

ORDINANCE NO. _____

BILL NO. _____ (2022)

A BILL FOR AN ORDINANCE AMENDING SECTION 19.04.040, MAUI COUNTY CODE, RELATING TO THE DEFINITIONS OF “TIME SHARE PLAN” AND “TRANSIENT”

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

SECTION 1. Purpose. The purposes of this Ordinance are: (1) To amend the definition of “time share plan”; (2) to address and ameliorate lodging challenges that health care providers may face by excluding health care providers from the definition of “transient”; and (3) to clarify existing categorical exclusions from the definition of “transient”.

The County of Maui is experiencing a shortage of long-term rental housing and purchase opportunities for Maui County residents, due in large part to housing prices driven up by purchasers from out of state. The State of Hawaii, Department of Business, Economic Development and Tourism reported that local buyers accounted for just 64 percent of single-family homes and condominiums sold within the County in 2021, with mainland and international buyers making up the remainder. Notably, the percentage of local buyers within Maui County is lower than the statewide numbers in 2021. A property ownership form that causes concern both due to its potential effects on the local housing market and skirting of the restrictions in Title 19 is a business entity, such as a limited liability company, in which typically out-of-

state persons are LLC members who acquire the right to utilize a property for short-term periods. This Ordinance will clarify that this type of temporal-use ownership scheme is included in the definition of “time share plan”.

Additionally, the County of Maui is experiencing a severe shortage of physicians, mid-level practitioners, nurses, and other health care professionals and providers. An immediate response is required during times of pandemic and during other times of disaster. The hiring of temporary or seasonal health care providers is necessary in such situations to meet the medical needs of the County’s population. The current definition of “transient” is a barrier to the recruitment and hiring of temporary or transient health care providers who may need to secure lodging for periods of less than one hundred eighty days. Accordingly, this Ordinance expressly excludes health care providers from the definition of “transient”.

SECTION 2. Section 19.04.040, Maui County Code, is amended by amending the definition of “time share plan” to read as follows:

““Time share plan” means any plan or program in which the use, occupancy, or possession of one or more time share units circulates among various persons for less than a ~~[sixty-day]~~ one hundred eighty-day period in any year, for any occupant. The time share plan ~~[shall include]~~ includes both time share ownership plans and time share use plans, as follows:

1. “Time share ownership plan” means any arrangement whether by tenancy in common, sale, deed, or other means whereby the purchaser receives an ownership interest and the right to use the property for a specific or discernible period by temporal division; and

2. “Time share use plan” means any arrangement, excluding normal hotel operations, whether by membership agreement, lease, rental agreement, license, use agreement, security, or other means, whereby the purchaser receives a right to use accommodations or facilities, or both, in a time

share unit for a specific or discernible period by temporal division, but does not receive an ownership interest.”

SECTION 3. Section 19.04.040, Maui County Code, is amended by amending the definition of “transient” to read as follows:

““Transient” or “transients” means any [visitor or] person who owns, rents, or uses a lodging or dwelling unit, or portion thereof, for less than one hundred eighty days and whose permanent address for legal purposes is not the lodging or dwelling unit occupied by the [visitor.] person, and any person who uses, possesses, or occupies a property based on an arrangement, schedule, plan, agreement, license or any other means or scheme whereby an owner of the property, or member, partner, owner, trustee, or shareholder of the corporate or limited liability entity that owns the property, receives ownership rights or the right to use the property for a period of less than one hundred eighty days. This definition [shall] does not apply to family members or nonpaying guests of the family occupying the unit and to:

1. [patients] Patients or clients in health care facilities[.].

2. Health care providers actively engaged in the practice of medicine within the County.

3. [full-time] Full-time students[,] while attending educational classes or programs located in the County.

4. [employees] Employees who receive room [and/or] or board as part of their salary or compensation for work performed within the County by the employer providing their room or board[.].

5. [military personnel,] Military personnel while performing military service within the County.

6. [low-income] Low-income renters receiving rental [subsistence] assistance from [state or federal governments] governmental entities whose rental periods are for durations shorter than [sixty] one hundred eighty days[, or].

7. [lodging] Lodging provided by nonprofit corporations or associations for religious, charitable, or educational purposes[;], provided[, that] no rental income is produced.”

SECTION 4. Section 19.04.040, Maui County Code, is amended to add new definitions to be appropriately inserted and to read as follows:

“Health care facility” means a private or public institution, place, building, or agency located in the County, used, operated, or designed to provide medical diagnosis, treatment, nursing, rehabilitative, or preventive care to any person.

“Health care provider” means a physician, osteopathic physician, surgeon, dentist, physician assistant, podiatrist, optometrist, psychologist, nurse, occupational therapist, physical therapist, health care facility, and the employees thereof legally authorized to practice medicine and operate within the State.”

SECTION 5. 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 6. This Ordinance takes effect on approval.

APPROVED AS TO FORM AND LEGALITY

STEPHANIE M. CHEN
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