER (SEE COMMENTS BELOW)

☐ RETURNING--PLEASE EXPAND AND PROVIDE DETAILS REGARDING ITEMS AS NOTED

COMMENTS (NOTE - THIS SECTION NOT TO BE USED FOR LEGAL ADVICE): _____

DEPARTMENT OF THE CORPORATION COUNSEL

Date _____

By _____
(Rev. 7/03)

bfed:ltr:110acc01:lcm

Attachment

ORDINANCE NO. _____

BILL NO. _____ (2022)

A BILL FOR AN ORDINANCE AMENDING SECTION 3.48.305(B), MAUI
COUNTY CODE, PROHIBITING PROPERTIES WITH TRANSIENT VACATION
RENTALS FROM RECEIVING THE HOME EXEMPTION

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

SECTION 1. Section 3.48.305 is amended by amending Subsection B as
follows:

“1. Real property that is used as the owner's principal residence and has been granted either a home exemption in accordance with sections 3.48.410 and 3.48.450 or an exemption in accordance with sections 3.48.410 and 3.48.475 must be classified as “owner-occupied” without regard to its highest and best use.

2. Real property improved with a dwelling, as defined in the comprehensive zoning ordinance, that would not be classified as “owner-occupied,” “hotel and resort,” “time share,” “short-term rental,” “commercial,” “industrial,” “commercialized residential,” or “long-term rental,” must be classified as “non-owner-occupied.”

3. Multi-dwelling-unit improvements containing five or more dwellings that would not be classified “short-term rental” must be classified “apartment.”

4. Real property that serves as the owner's principal residence and has been granted a bed and breakfast home permit, a short-term rental home permit, or [a conditional permit allowing a transient vacation rental use in accordance with the comprehensive zoning ordinance,] operates as a transient vacation rental, must be classified “commercialized residential” without regard to its highest and best use, and cannot qualify for a home exemption.

5. Real property that is subject to a time share plan as defined in section 514E-1, Hawaii Revised Statutes, as amended, must be classified as “time share.”

6. Unless classified as “time share,” “hotel and resort,” or “commercialized residential,” lodging or dwelling units, as defined in the comprehensive zoning ordinance, occupied by transient tenants for periods of less than six consecutive months, including real property that does not serve as the owner's principal residence and

has been granted a short-term rental home permit or a conditional permit allowing transient vacation rental use in accordance with the comprehensive zoning ordinance, must be classified as "short-term rental" without regard to its highest and best use, and cannot qualify for a home exemption.

7. Unless classified as "time share" or "commercialized residential," properties occupied by transient tenants for periods of less than six consecutive months, have eight or more lodging or dwelling units as defined in the comprehensive zoning ordinance, and employ more than twenty full-time persons, must be classified as "hotel and resort."

8. Lodging or dwelling units as defined in the comprehensive zoning ordinance occupied by long-term tenants for periods of twelve consecutive months or more to the same tenant and have been granted a long-term rental exemption in accordance with sections 3.48.410, 3.48.425 , and 3.48.466 must be classified as "long-term rental," unless the property also qualifies for a homeowner exemption [pursuant to] in accordance with section 3.48.450, in which case the property must be classified "homeowner." The real property owner must report any change in actual use of a property with a long-term rental exemption within thirty days of that change. The director may investigate any real property and, if the director determines that the actual use differs from a long-term rental, the director may reclassify and reassess the real property."

SECTION 2. 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 3. This Ordinance takes effect on approval.

bfed:misc:110abill01:ljam

INTRODUCED BY:

TAMARA PALTIN

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2. Real property improved with a dwelling, as defined in the comprehensive zoning ordinance, that would not be classified as “owner-occupied,” “hotel and resort,” “time share,” “short-term rental,” “commercial,” “industrial,” “commercialized residential,” or “long-term rental,” must be classified as “non-owner-occupied.”

3. Multi-dwelling-unit improvements containing five or more dwellings that would not be classified “short-term rental” must be classified “apartment.”

4. Real property that serves as the owner's principal residence and has been granted a bed and breakfast home permit, a short-term rental home permit, or [a conditional permit allowing a transient vacation rental use in accordance with the comprehensive zoning ordinance,] operates as a transient vacation rental-in-any capacity, must be classified “commercialized residential” without regard to its highest and best use, and cannot qualify for a home exemption.

5. Real property that is subject to a time share plan as defined in section 514E-1, Hawaii Revised Statutes, as amended, must be classified as “time share.”

6. Unless classified as “time share,” “hotel and resort,” or “commercialized residential,” lodging or dwelling units, as defined in the comprehensive zoning ordinance, occupied by transient tenants for periods of less than six consecutive months, including real

property that does not serve as the owner's principal residence and has been granted a short-term rental home permit or a conditional permit allowing transient vacation rental use in accordance with the comprehensive zoning ordinance, must be classified as "short-term rental" without regard to its highest and best use, and cannot qualify for a home exemption.

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8. Lodging or dwelling units as defined in the comprehensive zoning ordinance occupied by long-term tenants for periods of twelve consecutive months or more to the same tenant and have been granted a long-term rental exemption in accordance with sections 3.48.410, 3.48.425 , and 3.48.466 must be classified as "long-term rental," unless the property also qualifies for a homeowner exemption [pursuant to] in accordance with section 3.48.450, in which case the property must be classified "homeowner." The real property owner must report any change in actual use of a property with a long-term rental exemption within thirty days of that change. The director may investigate any real property and, if the director determines that the actual use differs from a long-term rental, the director may reclassify and reassess the real property."

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bfed:misc:110abill01:lncmpaf:pmg:22-083d

INTRODUCED BY:

TAMARA PALTIN

BFED Committee

From: BFED Committee
Sent: Tuesday, October 11, 2022 9:11 AM
To: CorpCounselRFLS@co.maui.hi.us
Cc: BFED Committee
Subject: Request for Legal Services re: (BFED-110) Bill 102, CD1
Attachments: 110acc01.pdf; 110abill01.docx