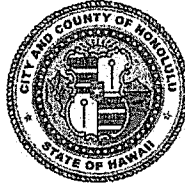


DEPARTMENT OF BUDGET AND FISCAL SERVICES  
**CITY AND COUNTY OF HONOLULU**  
530 SOUTH KING STREET, ROOM 208 • HONOLULU, HAWAII 96813  
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RICK BLANGIARDI  
MAYOR

ANDREW T. KAWANO  
DIRECTOR

CARRIE CASTLE  
DEPUTY DIRECTOR

April 19, 2022

The Honorable Calvin Say, Chair  
and Members  
Committee on Budget  
Honolulu City Council  
530 South King Street, Room 202  
Honolulu, Hawaii 96813

Dear Chair Say and Councilmembers:


SUBJECT: Bill 4 (2022) CD1- Relating to Real Property Taxation

The Department of Budget and Fiscal Services (BFS) is hereby submitting a CD1 to amend Bill 4(2022) that pertains to real property used as a transient accommodation. The bill amends the Revised Ordinances of Honolulu, Section 8-7.1 "Valuation-- Considerations in fixing."

CD1 provides that legally permitted transient vacation units, bed and breakfast homes, and time share units be classed and taxed according to their allowed use. This method of class assignment provides equity of taxation and gives great consideration to the Land Use Ordinance. It also clarifies real property class assignment, by transferring and consolidating existing class definitions and requirements to subsection (c).

Please call me at 768-3901 with any questions you may have.

Sincerely,

  
Andrew T. Kawano, Director  
Budget and Fiscal Services

Attachments

APPROVED:

  
Michael D. Formby  
Managing Director

DEPT. COM. 291 BUDGET

## **SUMMARY OF PROPOSED COMMITTEE DRAFT**

### **BILL 4 (2022) RELATING TO REAL PROPERTY TAXATION.**

**The PROPOSED CD1** addresses real property taxation, particularly those used as transient accommodations. These amendments concentrate class assignment provisions under subsection (c) of Section 8-7.1 and amends and clarifies requirements that determine property use and class assignment.

In SECTION 2 of the measure, concentrates class assignment provisions under subsection (c) of Section 8-7.1 and amends relevant class provisions. Amendments are as follows:

1. Subsection (c) paragraph (1), providing for general real property tax classes, is amended as follows:
  - a. Adds subparagraph (K) providing for a new transient vacation class.
2. Subsection (c) paragraph (2), pertaining to assignment of a parcel to a general tax class, is amended as follows:
  - a. Adds new subparagraph (A) with transferred provisions from subsection (d) and amended as follows:
    - i. Non-substantive amendment pertaining to separate assessment of divided lots or parcels.
  - b. Adds new subparagraph (B) with transferred provisions from subsection (c) paragraph (3) and amended as follows:
    - i. Non-substantive amendment combining paragraph (3) with subparagraph (A) pertaining to when real property is subdivided into condominium units that each unit is deemed a parcel and assessed separately from other units.
  - c. Adds new clause (i) to new subparagraph (B) with transferred provisions from subsection (c) paragraph (3) clause (i) and (ii) pertaining to the legal use of the unit, and amended as follows:
    - i. Amendment requires that the use of a condominium unit must be a legal permitted use under county Land Use Ordinance and also permitted under the declaration required by Chapter 514B or Chapter 514A of the Hawaii Revised Statutes (HRS).
  - d. Adds new subclause (aa) to new paragraph (B) new clause (i) with transferred provisions from subsection (c) paragraph (3) subparagraph (B) clause (i), pertaining to condominium units, is amended as follows:

- i. Non-substantive amendment combining provisions that each condominium unit, together with its designated parking or storage unit, must be assigned to a class based upon its highest and best use except as provided.
  - e. Adds new subclause (bb) to new paragraph (B) new clause (i) with transferred provisions from subsection (c) paragraph (3) subparagraph (B) clause (ii) and (iii), pertaining to condominiums permitted multiple uses, is amended as follows:
    - i. Amendment combines subclause (ii) and (iii) and requires that condominium units, together with their parking or storage units, that are allowed multiple uses including the use as a place of residence under county Land Use Ordinance must be classed as residential or residential A, whichever is applicable, only upon approved dedication for residential use as provided for by Section 8-7.5.
  - f. Adds new reference for the definition of “condominium” and “unit” to mean that as defined by Section 514B-3 HRS.
3. Subsection (c) paragraph (3) is transferred to paragraph (2) new subparagraph (B) and replaced with transferred provisions relating to class assignment of bed and breakfast homes, transient vacation units, and time share units, and are amended as follows:
- a. Paragraph (3) addresses the class assignment of certain property described in new subparagraphs (A), (B), and (C).
  - b. Adds new subparagraph (A) with transferred provisions from subsection (j) pertaining to bed and breakfast home class assignment and clarifies that the use must conform to county Land Use Ordinance and must be classified as bed and breakfast home.
  - c. Adds new subparagraph (B) with transferred provisions from subsection (h) pertaining to transient vacation unit class assignment and clarifies that the use must conform to county Land Use Ordinance and must be classified as transient vacation.
  - d. Adds new subparagraph (C) with transferred provisions from subsection (c) paragraph (4) pertaining to time share unit class assignment and clarifies that the use must conform to county Land Use Ordinance, Chapter 514E HRS and must be classified as hotel and resort.
4. Subsection (c) paragraph (4), pertaining to time share units is transferred to paragraph (3), replaced with transferred provisions from subsection (i) pertaining to the residential A tax class, and amended as follows:

- a. Paragraph (4) combines the requirements that the parcel does not have a home exemption and has an assessed valuation of \$1,000,000 or more.
  - b. Subparagraph (A) combines the requirement of residential districting or residential use dedication with the number of allowed improvements located thereon.
  - c. Subparagraph (C) clarifies that condominium units must be used for residential use in accordance with Chapter 514B HRS and county Land Use Ordinance or granted dedication for residential use.
- 5. Subsection (d) pertaining to separate assessment for divided lots is transferred to subsection (c) paragraph (A) and replaced as follows:
  - a. New provision requires that bed and breakfast homes, transient vacation units, and time share units must not be classified as residential or residential A.
- 6. Subsections (h), (i), and (j) are deleted.



## A BILL FOR AN ORDINANCE

### RELATING TO REAL PROPERTY TAXATION

BE IT ORDAINED by the People of the City and County of Honolulu:

SECTION 1. Purpose. The purpose of this ordinance is to address the taxation of real property, particularly real property used as a transient accommodation.

SECTION 2. Section 8-7.1, Revised Ordinances of Honolulu 1990, as amended by Ordinance 19-32, is amended to read as follows:

**“Sec. 8-7.1 Valuation - Considerations in fixing.**

- (a) The director of budget and fiscal services shall cause the fair market value of all taxable real property to be determined and annually assessed by the market data and cost approaches to value using appropriate systematic methods suitable for mass valuation of real property for ad valorem taxation purposes, so selected and applied to obtain, as far as possible, uniform and equalized assessments throughout the city.
- (b) So far as practicable, records [~~shall~~] must be compiled and kept which [~~shall~~] must show the methods established by or under the authority of the director, for the determination of values.
- (c) (1) Real property [~~shall~~] must be classified into the following general classes, upon consideration of its highest and best use, and upon other criteria set forth in this section:
  - (A) Residential;
  - (B) Hotel and resort;
  - (C) Commercial;
  - (D) Industrial;
  - (E) Agricultural;
  - (F) Preservation;
  - (G) Public service;



## A BILL FOR AN ORDINANCE

- (H) Vacant agricultural;
  - (I) Residential A; ~~and~~
  - (J) Bed and breakfast home~~[-];~~ and
  - (K) Transient Vacation.
- (2) In assigning real property to one of the general classes, the director shall give major consideration to the districting established by the city in its general plan and zoning ordinance, specific class definitions or criteria set forth in this section, and such other factors which influence highest and best use.
- (A) Whenever land has been divided into lots or parcels as provided by law, each such lot or parcel must be separately assessed.
  - (B) For real property that is subdivided into condominium units, each unit with its appertaining common interest must be deemed a parcel, assessed separately from other units, and classified as follows:
    - (i) The use of the unit must be a legal permitted use under county Land Use Ordinance and also a permitted use under the declaration required by Chapter 514B or Chapter 514A, as the case may be, of the Hawaii Revised Statutes (HRS):
      - (aa) A unit, together with its designated parking or storage unit, must be classed based upon its highest and best use; except that
      - (bb) Notwithstanding the provision of subclause (aa), a unit, together with its designated parking or storage unit, that is permitted multiple uses including the use as a place of residence under county Land Use Ordinance, must be classed residential or residential A, whichever is applicable, only upon an approved dedication for residential use as provided for by Section 8-7.5.

As used within this paragraph, "condominium" and "unit" mean the same as defined in Section 514B-3 HRS, respectively.



## A BILL FOR AN ORDINANCE

Notwithstanding the city's zoning district classification, the director shall assign to the agricultural class any real property classified as tree farm property under HRS Chapter 186.

~~[(3) When real property is subdivided into condominium units, each unit and its appertaining common interest:~~

~~(A) Shall be deemed a parcel and assessed separately from other units; and~~

~~(B) Shall be classified as follows:~~

~~(i) If the unit has a single, legally permitted, a legal single exclusive actual use, it shall be classified upon consideration of the unit's actual use into one of the general classes in the same manner as real property; or~~

~~(ii) If the unit has multiple, legally permitted uses; it shall be classified:~~

~~(aa) Upon consideration of the unit's highest and best use into one of the general classes in the same manner as real property; or~~

~~(bb) Residential, only upon approved dedication as provided in Section 8-7.5 when the unit is legally permitted multiple exclusive uses including residential use; or~~

~~(iii) If the unit is a condominium parking unit or a condominium storage unit, it shall be classified residential, only upon approved dedication when the unit is used in conjunction with a unit in residential use within the project.]~~

(3) Notwithstanding any provision contained in this subsection, real property with the following uses must be classed as follows:

(A) Real property used as a bed and breakfast home, in accordance with county Land Use Ordinance, must be classified as bed and breakfast home. "Bed and breakfast home" means the same as defined in Section 21-10.1.



## A BILL FOR AN ORDINANCE

- (B) Real property used as a transient vacation unit, in accordance with county Land Use Ordinance, must be classified as transient vacation. "Transient vacation unit" means the same as defined in Section 21-10.1.
- (C) Real property used as a time share unit, in accordance with Chapter 514E HRS and the county Land Use Ordinance must be classified as hotel and resort. "Time share unit" means the same as defined in Section 21-10.1.

~~[(4) Notwithstanding any provision contained in this subsection, a condominium unit that is used at any time during the assessment year as a time share unit, as determined by, shall be classified for the following tax year as hotel and resort unless:~~

- ~~(A) The unit is on property zoned as apartment, apartment mixed use, apartment precinct, or apartment mixed use precinct;~~
- ~~(B) The property on which the unit is located does not include a lobby with a clerk's desk or counter with 24-hour clerk service facilities for registration and keeping of records relating to persons using the property; and~~
- ~~(C) The unit is part of a condominium property regime established pursuant to HRS Chapter 514A, as it read prior to its repeal on January 1, 2019, or HRS Chapter 514B.~~

~~If the requirements of paragraphs (A), (B) and (C) are met, the time share unit shall be classified as residential. For purposes of this subdivision, "assessment year" means the one-year period beginning October 2nd of the previous calendar year and ending October 1st, inclusive, of the calendar year preceding the tax year, and "time sharing" has the same meaning as defined in Section 21-10.1.]~~

(4) "Residential A" means a parcel, or portion thereof, which does not have a home exemption and has an assessed valuation of \$1,000,000 or more; and

- (A) Is zoned R-3.5, R-5, R-7.5, R-10 or R-20 or is dedicated for residential use and is improved with no more than two single family dwelling units;





## A BILL FOR AN ORDINANCE

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- (B) Is vacant land zoned R-3.5, R-5, R-7.5, R-10 or R-20; or
- (C) Is a condominium unit used for residential use in accordance with Chapter 514B HRS and county Land Use Ordinance or is dedicated for residential use.

Residential A excludes any parcel, or portion thereof, improved with military housing located on or outside of a military base.

- (5) “Vacant agricultural” means a parcel, or portion thereof, that would otherwise be classified agricultural by the director upon major consideration of the districting established by the city in its general plan and zoning ordinance and of such other factors that influence highest and best use, but which parcel, or portion thereof:

- (A) Has no residential buildings; and
- (B) Is not dedicated for agricultural purposes.

If a portion of a parcel is dedicated as vacant agricultural, the remainder of the parcel that is zoned agricultural must be dedicated for agricultural use.

- (6) Notwithstanding any provision contained in this subsection, all real property actually used by a public service company in its public service business shall be classified public service. For purposes of this subsection, “public service company” means a public utility, except airlines, motor carriers, common carriers by water, and contract carriers, where:
  - (A) “Public utility” includes every person who may own, control, operate, or manage as owner, lessee, trustee, receiver, or otherwise, whether under a franchise, charter, license, articles of association, or otherwise, any plant or equipment, or any part thereof, directly or indirectly for public use, for the transportation of passengers or freight, or the conveyance or transmission of telecommunications messages, or the furnishing of facilities for the transmission of intelligence by electricity by land or water or air within the state, or between points within the state, or for the production, conveyance, transmission, delivery, or furnishing of light, power, heat, cold, water, gas, or oil, or for the storage or warehousing of goods, or the disposal of sewage; provided that the term:



## A BILL FOR AN ORDINANCE

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- (i) Includes any person insofar as that person owns or operates a private sewer company or sewer facility;
- (ii) Includes any telecommunications carrier or telecommunications common carrier;
- (iii) Does not include any person insofar as that person owns or operates an aerial transportation enterprise;
- (iv) Does not include persons owning or operating taxicabs, as defined in this subsection;
- (v) Does not include common carriers transporting only freight on the public highways, unless operating within localities or along routes or between points that the Public Utilities Commission of the State of Hawaii finds to be inadequately serviced without regulation under this chapter;
- (vi) Does not include persons engaged in the business of warehousing or storage unless the Public Utilities Commission of the State of Hawaii finds that regulation thereof is necessary in the public interest;
- (vii) Does not include:
  - (aa) The business of any carrier by water to the extent that the carrier enters into private contracts for towage, salvage, hauling, or carriage between points within the [state] State and the carriage is not pursuant to either an established schedule or an undertaking to perform carriage services on behalf of the public generally; and
  - (bb) The business of any carrier by water, substantially engaged in interstate or foreign commerce, transporting passengers on luxury cruises between points within the [state] State or on luxury round-trip cruises returning to the point of departure;
- (viii) Does not include any person who:



## A BILL FOR AN ORDINANCE

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- (aa) Controls, operates, or manages plants or facilities for the production, transmission, or furnishing of power primarily or entirely from non-fossil fuel sources; and
- (bb) Provides, sells, or transmits all of that power, except such power as is used in its own internal operations, directly to a public utility for transmission to the public;
- (ix) Does not include a telecommunications provider only to the extent determined by the Public Utilities Commission of the State of Hawaii, pursuant to applicable [state] State law;
- (x) [~~Shall~~] Does not include any person who controls, operates, or manages plants or facilities developed pursuant to applicable [state] State law for conveying, distributing, and transmitting water for irrigation and such other purposes that shall be held for public use and purpose; and
- (xi) [~~Shall~~] Does not include any person who owns, controls, operates, or manages plants or facilities for the reclamation of wastewater; provided that:
  - (aa) The services of the facility [~~shall~~] must be provided pursuant to a service contract between the person and a [state] State or [county] city agency and at least 10 percent of the wastewater processed is used directly by the [state] State or [county] city which has entered into the service contract;
  - (bb) The primary function of the facility [~~shall~~] must be the processing of secondary treated wastewater that has been produced by a municipal wastewater treatment facility that is owned by a [state] State or [county] city agency;
  - (cc) The facility [~~shall~~] must not make sales of water to residential customers;
  - (dd) The facility may distribute and sell recycled or reclaimed water to entities not covered by a [state] State or [county] city service contract; provided that, in the absence of regulatory oversight and direct

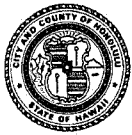


## A BILL FOR AN ORDINANCE

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competition, the distribution and sale of recycled or reclaimed water ~~[shall]~~ must be voluntary and its pricing fair and reasonable. For purposes of this subparagraph, "recycled water" and "reclaimed water" mean treated wastewater that by design is intended or used for a beneficial purpose; and

- (ee) The facility ~~[shall]~~ must not be engaged, either directly or indirectly, in the processing of food wastes;
- (B) "Motor carrier" means a common carrier or contract carrier transporting freight or other property on the public highways, other than a public utility or taxicab;
- (C) "Contract carrier" means a person other than a public utility or taxicab which, under contracts or agreements, engages in the transportation of persons or property for compensation, by land, water, or air;
- (D) "Carrier" means a person who engages in transportation, and does not include a person such as a freight forwarder or tour packager who provides transportation by contracting with others, except to the extent that such person oneself engages in transportation;
- (E) "Taxicab" means ~~[and includes]~~:
  - (i) Any motor vehicle used in the movement of passengers on the public highways under the following circumstances, namely, the passenger hires the vehicle on call or at a fixed stand, with or without baggage for transportation, and controls the vehicle to the passenger's destination; and
  - (ii) Any motor vehicle having seating accommodations for eight or less passengers used in the movement of passengers on the public highways between a terminal, i.e., a fixed stand, in the city of Honolulu, and a terminal in a geographical district outside the limits of the city of Honolulu, and vice versa, without picking up passengers other than at the terminals or fixed stands; provided that passengers may be unloaded at any point between terminals; and provided further that this definition relating to motor vehicles operating between terminals ~~[shall pertain]~~ pertains only to those motor vehicles



## A BILL FOR AN ORDINANCE

whose operators or owners were duly licensed under any applicable provision of law or ordinance and doing business between such terminals on January 1, 1957;

- (F) "Telecommunications carrier" or "telecommunications common carrier" means any person that owns, operates, manages, or controls any facility used to furnish telecommunications services for profit to the public, or to classes of users as to be effectively available to the public, engaged in the provision of services, such as voice, data, image, graphics, and video services, that make use of all or part of their transmission facilities, switches, broadcast equipment, signaling, or control devices; and
- (G) "Telecommunications service" or "telecommunications" means the offering of transmission between or among points specified by a user, of information of the user's choosing, including voice, data, image, graphics, and video without change in the form or content of the information, as sent and received, by means of electromagnetic transmission, or other similarly capable means of transmission, with or without benefit of any closed transmission medium, and does not include cable service as defined under applicable [state] State law.

~~[(d) Whenever land has been divided into lots or parcels as provided by law, each such lot or parcel shall be separately assessed.]~~

(d) A bed and breakfast home, transient vacation unit, or time share unit must not be classified as residential or residential A.

(e) When a parcel of land that has been classified as agricultural is improved with a single-family dwelling and has been granted a home exemption for the tax year, that portion of the parcel that is used for residential purposes ~~[shall]~~ must be classified as residential. This classification ~~[shall]~~ must:

- (1) Apply only to that portion used for residential purposes;
- (2) Not exceed 5,000 square feet of land and the buildings and improvements on that land; and
- (3) Remain in effect only so long as the property qualifies for a home exemption.



## A BILL FOR AN ORDINANCE

- (f) When a parcel of land that has been classified as preservation is improved with a single-family dwelling and has been granted a home exemption for the tax year, that portion of the parcel which is used for residential purposes ~~[shall]~~ will be classified as residential. This classification ~~[shall]~~ will:
- (1) Apply only to that portion used for residential purposes;
  - (2) Not exceed 5,000 square feet of land and the buildings and improvements on that land; and
  - (3) Remain in effect only so long as the property qualifies for a home exemption.
- (g) (1) In determining the value of buildings, consideration ~~[shall]~~ must be given to any additions, alterations, remodeling, modifications or other new construction, improvement, or repair work undertaken upon or made to existing buildings as the same may result in a higher assessable valuation of said buildings; provided, however, that any increase in value resulting from any additions, alterations, modifications, or other new construction, improvement or repair work to buildings undertaken or made by the owner occupant thereof pursuant to the requirements of any urban redevelopment, rehabilitation, or conservation project under the provisions of Part II of HRS Chapter 53, ~~[shall]~~ must not increase the assessable valuation of any building for a period of seven years from the date of certification as hereinafter provided.
- (2) It is further provided that the owner occupant shall file with the director, in the manner and at the place ~~[which]~~ the director may designate, a statement of the details of the improvements certified in the following manner:
- (A) In the case of additions, alterations, modifications or other new construction, improvement or repair work to a building that is undertaken pursuant to any urban redevelopment, rehabilitation or conservation project as hereinabove mentioned, the statement ~~[shall]~~ must be certified by the mayor or any governmental official designated by the mayor and approved by the council, that the additions, alterations, modifications, or other new construction, improvements, or repair work to the buildings were made and satisfactorily comply with the particular urban development, ~~[rehabilitation]~~ rehabilitation, or conservation act provision; or



## A BILL FOR AN ORDINANCE

(B) In the case of maintenance or repairs to a residential building undertaken pursuant to any health, safety, sanitation or other governmental code provision, the statement ~~[shall]~~ must be certified by the mayor or any governmental official designated by the mayor and approved by the council, that:

(i) The building was inspected by them and found to be substandard when the owner or occupant made the claim; and

(ii) The maintenance or repairs to the buildings were made and satisfactorily comply with the particular code provision.

~~[(h) (1) Notwithstanding the provisions of subsection (c)(2), properties operating as transient vacation units in accordance with Section 21-4.110-1, and which have a valid nonconforming use certificate, shall be classified based on their underlying zoning.~~

~~(2) Real Property operating as transient vacation units as otherwise permitted under Chapter 21 must be classified as hotel and resort.~~

~~(3) For purposes of this subsection, "transient vacation unit" means the same as defined in Section 21-10.1.~~

~~(i) "Residential A" shall mean a parcel, or portion thereof, which:~~

~~(1) Is improved with no more than two single family dwelling units; and~~

~~(A) Has an assessed value of \$1,000,000 or more;~~

~~(B) Does not have a home exemption; and~~

~~(C) Is zoned R-3.5, R-5, R-7.5, R-10 or R-20 or is dedicated for residential use;~~

~~(2) Is vacant land zoned R-3.5, R-5, R-7.5, R-10 or R-20 and has an assessed value of \$1,000,000 or more; or~~

~~(3) Is a condominium unit with an assessed valuation of \$1,000,000 or more and does not have a home exemption.~~



**CITY COUNCIL**  
CITY AND COUNTY OF HONOLULU  
HONOLULU, HAWAII

ORDINANCE \_\_\_\_\_

BILL \_\_\_\_\_

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## A BILL FOR AN ORDINANCE

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~~Residential A excludes any parcel, or portion thereof, improved with military housing located on or outside of a military base.]~~

~~(j) For purposes of this subsection, "bed and breakfast home" has the same meaning as defined in Section 21-10.1.~~

~~(1) Notwithstanding the provisions of subsection (c)(2), properties operating as bed and breakfast home in accordance with Section 21-4.110-2, and which have a valid nonconforming use certificate, shall be classified based on their underlying zoning.~~

~~(2) Real property operating as a bed and breakfast home as otherwise permitted under Chapter 21 must be classified as bed and breakfast home].~~

SECTION 3. Ordinance material to be repealed is bracketed and stricken. New material is underscored. When revising, compiling, or printing this ordinance for inclusion in the Revised Ordinances of Honolulu, the Revisor of Ordinances need not include the brackets, the material that has been bracketed and stricken, or the underscoring.





**CITY COUNCIL**  
CITY AND COUNTY OF HONOLULU  
HONOLULU, HAWAII

ORDINANCE \_\_\_\_\_

BILL \_\_\_\_\_

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**A BILL FOR AN ORDINANCE**

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SECTION 4. This ordinance takes effect upon its approval and applies to the tax years beginning July 1, 2023.

INTRODUCED BY:

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\_\_\_\_\_

DATE OF INTRODUCTION:

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Honolulu, Hawaii

\_\_\_\_\_  
Councilmembers

APPROVED AS TO FORM AND LEGALITY:

\_\_\_\_\_  
Deputy Corporation Counsel

APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
RICK BLANGIARDI, Mayor  
City and County of Honolulu