

COUNCIL OF THE COUNTY OF MAUI

HOUSING, HUMAN SERVICES, AND TRANSPORTATION COMMITTEE

June 3, 2016

**Committee
Report No. _____**

Honorable Chair and Members
of the County Council
County of Maui
Wailuku, Maui, Hawaii

Chair and Members:

Your Housing, Human Services, and Transportation Committee, having met on May 18, 2016, makes reference to County Communication 16-61, from the Director of Housing and Human Concerns, transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 2.96, MAUI COUNTY CODE, RELATING TO THE RESIDENTIAL WORKFORCE HOUSING POLICY CREDIT REQUIREMENTS AND DEED RESTRICTIONS."

The purpose of the proposed bill is to amend the Residential Workforce Housing Policy by providing that residential workforce housing credits may be used to satisfy residential workforce housing requirements and by reducing, from 120 days to 90 days, the time within which the County shall exercise a first option to purchase a residential workforce housing unit upon an owner's decision to sell the unit.

By correspondence dated April 27, 2016, the Director of Housing and Human Concerns transmitted the Residential Workforce Housing Policy annual report for the year ended December 31, 2015.

Your Committee is in receipt of a revised proposed bill, from the Chair of your Committee, approved as to form and legality, incorporating revisions pursuant to Ordinance 4235, effective July 27, 2015.

The Director of Housing and Human Concerns stated the proposed reduction from 120 days to 90 days of the time within which the County must exercise its purchase option is critical for favorable financing options to be available for a potential homebuyer. She stated that Freddie Mac and Fannie Mae, two of the financing options for

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homebuyers in the affordable range, allow for a minimal down payment of 0 percent to 3 percent and do not have a requirement of mortgage insurance. Neither option, however, is available to homebuyers unless the 120-day restriction is reduced. The savings to the homebuyer from the mortgage insurance is estimated to be \$400 to \$500 per month.

She further stated unless 90 percent of the total units within a project are pre-sold with a pre-qualified homebuyer, the developer is unable to acquire financing for construction of the project.

The Director informed your Committee the proposal allows credits earned from residential workforce housing projects to be used to offset future development requirements. Housing credits are no longer restricted for use within the community plan area; credits may be applied countywide.

A representative from the Department of Housing and Human Concerns said State housing credits earned through the development of housing units for the Department of Hawaiian Homelands may be used to satisfy requirements of any county in the State.

The representative noted the State and County housing credits may be sold to other developers to satisfy affordable housing requirements. He noted the credits are sold in the range of \$80,000 to \$100,000 each.

The Director provided the Residential Workforce Housing Policy annual report pursuant to Section 2.96.110, Maui County Code, for the year ended December 31, 2015. She stated there were no units built or resold within the calendar year. She noted Ordinance 4177, effective December 22, 2014, which amended the Residential Workforce Housing Policy with the goal of facilitating more housing construction, had in fact resulted in seven new Residential Workforce Housing agreements.

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Your Committee notes three projects are expected to break ground in 2016: 1) the Kamalani project in South Maui, with 173 affordable housing units and 460 market units; 2) the Kalama Kai project in South Maui, with 40 affordable housing units; and 3) the Kaiaulu at Kaanapali project in West Maui, with 33 affordable housing units.

Your Committee noted its continued commitment for affordable and residential workforce housing, and supported the proposed bill, citing the provision improving financing options available to homebuyers.

Your Committee voted 7-0 to recommend passage of the revised proposed bill on first reading and filing of the communication. Committee Chair Crivello, Vice-Chair Baisa, and members Carroll, Couch, Guzman, Hokama, and Victorino voted "aye."

Your Housing, Human Services, and Transportation Committee **RECOMMENDS** the following:

1. That Bill _____ (2016), as revised herein and attached hereto, entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 2.96, MAUI COUNTY CODE, RELATING TO THE RESIDENTIAL WORKFORCE HOUSING POLICY CREDIT REQUIREMENTS AND DEED RESTRICTIONS," be PASSED ON FIRST READING and be ORDERED TO PRINT; and
2. That County Communication 16-61 be FILED.

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This report is submitted in accordance with Rule 8 of the Rules of the Council.



STACY CRIVELLO, Chair

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ORDINANCE NO. _____

BILL NO. _____ (2016)

A BILL FOR AN ORDINANCE AMENDING CHAPTER 2.96,
MAUI COUNTY CODE, RELATING TO THE RESIDENTIAL WORKFORCE
HOUSING POLICY CREDIT REQUIREMENTS AND DEED RESTRICTIONS

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

SECTION 1. Section 2.96.040, Maui County Code, is amended by
amending subsection B to read as follows:

“B. Prior to final subdivision approval or issuance of a building permit for a development subject to this chapter, the department shall require the developer to enter into a residential workforce housing agreement. The agreement shall set forth the method by which the developer satisfies the requirements of this chapter. The requirements may be satisfied by one or a combination of the following, which shall be determined by the director and stated in the agreement:

1. Offer for sale, single-family dwelling units, two-family dwelling units, or multi-family dwelling units as residential workforce housing within the community plan area[;].

2. Offer for rent, multi-family dwelling units as residential workforce housing units within the community plan area[;].

3. In lieu of directly selling or renting units pursuant to subsections (B)(1) or (B)(2) the developer may convey such units to a qualified housing provider subject to department approval pursuant to section 2.96.150[; or].

4. In lieu of providing residential workforce housing units, the residential workforce housing requirement may be satisfied by payment of a fee, by providing improved land, or by providing unimproved land in accordance with the following:

a. The in-lieu fee per residential workforce housing unit required by this chapter shall be equal to the difference in unit costs for a three bedroom, single-family[,] dwelling unit, at one hundred percent and a three bedroom, single-family[,] dwelling unit at one hundred sixty percent of median income, for a family of four, pursuant to HUD affordable sales price guidelines,

or as adjusted by the department for Hana, Lanai, and Molokai.

b. Any dedication of improved or unimproved land in-lieu of residential workforce housing units shall be subject to the approval of the director and the council by resolution.

5. Application of residential workforce housing credits issued pursuant to this code.”

SECTION 2. Section 2.96.060, Maui County Code, is amended by amending subsection B to read as follows:

“B. Deed restrictions.

1. The ownership units within each income group shall be subject to the deed restrictions contained in this section for the following periods:

- a. “Below-moderate income,” ten years.
- b. “Moderate income,” eight years.
- c. “Above-moderate income,” five years.

2. For the deed-restricted period, the following shall apply:

- a. The unit must be owner-occupied.
- b. The owner must notify the department upon a decision to sell.
- c. Upon the owner’s decision to sell, the County shall have the first option to purchase the unit from the owner; said option shall be available to the County for a period of ~~[one hundred and twenty]~~ ninety days from receipt of written notice from the owner.
- d. Upon sale of the unit, the deed restrictions shall remain in full force and effect for the remainder of the ~~[deed restriction]~~ deed-restricted period that commenced at the time of the initial sale.

e. Under special circumstances an owner of a residential workforce housing unit may appeal to the department for a waiver of the owner-occupancy deed restriction; these circumstances would include, but are not limited to, assignment to active duty military or short-term contracts for off-island employment.

f. Resale. The maximum resale price shall be established by the department using the following guidelines:

- i. An appraisal of the property shall be required before occupancy (“the owner’s purchase price”).
- ii. A second appraisal shall be required upon a decision to sell the unit.

iii. Twenty-five percent of the difference between the two appraisals shall be added to the owner's purchase price.

g. The restrictions contained in subparagraphs 2a through 2f above shall not apply in situations of foreclosure."

SECTION 3. 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 4. This ordinance shall take effect upon its approval.

APPROVED AS TO FORM
AND LEGALITY:



JEFFREY UEOKA
Deputy Corporation Counsel
County of Maui

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