

NOTICE OF PUBLICATION AND NOTICE OF PUBLIC HEARING

Notice is hereby given that the Kaua'i County Council will hold a public hearing on Wednesday, November 15, 2023, at 8:30 a.m., or soon thereafter, at the Council Chambers, 4396 Rice Street, Room 201, Historic County Building, Lihue, on the following:

Bill No. 2910

A BILL FOR AN ORDINANCE AMENDING CHAPTER 6, ARTICLE 13, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO RECOVERY OF RESCUE EXPENSES

This Bill proposes to amend Chapter 6, Article 13 (Recovery of Rescue Expenses), Kaua'i County Code 1987, as amended, to: (1) more closely reflect the wording of Hawai'i Revised Statutes Chapter 137 (Search and Rescue Reimbursement Act) and improve enforcement of the law by limiting automatic Office of the County Attorney involvement to operations involving search and rescue expenses of one thousand dollars (\$1,000.00) or greater, and by requiring that incident reports also be prepared and transmitted for these operations; and (2) establish a "Search and Rescue and Wildfire Response Donations Account" to accept voluntary monetary contributions made by persons in support of County of Kaua'i search and rescue efforts and wildfire response. Funds deposited into this account shall be expended for search and rescue expenses and for wildfire response. The funds collected shall not lapse at the close of the fiscal year.

Any person may testify at the public hearing, and at any Council and Committee Meeting (at which time any Bill may be amended). Meeting notices and full-text Bills are available at least six (6) days in advance at the Office of the County Clerk, Council Services Division and kauai.gov/Government/Council/Webcast-Meetings. Written testimony may be submitted via counciltestimony@kauai.gov, mail, or fax. For further information, please call (808) 241-4188.

CERTIFICATE OF THE COUNTY CLERK

I hereby certify that the Kaua'i County Council passed on first reading and ordered to print Bill No. 2910 during the October 18, 2023 Council Meeting, by the following vote:

AYES:	Bulosan, Carvalho, DeCosta, Kagawa, Kualii, Rapozo	TOTAL – 6,
NOES:	Cowden	TOTAL – 1,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Lihue, Hawai'i
October 19, 2023

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

NOTE: IF YOU NEED AN AUXILIARY AID/SERVICE, OTHER ACCOMMODATION DUE TO A DISABILITY, OR AN INTERPRETER FOR NON-ENGLISH SPEAKING PERSONS, PLEASE CONTACT THE OFFICE OF THE COUNTY CLERK, COUNCIL SERVICES DIVISION AT (808) 241-4188 OR COKCOUNCIL@KAUAI.GOV AS SOON AS POSSIBLE. REQUESTS MADE AS EARLY AS POSSIBLE WILL ALLOW ADEQUATE TIME TO FULFILL YOUR REQUEST.

UPON REQUEST, THIS NOTICE IS AVAILABLE IN ALTERNATE FORMATS SUCH AS LARGE PRINT, BRAILLE, OR ELECTRONIC COPY.

(One publication – The Garden Island – October 25, 2023)

**A BILL FOR AN ORDINANCE AMENDING CHAPTER 6, ARTICLE 13,
KAUA'I COUNTY CODE 1987, AS AMENDED, RELATING TO
RECOVERY OF RESCUE EXPENSES**

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

SECTION 1. Purpose. The purpose of this Ordinance is to amend Chapter 6, Article 13 (Recovery of Rescue Expenses), Kaua'i County Code 1987, as amended, to: (1) more closely reflect the wording of Hawai'i Revised Statutes Chapter 137 (Search and Rescue Reimbursement Act) and improve enforcement of the law by limiting automatic Office of the County Attorney involvement to operations involving search and rescue expenses of one thousand dollars (\$1,000.00) or greater, and by requiring that incident reports also be prepared and transmitted for these operations; and (2) establish a "Search and Rescue and Wildfire Response Donations Account" to accept voluntary monetary contributions made by persons in support of County of Kaua'i search and rescue efforts and wildfire response. Funds deposited into this account shall be expended for search and rescue expenses and for wildfire response. The funds collected shall not lapse at the close of the fiscal year.

SECTION 2. Chapter 6, Article 13 (Recovery of Rescue Expenses), Kaua'i County Code 1987, as amended, is amended by amending the article title, as follows:

"Article 13. Recovery of Search and Rescue Expenses; Search and Rescue and Wildfire Response Donations Account"

SECTION 3. Chapter 6, Section 6-13.1 (Definitions), Kaua'i County Code 1987, as amended, is amended, as follows:

"As used in this Article, the following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:

"County" means the County of Kaua'i.

"Person" means any individual, corporation, association, partnership, firm, trustee, or legal representative.

["Recoverable expenses" means those expenses that are reasonable, necessary and allocable to the rescue operation. Recoverable expenses shall not include normal expenditures that are incurred in the course of providing what are traditionally local services and responsibilities, such as routine fire fighting. Expenses allowable for recovery may include, but are not limited to:

(1) Materials and supplies acquired, consumed and expended specifically for the purpose of the rescue operation.

(2) Compensation of employees for the time and efforts devoted specifically for the purpose of the rescue operation.

(3) Rental or leasing of equipment used specifically for the rescue operation such as protective equipment or clothing, scientific and technical equipment, helicopters, boats or bulldozers.

(4) Repair costs for equipment owned by the County that is damaged during the rescue operation.

(5) Replacement costs for equipment owned by the County that is damaged beyond use or repair, if the equipment was a total loss and the loss occurred during the rescue operation.

(6) Special technical services specifically required for the rescue operation such as costs associated with the time and efforts of technical experts or specialists not otherwise provided by the County.

(7) Other special services specifically required for the rescue operation.

(8) Medical expenses incurred as a result of the rescue operation.

(9) Legal expenses that may be incurred as a result of the rescue operation, including efforts to recover expenses pursuant to this Article.

(10) Fuel expended for the purpose of the rescue operation.

“Rescue operation” means the effort to free or remove an individual or individuals placed in a situation of distress or peril from any confinement, violence or danger.]

“Search and rescue expenses” means the same as defined in Hawai‘i Revised Statutes Section 137-1.

“Warning or notice” means the same as defined in Hawai‘i Revised Statutes Section 137-1.”

SECTION 4. Chapter 6, Section 6-13.2 (Intentional Disregard for Safety), Kaua‘i County Code 1987, as amended, is amended, as follows:

“[Any and all persons who cause or contribute to the placement of an individual or individuals in a situation of distress or peril, via any act of omission which constitutes an intentional disregard for the individual or individuals’ safety, and which results in a rescue operation shall be liable to the County for all recoverable expenses resulting from the rescue operation. Acts or omissions constituting an intentional disregard for safety include, but are not limited to, intentionally disregarding a warning or notice. This shall be in addition to any and all penalties provided by law.]

(a) Whenever the County engages in a search or rescue operation for the purpose of searching for or rescuing a person, and incurs search and rescue expenses therein, the County may seek reimbursement from the following:

(1) The person on whose behalf search or rescue operations were conducted, including the person's estate, guardians, custodians, or other entity responsible for the person's safety;

(2) A person who ultimately benefited from a search or rescue operation by being rescued; or

(3) Any entity responsible for placing the person in the position of danger for which the search or rescue operation was initiated.

(b) Reimbursement under Subsection (a) shall be allowed only if the need for search or rescue was caused by any act or omission by the person searched for or rescued, constituting intentional disregard for the person's safety, including, but not limited to, intentionally disregarding a warning or notice."

SECTION 5. Chapter 6, Section 6-13.3 (Recovery of Expenses), Kaua'i County Code 1987, as amended, is amended, as follows:

"(a) County personnel and departments involved in a search or rescue operation shall keep an itemized record of [recoverable expenses resulting from the rescue operation.] all search and rescue expenses, and incident reports. Promptly after completion of [the rescue] any search or rescue operation[,] involving search and rescue expenses of one thousand dollars (\$1,000.00) or greater, the appropriate department shall [certify those] transmit the record of search and rescue expenses, and incident reports to the Office of the County Attorney.

(b) Submission of Claim. The Office of the County Attorney, on behalf of the County, shall determine whether to submit a written itemized claim for the [total recoverable] reimbursement of search and rescue expenses [incurred by the County for the rescue operation to the responsible person or persons and] pursuant to Section 6-13.2. If a claim for reimbursement is sought, it shall contain a written notice that unless the amounts are paid in full within thirty (30) calendar days after receipt of the claim and notice, the County will file a civil action seeking recovery for the stated amount.

(c) Civil Suit. The County may bring a civil action for the recovery of all [recoverable] search and rescue expenses [against any and all persons causing or responsible for the placement of the individual or individuals in a situation of distress or peril which results in a rescue operation.] pursuant to this Article.

(d) Any search and rescue expenses recovered as a result of this Article shall be credited back to the appropriate department's budget for which rescue expenses were incurred. If the recovery is less than the amount claimed, and more than one (1) department incurred expenses, credit to each department involved shall be prorated in proportion to that department's expense.

(e) Any unexpended balance remaining in the various department's budget(s) as a result of this Article shall lapse at the end of the fiscal year."

SECTION 6. Chapter 6, Article 13 (Recovery of Rescue Expenses), Kaua'i County Code 1987, as amended, is amended by adding a new Section 6-13.4, as follows:

"Sec. 6-13.4 Search and Rescue and Wildfire Response Donations Account.

(a) There is established a donations account to be known as the "Search and Rescue and Wildfire Response Donations Account," within the 251 Fund, into which shall be deposited all voluntary monetary contributions made by persons in support of County of Kaua'i search and rescue efforts and wildfire response. Funds deposited into this account are hereby deemed appropriated upon receipt and shall be expended to reimburse County departments and agencies for search and rescue expenses, and for wildfire response. The funds collected shall not lapse at the close of the fiscal year.

(b) The Search and Rescue Donations program may be promoted as an optional contribution in conjunction with the sale of camping permits, managed parking at County parks pursuant to Section 19-1.20, or other applicable user benefits as directed by the Fire Chief or the Director of Parks and Recreation.

(c) The Fire Chief, the Director of Parks and Recreation, or both, may adopt any rules pursuant to Hawai'i Revised Statutes Chapter 91 that are consistent with the provisions of this Article."

SECTION 7. If any provision of this Ordinance or application thereof to any person or circumstance is held invalid, the invalidity does not affect the other provisions or applications of this Ordinance that can be given effect without the invalid provision or application, and to this end, the provisions of this Ordinance are severable.

SECTION 8. 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 9. This Ordinance shall take effect upon its approval.

Introduced by: /s/ BILL DECOSTA
/s/ ADDISON BULOSAN

DATE OF INTRODUCTION:

October 18, 2023

Līhu'e, Kaua'i, Hawai'i

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CERTIFICATE OF THE COUNTY CLERK

I hereby certify that heretofore attached is a true and correct copy of Bill No. 2910, which was passed on first reading and ordered to print by the Council of the County of Kaua'i at its meeting held on October 18, 2023, by the following vote:

FOR PASSAGE:	Bulosan, Carvalho, DeCosta, Kagawa, Kuali'i, Rapozo	TOTAL – 6,
AGAINST PASSAGE:	Cowden	TOTAL – 1,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Lihu'e, Hawai'i
October 19, 2023



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