

# REQUEST FOR LEGAL SERVICES

**D a t e:** October 11, 2022

**F r o m:** 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 68, CD1** (BFED-106)

**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  Lesley Milner (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:106acc01:ljcm

Attachment

ORDINANCE NO. \_\_\_\_\_

BILL NO. \_\_\_\_\_ (2022)

A BILL FOR AN ORDINANCE ESTABLISHING A NEW CHAPTER 3.97,  
MAUI COUNTY CODE, CREATING A MANAGED  
RETREAT REVOLVING FUND

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

SECTION 1. Title 3, Maui County Code, is amended by adding a new chapter to be appropriately designated and read as follows:

**“Chapter 3.97**

**MANAGED RETREAT REVOLVING FUND**

**Sections:**

<b>3.97.010</b>	<b>Fund established.</b>
<b>3.97.020</b>	<b>Purpose.</b>
<b>3.97.030</b>	<b>Priorities.</b>
<b>3.97.040</b>	<b>Deposits to the revolving fund.</b>
<b>3.97.050</b>	<b>Administration.</b>

**3.97.010 Fund established.** There is established and created a fund to be known as the managed retreat revolving fund.

**3.97.020 Purpose.** A. The managed retreat revolving fund is established for the purpose of optimizing opportunities for shifting development inland from the coast through the physical movement of existing structures by funding:

1. Shoreline safety improvements including mitigation or removal of hazardous conditions due to shoreline erosion.
2. Removal or relocation of structures or infrastructure that pose a threat to public health or safety or the environment.
3. Programs and permitting, inclusive of environmental assessments, related to the purposes of this chapter.

4. Leveraging funds provided by federal, state, nonprofit or for-profit organizations, and other non-County entities to further the purposes identified in this chapter.

5. Equivalent personnel and administrative costs.

B. The revenues in this fund must not be used for any purpose except the purposes listed in subsection A.

C. The revenues in this fund must not be used for the purchase, acquisition, or rehabilitation of privately-owned property unless approved by an affirmative vote of two-thirds of the members of the council by resolution.

**3.97.030 Priorities.** In determining which projects will be funded, priority must be given in the following order:

A. Removal or relocation of County-owned structures or infrastructure that pose an imminent threat to public health or safety or the environment.

B. Removal of structurally compromised abandoned structures that pose an imminent threat to public health or safety or the environment.

C. Removal, relocation, or safety improvements to County-owned structure or infrastructure.

D. Assist in the facilitation of permitting to remove privately-owned structures.

E. Other County or privately-owned projects related to the purposes of this chapter.

**3.97.040 Deposits to the revolving fund.** A. There will be deposited into the managed retreat revolving fund:

1. Twenty percent of the Maui County transient accommodations tax collected in accordance with chapter 3.47.

2. Revenue from any applicable fees set in the annual budget ordinance.

3. Supplemental transfers set in the annual budget ordinance.

**3.97.050 Administration.** A. The director of finance must establish a separate account to record revenues and supplemental transfers credited to and expenses incurred by the fund.

B. Any proposed appropriation will be submitted to the council for approval as a budget appropriation in either the annual budget ordinance or a proposed amendment to the annual budget ordinance. In adopting each fiscal year's budget and capital program, the council may make appropriations to the fund.

C. Any unencumbered balance at the end of each fiscal year will not lapse but will remain in the fund, accumulating from year to year.

D. The department of management must administer the fund.

E. The director of finance and managing director may adopt administrative rules necessary to carry out the purposes of this chapter.”

SECTION 2. This Ordinance takes effect on July 1, 2023.

APPROVED AS TO FORM AND LEGALITY:

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Department of the Corporation Counsel  
County of Maui

bfed:misc:106abill01:ljcm

INTRODUCED BY:

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TAMARA PALTIN

ORDINANCE NO. \_\_\_\_\_

BILL NO. \_\_\_\_\_ (2022)

A BILL FOR AN ORDINANCE ESTABLISHING A NEW CHAPTER 3.97,  
MAUI COUNTY CODE, CREATING A MANAGED  
RETREAT REVOLVING FUND

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

—SECTION 1. Title 3, Maui County Code, is amended by adding a  
new chapter to be appropriately designated and ~~to~~ read as follows:

**“Chapter 3.97**

**MANAGED RETREAT REVOLVING FUND**

**Sections:**

<b>3.97.010</b>	<b>Fund established.</b>
<b>3.97.020</b>	<b>Purpose.</b>
<b><u>3.97.030</u></b>	<b><u>Priorities.</u></b>
<b><u>3.97.0430</u></b>	<b>Deposits to the <u>revolving</u> fund.</b>
<b><u>3.97.0540</u></b>	<b>Administration.</b>

**3.97.010 Fund established.** There is established and created a fund to be known as the managed retreat revolving fund.

**3.97.020 Purpose.** A. The managed retreat revolving fund is established for the purpose of optimizing opportunities for shifting development inland from the coast through the physical movement of existing structures by funding:

1. Shoreline safety improvements including mitigation or removal of hazardous conditions due to shoreline erosion.
2. Removal or relocation of structures or infrastructure that pose a threat to ~~human~~ public health or safety or the environment.
3. ~~Studies~~ P-programs, and permitting, inclusive of environmental assessments, related to the purposes of this chapter.



4. Leveraging funds provided by federal, state, nonprofit or for-profit organizations, and other non-County entities to further the purposes identified in this chapter.

5. Equivalent personnel and administrative costs.

B. The revenues in this fund must not be used for any purpose except the purposes listed in subsection A ~~of this section.~~

C. The revenues in this fund must not be used for the purchase, acquisition, or rehabilitation of privately-owned property unless approved by an affirmative vote of two-thirds of the members of the council by resolution.

**3.97.030 Priorities.** In determining which projects will be funded, priority must be given in the following order:

A. Removal or relocation of County--owned structures or infrastructure that pose an imminent threat to public health or safety or the environment.

B. Removal of structurally compromised abandoned structures that pose an imminent threat to public health or safety or the environment.

C. Removal, relocation, or safety improvements to County-owned structure or infrastructure.

D. Assist in the facilitation of permitting to remove privately-owned structures.

E. Other County or privately-owned projects related to the purposes of this chapter.

**3.97.0430 Deposits to the revolving fund.** A. There will be deposited into the managed retreat revolving fund:

1. -Twenty percent One-third of the Maui County transient accommodations tax collected ~~pursuant to~~ in accordance with chapter 3.47.

2. Revenue from any applicable fees set in the annual budget ordinance.

3. Supplemental transfers set in the annual budget ordinance.

~~4. Revenue from any applicable grants or programs.~~

**3.97.0540 Administration.** A. The director of finance must establish a separate account to record revenues and supplemental transfers credited to and expenses incurred by the fund.

B. Any proposed appropriation will be submitted to the council for approval as a budget appropriation in either the annual budget ordinance or a proposed amendment to the annual budget ordinance. In adopting each fiscal year's budget and capital program, the council may make appropriations to the fund.

C. Any unencumbered balance at the end of each fiscal year ~~shall~~will not lapse but ~~shall~~will remain in the fund, accumulating from year to year.

D. The department of ~~planning management~~ shall~~must~~ administer the fund.

E. The director of finance and ~~planning managing~~ director may adopt administrative rules necessary to carry out the purposes of this chapter.”

—SECTION 2. This Ordinance takes effect on July 1, 2023~~approval~~.

~~APPROVED AS TO FORM AND  
LEGALITY:~~

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~~KRISTINA C. TOSHIKIYO  
Department of the Corporation Counsel  
County of Maui~~ APPROVED AS TO FORM  
AND LEGALITY:

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Department of the Corporation Counsel  
County of Maui

~~paf:gap:22-040b  
LF2022-0324  
PAF 22-040-2022-03-22-Ord Ch 3.97  
Managed-Retreat Revolving Fund~~

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bfed:misc:106abill01:ljcm



INTRODUCED BY:

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TAMARA PALTIN

## BFED Committee

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**From:** BFED Committee  
**Sent:** Tuesday, October 11, 2022 8:35 AM  
**To:** CorpCounselRFLS@co.maui.hi.us  
**Cc:** BFED Committee  
**Subject:** Request for Legal Services re: (BFED-106) BILL 68, CD1  
**Attachments:** 106acc01.pdf; 106abill01.docx