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# A BILL FOR AN ACT

RELATING TO COASTAL ZONE MANAGEMENT.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. Chapter 205A, Hawaii Revised Statutes, is  
2 amended by adding to part II a new section to be appropriately  
3 designated and to read as follows:

4           "§205A-           State consistency review and certification.

5           (a) Notwithstanding any other law to the contrary, development  
6 by a state agency on state land within the special management  
7 area shall not require a permit or shoreline setback variance as  
8 otherwise required by this chapter, provided that the  
9 development meets the following requirements:

10           (1) The state agency shall conduct a state consistency  
11 review;

12           (2) Prior to completion of the state consistency review,  
13 the state agency shall file a notice of the state  
14 consistency review, with a thirty-day comment period;

15           (3) Prior to publication of the notice of the state  
16 consistency review, the state agency shall provide a  
17 copy of its notice of the state consistency review to  
18 the lead agency;



1       (4) After the state agency's responses to relevant public  
2       comments received during the thirty-day comment period  
3       have been sent to the commenting persons or entities  
4       and consultation with the lead agency has concluded,  
5       the state agency shall file a notice of state  
6       consistency certification, which notice shall include  
7       instructions on how to retrieve electronic and printed  
8       copies of the state agency's responses and all public  
9       comments received by the state agency; and

10       (5) Except as otherwise provided by law, printed copies of  
11       responses and public comments shall be provided upon  
12       request; provided that the state agency may require  
13       the payment of reasonable costs of providing paper  
14       copies.

15       (b) After publication of the state consistency  
16       certification, a development by a state agency on state land  
17       shall be allowed within a special management area without  
18       obtaining a permit or shoreline setback variance as otherwise  
19       required by this chapter.

20       (c) The process of state consistency review and  
21       consistency certification may occur concurrently with an  
22       environmental review under chapter 343.



1       (d) Subsection (a) shall not apply to a development by a  
2 state agency that is subject to federal consistency review  
3 pursuant to title 15 Code of Federal Regulations part 930. Upon  
4 issuance of a federal consistency concurrence pursuant to title  
5 15 Code of Federal Regulations part 930, a development by a  
6 state agency on state land shall be allowed without obtaining a  
7 permit or shoreline setback variance as otherwise required by  
8 this chapter.

9       (e) The lead agency may adopt, amend, or repeal rules to  
10 implement the purposes of this section."

11       SECTION 2. Section 205A-1, Hawaii Revised Statutes, is  
12 amended to read as follows:

13       "**§205A-1 Definitions.** As used in this chapter, unless the  
14 context otherwise requires:

15       "Agency" means any agency, board, commission, department,  
16 or officer of a county government or the state government,  
17 including the authority as defined in part II[†].

18       "Artificial light" or "artificial lighting" means the light  
19 emanating from any fixed human-made device.

20       "Coastal zone management area" means all lands of the State  
21 and the area extending seaward from the shoreline to the limit



1 of the State's police power and management authority, including  
2 the United States territorial sea[+].

3 "Coastal zone management program" means the comprehensive  
4 statement in words, maps, or other permanent media of  
5 communication, prepared, approved for submission, and amended by  
6 the State and approved by the United States government pursuant  
7 to Public Law No. 92-583, as amended, and the federal  
8 regulations adopted pursuant thereto, which describes  
9 objectives, policies, laws, standards, and procedures to guide  
10 and regulate public and private uses in the coastal zone  
11 management area, provided [~~however~~] that the "coastal zone  
12 management program" is consistent with the intent, purpose, and  
13 provisions of this chapter[+].

14 "Directly illuminate" means to illuminate through the use  
15 of a glowing element, lamp, globe, or reflector of an artificial  
16 light source.

17 "Land" means the earth, water, and air above, below, or on  
18 the surface[+].

19 "Lead agency" means the office of planning[+].

20 "Notice" unless otherwise indicated means publication in  
21 the periodic bulletin published by the office of environmental  
22 quality control, pursuant to section 343-3.



1 "Ocean waters" means all waters seaward of the shoreline  
2 within the jurisdiction of the State.

3 "Person" means an individual, corporation, or partnership,  
4 and an organization or association, whether or not  
5 incorporated[+].

6 "Public advisory body" means the advisory body established  
7 in section 205A-3.5[+].

8 "Shoreline" means the upper reaches of the wash of the  
9 waves, other than storm and seismic waves, at high tide during  
10 the season of the year in which the highest wash of the waves  
11 occurs, usually evidenced by the edge of vegetation growth, or  
12 the upper limit of debris left by the wash of the waves.

13 "State consistency certification" means a statement by a  
14 state agency that it has completed the state consistency review  
15 and the development by a state agency on state land is  
16 consistent with section 205A-26(1), (2) (A), (2) (B), and (3) and  
17 with the objectives and policies of section 205A-2.

18 "State consistency review" means the review of a  
19 development by a state agency on state land for consistency with  
20 section 205A-26(1), (2) (A), (2) (B), and (3) and with the  
21 objectives and policies of section 205A-2."



1 SECTION 3. Section 205A-28, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "~~§~~205A-28 Permit required for development. [~~No~~] Except as  
4 provided by section 205A- , no development shall be allowed in  
5 any county within the special management area without obtaining  
6 a permit in accordance with this part."

7 SECTION 4. Section 205A-44, Hawaii Revised Statutes, is  
8 amended by amending subsection (b) to read as follows:

9 "(b) Except as provided in this section, structures are  
10 prohibited in the shoreline area without a variance pursuant to  
11 this part. Structures in the shoreline area shall not need a  
12 variance if:

- 13 (1) They were completed prior to June 22, 1970;
- 14 (2) They received either a building permit, board  
15 approval, or shoreline setback variance prior to June  
16 16, 1989;
- 17 (3) They are outside the shoreline area when they receive  
18 either a building permit or board approval;
- 19 (4) They are necessary for or ancillary to continuation of  
20 existing agriculture or aquaculture in the shoreline  
21 area on June 16, 1989;



1 (5) They are minor structures permitted under rules  
2 adopted by the department which do not affect beach  
3 processes or artificially fix the shoreline and do not  
4 interfere with public access or public views to and  
5 along the shoreline; [~~or~~]

6 (6) Work being done consists of maintenance, repair,  
7 reconstruction, and minor additions or alterations of  
8 legal boating, maritime, or watersports recreational  
9 facilities, which are publicly owned, and which result  
10 in little or no interference with natural shoreline  
11 processes; or

12 (7) They meet the requirements of section 205A- ;  
13 provided that permitted structures may be repaired, but shall  
14 not be enlarged within the shoreline area without a variance."

15 SECTION 5. Section 206E-8.5, Hawaii Revised Statutes, is  
16 amended by amending subsection (a) to read as follows:

17 "(a) Notwithstanding chapter 205A, except as provided for  
18 in section 205A- , all requests for developments within a  
19 special management area and shoreline setback variances for  
20 developments on any lands within a community development  
21 district, for which a community development plan has been  
22 developed and approved in accordance with section 206E-5, shall



1 be submitted to and reviewed by the lead agency as defined in  
2 chapter 205A. In community development districts for which a  
3 community development plan has not been developed and approved  
4 in accordance with section 206E-5, parts II and III of chapter  
5 205A shall continue to be administered by the applicable county  
6 authority until a community development plan for the district  
7 takes effect."

8 SECTION 6. Statutory material to be repealed is bracketed  
9 and stricken. New statutory material is underscored.

10 SECTION 7. This Act shall take effect on July 1, 2050.





**Report Title:**

Coastal Zone Management

**Description:**

Adds a new section to part II of chapter 205A, HRS, to provide a process for state consistency review and certification for development by a state agency on state land within the special management area. After a notice of state consistency certification is published in the periodic bulletin by the office of environmental quality control, or upon issuance of federal consistency concurrence, a development by a state agency on state land shall be allowed within a special management area without obtaining a special management area permit or shoreline setback variance as otherwise required by chapter 205A, HRS. Effective 07/01/2050. (SD1)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

