

**A BILL FOR AN ORDINANCE AMENDING SECTIONS 5A-1.1 AND 5A-11.4,
KAUA'I COUNTY CODE 1987, AS AMENDED,
RELATING TO REAL PROPERTY TAX**

BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF KAUA'I, STATE OF HAWAII:

SECTION 1. Findings and Purpose. The Council finds that Ordinance No. 1044 (November 30, 2018) has fulfilled its purpose of providing appropriate tax relief continuity for surviving spouses who were not formally identified as recipients of the shared residence's Home Exemption. However, Ordinance No. 1044 does not authorize the Department of Finance to extend this protection to some surviving spouses whose ownership interest in the property was designed not to be triggered until the death of the spouse or civil union partner. The purpose of this Ordinance is to amend the definition of "Claim" currently located at Section 5A-1.1, "Definitions," to: (1) prevent the potential reset of real property tax benefits as a result of a death when the surviving spouse or civil union partner was designated as the surviving trustee of the deceased spouse or civil union partner, and (2) expand eligibility to include properties receiving the Owner-Occupied Mixed-Use tax rate. This Ordinance also relocates the definition of "Claim" from Section 5A-1.1 to Section 5A-11.4. The Director of Finance remains empowered to compromise claims in accordance with Section 5A-1.2(k).

SECTION 2. Chapter 5A, Section 5A-1.1, Kaua'i County Code 1987, as amended, is hereby amended by deleting the definition of "Claim" as follows:

["Claim" under 5A-1.2(k) may include the retroactive approval and reinstatement of a home exemption, homestead tax rate, and assessment cap of an owner occupant that was benefiting from a home exemption, homestead tax rate, and assessment cap of a co-owner occupant that is now deceased, provided that the owner occupant would have independently qualified for the home exemption at the time of death. This approval and reinstatement shall only be applied retroactively up to three years.]"

SECTION 3. Chapter 5A, Section 5A-11.4, Kaua'i County Code 1987, as amended, is hereby amended by adding a definition of "Claim" at a new Subsection 5A-11.4(k) to be appropriately inserted and to read as follows:

“(k) For the purposes of this Section 5A-11.4 and Section 5A-1.2, “claim” may include the retroactive approval and reinstatement of a home exemption, Owner-Occupied or Owner-Occupied Mixed-Use tax rate, and assessment cap of an owner-occupant that was benefiting from a home exemption, Owner-Occupied or Owner-Occupied Mixed-Use tax rate, and assessment cap of a co-owner-occupant that is now deceased, provided that the owner-occupant would have independently qualified for the home exemption at the time of death. “Claim” may also include the retroactive approval and reinstatement of a home exemption, Owner-Occupied or Owner-Occupied Mixed-Use tax rate, and assessment cap of the spouse or civil union partner of an owner-occupant who is now deceased, provided that the spouse or civil union partner is a

successor trustee or beneficiary of the owner-occupant and the spouse or civil union partner would have independently qualified for the home exemption at the time of death, and in such case, the surviving owner-occupant who is a successor trustee or beneficiary is not required to demonstrate that they were an owner of record prior to the death of their spouse or civil union partner. This approval and reinstatement shall only be applied retroactively up to three (3) years.”

SECTION 4. Ordinance material to be repealed is bracketed. New ordinance material is underscored. When revising, compiling, or printing this ordinance for inclusion in the Kaua'i County Code 1987, as amended, the brackets, bracketed material, and underscoring shall not be included.

SECTION 5. If any provision of this Ordinance or the application thereof to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable.

SECTION 6. This Ordinance shall take effect upon its approval.

Introduced by:



ROSS KAGAWA

DATE OF INTRODUCTION:

March 27, 2024

Līhu'e, Kaua'i, Hawai'i

V:\RESOLUTIONS\2022-2024 TERM\2024-144 Bill RPT Section 5A-1.1 and 11.4
Claim Definition Surviving Spouses (002) RK_JA_mn.docx

CERTIFICATE OF THE COUNTY CLERK

I hereby certify that heretofore attached is a true and correct copy of Bill No. 2918, which was passed on first reading and ordered to print by the Council of the County of Kaua'i at its meeting held on March 27, 2024, by the following vote:

FOR PASSAGE:	Bulosan, Carvalho, Cowden, DeCosta, Kagawa, Kualii, Rapozo	TOTAL – 7,
AGAINST PASSAGE:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Lihu'e, Hawai'i
March 27, 2024



Jade K. Fountain-Tanigawa
County Clerk, County of Kaua'i

CERTIFICATE OF THE COUNTY CLERK

I hereby certify that heretofore attached is a true and correct copy of Bill No. 2918 which was adopted on second and final reading by the Council of the County of Kaua'i at its meeting held on May 15, 2024, by the following vote:

FOR ADOPTION:	Bulosan, Carvalho, Cowden, DeCosta, Kagawa, Kualii, Rapozo	TOTAL – 7,
AGAINST ADOPTION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Lihu'e, Hawai'i
May 15, 2024



Jade K. Fountain-Tanigawa
County Clerk, County of Kaua'i

ATTEST:



Mel Rapozo
Chairman & Presiding Officer

DATE OF TRANSMITTAL TO MAYOR:

May 16, 2024

Approved this 20th day of
May, 2024.



Derek S.K. Kawakami,
Mayor
County of Kaua'i