

# REQUEST FOR LEGAL SERVICES

**RECEIVED**

By Corporation Counsel at 10:27 am, Oct 11, 2022

**Date:** October 10, 2022

**From:** Keani N.W. Rawlins-Fernandez, Chair

Budget, Finance, and Economic Development Committee

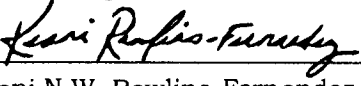
TRANSMITTAL

**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: <u>KCT</u>	ASSIGNMENT NO. <u>2021-0012</u>	BY: <u>maa</u>
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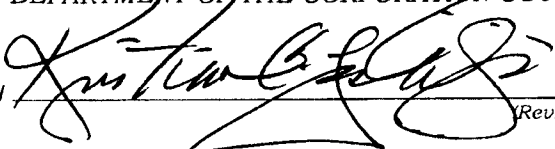
TO REQUESTOR: ☒ APPROVED ☐ DISAPPROVED ☐ OTHER (SEE COMMENTS BELOW)  
☐ RETURNING--PLEASE EXPAND AND PROVIDE DETAILS REGARDING ITEMS AS NOTED

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

Date

10/12/2022

By

DEPARTMENT OF THE CORPORATION COUNSEL  
  
(Rev. 7/03)

bfed:ltr:110acc01:ljam

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:

"B. In assigning land to one of the general classes, the director must give major consideration to: the districting established by the land use commission in accordance with chapter 205, Hawaii Revised Statutes; the districting established by the County in its general plan and comprehensive zoning ordinance; use classifications established in the Hawaii state plan; and other factors that influence highest and best use; except that:

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.

APPROVED AS TO FORM AND LEGALITY:

A handwritten signature in black ink, appearing to read "Kristina C. Toshiaki", is written over a horizontal line.

KRISTINA C. ~~TOSHIKIYO~~

Department of the corporation Counsel

County of Maui

bfed:misc:110abill01:lcm

LF221-0012

BFED-110 2022-10-11 Bill 102 CD1 Amd 3 48 305 B

INTRODUCED BY:

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TAMARA PALTIN

## **BFED Committee**

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**From:** Melody Andrion <Melody.Andrion@co.maui.hi.us>  
**Sent:** Wednesday, October 12, 2022 11:47 AM  
**To:** BFED Committee  
**Cc:** Kristina Toshikiyo; Lesley J. Milner  
**Subject:** BFED-110 Bill 102, CD1 Ord Amd 3.48.305.B  
**Attachments:** BFED-110 2022-10-12 RAFL Closing Bill 102 CD1 Amd 3.34.305.pdf; BFED-110 2022-10-11 Bill 102 CD1 Amd 3.48.305.B.docx

Good morning – see attached closing of RFLS received on 10/11/2022 reviewed/revised/e-signed by Kristina Toshikiyo, along with the red-line word version regarding the subject matter for posting on the October 21, 2022 Council agenda. Thanks!

**NOTICE:** The information in this transmittal (including attachments, if any) is privileged and confidential and is intended only for the recipient(s) listed above. Any review, use, disclosure, distribution or copying of this transmittal is prohibited except by or on behalf of, the intended recipient. If you have received this transmittal in error, please notify me immediately by reply email and destroy all copies of the transmittal. Thank you.