
A BILL FOR AN ACT

RELATING TO COASTAL ZONE MANAGEMENT.

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

1 SECTION 1. The legislature finds that currently shoreline
2 erosion rate data is available to the counties of Oahu, Maui,
3 and Kauai but is not available in the county of Hawaii.

4 The purpose of this Act is to:

5 (1) Amend the coastal zone management program's objectives
6 and policies;

7 (2) Amend the special management area law by, among other
8 things, requiring that any future development on a
9 subdivided lot take into account the long-term impact
10 of sea level rise and prohibiting the approval of
11 development unless adequate mitigation is required in
12 areas subject to coastal hazards; and

13 (3) By January 1, 2018, require counties with available
14 and reviewed shoreline erosion rate data to establish
15 shoreline setbacks using a method prescribed by the
16 department of land and natural resources.

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



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

3 "Agency" means any agency, board, commission, department,
4 or officer of a county government or the state government,
5 including the authority as defined in part II[+].

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

8 "Coastal hazards" includes tsunamis, hurricanes, wind,
9 storm waves, erosion, impacts related to sea level rise,
10 subsidence, and point and nonpoint source pollution.

11 "Coastal zone management area" means all lands of the State
12 and the area extending seaward from the shoreline to the limit
13 of the State's police power and management authority, including
14 the United States territorial sea[+].

15 "Coastal zone management program" means the comprehensive
16 statement in words, maps, or other permanent media of
17 communication, prepared, approved for submission, and amended by
18 the State and approved by the United States government pursuant
19 to Public Law No. 92-583, as amended, and the federal
20 regulations adopted pursuant thereto, which describes
21 objectives, policies, laws, standards, and procedures to guide



1 and regulate public and private uses in the coastal zone
2 management area, provided however the "coastal zone management
3 program" is consistent with the intent, purpose, and provisions
4 of this chapter[+]_.

5 "Directly illuminate" means to illuminate through the use
6 of a glowing element, lamp, globe, or reflector of an artificial
7 light source.

8 "Land" means the earth, water, and air above, below, or on
9 the surface[+]_.

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

11 "Ocean waters" means all waters seaward of the shoreline
12 within the jurisdiction of the State.

13 "Person" means an individual, corporation, or partnership,
14 and an organization or association, whether or not
15 incorporated[+]_.

16 "Public advisory body" means the advisory body established
17 in section 205A-3.5[+]_.

18 "Shoreline" means the upper reaches of the wash of the
19 waves, other than storm and seismic waves, at high tide during
20 the season of the year in which the highest wash of the waves



1 occurs, usually evidenced by the edge of vegetation growth, or
2 the upper limit of debris left by the wash of the waves."

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

5 "§205A-2 Coastal zone management program; objectives and
6 policies. (a) The objectives and policies in this section
7 shall apply to all parts of this chapter.

8 (b) Objectives.

9 (1) Recreational resources;

10 (A) Provide coastal recreational opportunities
11 accessible to the public.

12 (2) Historic resources;

13 (A) Protect, preserve, and, where desirable, restore
14 those natural and manmade historic and
15 prehistoric resources in the coastal zone
16 management area that are significant in Hawaiian
17 and American history and culture.

18 (3) Scenic and open space resources;

19 (A) Protect, preserve, and, where desirable, restore
20 or improve the quality of coastal scenic and open
21 space resources.



- 1 (4) Coastal ecosystems;
- 2 (A) Protect valuable coastal ecosystems, including
- 3 reefs, from disruption and minimize adverse
- 4 impacts on all coastal ecosystems.
- 5 (5) Economic uses;
- 6 (A) Provide public or private facilities and
- 7 improvements important to the State's economy in
- 8 suitable locations.
- 9 (6) Coastal hazards;
- 10 (A) Reduce hazard to life and property from [~~tsunami,~~
- 11 ~~storm waves, stream flooding, erosion,~~
- 12 ~~subsidence, and pollution.~~] coastal hazards.
- 13 (7) Managing development;
- 14 (A) Improve the development review process,
- 15 communication, and public participation in the
- 16 management of coastal resources and planning for
- 17 coastal hazards.
- 18 (8) Public participation;
- 19 (A) Stimulate public awareness, education, and
- 20 participation in coastal management.
- 21 (9) Beach protection;



1 (A) Protect beaches for public use and recreation.

2 (10) Marine resources;

3 (A) Promote the protection, use, and development of
4 marine and coastal resources to assure their
5 sustainability.

6 (c) Policies.

7 (1) Recreational resources;

8 (A) Improve coordination and funding of coastal
9 recreational planning and management; and

10 (B) Provide adequate, accessible, and diverse
11 recreational opportunities in the coastal zone
12 management area by:

13 (i) Protecting coastal resources uniquely suited
14 for recreational activities that cannot be
15 provided in other areas;

16 (ii) Requiring [~~replacement~~] restoration of
17 coastal resources having significant
18 recreational value including, but not
19 limited to coral reefs, surfing sites,
20 fishponds, and sand beaches, when such
21 resources will be unavoidably damaged by



1 development; or requiring reasonable
2 monetary compensation to the State for
3 recreation when [~~replacement~~] restoration is
4 not feasible or desirable;

5 (iii) Providing and managing adequate public
6 access, consistent with conservation of
7 natural resources, to and along shorelines
8 with recreational value;

9 (iv) Providing an adequate supply of shoreline
10 parks and other recreational facilities
11 suitable for public recreation;

12 (v) Ensuring public recreational uses of county,
13 state, and federally owned or controlled
14 shoreline lands and waters having
15 recreational value consistent with public
16 safety standards and conservation of natural
17 resources;

18 (vi) Adopting water quality standards and
19 regulating point and nonpoint sources of
20 pollution to protect, and where feasible,



- 1 restore the recreational value of coastal
2 waters;
- 3 (vii) Developing new shoreline recreational
4 opportunities, where appropriate, such as
5 artificial lagoons, artificial beaches, and
6 artificial reefs for surfing and fishing;
7 and
- 8 (viii) Encouraging reasonable dedication of
9 shoreline areas with recreational value for
10 public use as part of discretionary
11 approvals or permits by the land use
12 commission, board of land and natural
13 resources, and county authorities; and
14 crediting such dedication against the
15 requirements of section 46-6;
- 16 (2) Historic resources;
- 17 (A) Identify and analyze significant archaeological
18 resources;
- 19 (B) Maximize information retention through
20 preservation of remains and artifacts or salvage
21 operations; and



- 1 (C) Support state goals for protection, restoration,
2 interpretation, and display of historic
3 resources;
- 4 (3) Scenic and open space resources;
 - 5 (A) Identify valued scenic resources in the coastal
6 zone management area;
 - 7 (B) Ensure that new developments are compatible with
8 their visual environment by designing and
9 locating such developments to minimize the
10 alteration of natural landforms and existing
11 public views to and along the shoreline;
 - 12 (C) Preserve, maintain, and, where desirable, improve
13 and restore shoreline open space and scenic
14 resources; and
 - 15 (D) Encourage those developments that are not coastal
16 dependent to locate in inland areas;
- 17 (4) Coastal ecosystems;
 - 18 (A) Exercise an overall conservation ethic, and
19 practice stewardship in the protection, use, and
20 development of marine and coastal resources;



- 1 (B) Improve the technical basis for natural resource
2 management;
- 3 (C) Preserve valuable coastal ecosystems, including
4 coral reefs [7] and coastal dunes, of significant
5 biological or economic importance;
- 6 (D) Minimize disruption or degradation of coastal
7 water ecosystems by effective regulation of
8 stream diversions, channelization, and similar
9 land and water uses, recognizing competing water
10 needs; and
- 11 (E) Promote water quantity and quality planning and
12 management practices that reflect the tolerance
13 of fresh water and marine ecosystems and maintain
14 and enhance water quality through the development
15 and implementation of point and nonpoint source
16 water pollution control measures;
- 17 (5) Economic uses;
- 18 (A) Concentrate coastal dependent development in
19 appropriate areas;
- 20 (B) Ensure that coastal dependent development such as
21 harbors and ports, and coastal related



1 development such as visitor industry facilities
2 and energy generating facilities, are [~~located,~~
3 planned, designed, and constructed to minimize
4 exposure to coastal hazards and minimize adverse
5 social, visual, and environmental impacts in the
6 coastal zone management area; and

7 (C) Direct the location and expansion of coastal
8 [~~dependent developments~~] development to areas
9 presently designated and used for such
10 developments and permit reasonable long-term
11 growth at such areas, and permit coastal
12 [~~dependent~~] development outside of presently
13 designated areas when:

14 (i) Use of presently designated locations is not
15 feasible;

16 (ii) Adverse environmental effects are minimized;
17 and

18 (iii) The development is important to the State's
19 economy;

20 (6) Coastal hazards;



- 1 (A) Develop and communicate adequate information
- 2 about [~~storm wave, tsunami, flood, erosion,~~
- 3 ~~subsidence, and point and nonpoint source~~
- 4 ~~pollution~~] coastal hazards;
- 5 (B) Control development in areas subject to [~~storm~~
- 6 ~~wave, tsunami, flood, erosion, subsidence, and~~
- 7 ~~point and nonpoint source pollution~~] coastal
- 8 hazards;
- 9 (C) Ensure that developments comply with requirements
- 10 of the [~~Federal~~] National Flood Insurance
- 11 Program; and
- 12 (D) Prevent coastal flooding from inland projects.
- 13 (7) Managing development;
- 14 (A) Use, implement, and enforce existing law
- 15 effectively to the maximum extent possible in
- 16 managing present and future coastal zone
- 17 development;
- 18 (B) Facilitate timely processing of applications for
- 19 development permits and resolve overlapping or
- 20 conflicting permit requirements; and



- 1 (C) Communicate the potential [~~short~~] short- and
2 long-term impacts of proposed significant coastal
3 developments early in their life cycle and in
4 terms understandable to the public to facilitate
5 public participation in the planning and review
6 process;
- 7 (8) Public participation;
- 8 (A) Promote public involvement in coastal zone
9 management processes;
- 10 (B) Disseminate information on coastal management
11 issues by means of educational materials,
12 published reports, staff contact, and public
13 workshops for persons and organizations concerned
14 with coastal issues, developments, and government
15 activities; and
- 16 (C) Organize workshops, policy dialogues, and site-
17 specific mediations to respond to coastal issues
18 and conflicts;
- 19 (9) Beach protection;
- 20 (A) Locate new structures inland from the shoreline
21 [~~setback~~] area to conserve open space, minimize



- 1 interference with natural shoreline processes,
- 2 and minimize loss of improvements due to erosion;
- 3 (B) Prohibit construction of private erosion-
- 4 protection structures seaward of the shoreline,
- 5 except when they result in improved aesthetic and
- 6 engineering solutions to erosion at the sites and
- 7 do not interfere with existing recreational and
- 8 waterline activities;
- 9 (C) Minimize the construction of public erosion-
- 10 protection structures seaward of the shoreline;
- 11 (D) Prohibit private property owners from creating a
- 12 public nuisance by inducing or cultivating the
- 13 private property owner's vegetation in a beach
- 14 transit corridor; and
- 15 (E) Prohibit private property owners from creating a
- 16 public nuisance by allowing the private property
- 17 owner's unmaintained vegetation to interfere or
- 18 encroach upon a beach transit corridor;
- 19 (10) Marine resources;
- 20 (A) Ensure that the use and development of marine and
- 21 coastal resources are ecologically and



- 1 environmentally sound and economically
- 2 beneficial;
- 3 (B) Coordinate the management of marine and coastal
- 4 resources and activities to improve effectiveness
- 5 and efficiency;
- 6 (C) Assert and articulate the interests of the State
- 7 as a partner with federal agencies in the sound
- 8 management of ocean resources within the United
- 9 States exclusive economic zone;
- 10 (D) Promote research, study, and understanding of
- 11 ocean processes, marine life, and other ocean
- 12 resources to acquire and inventory information
- 13 necessary to understand how ocean development
- 14 activities relate to and impact [~~upon~~] ocean and
- 15 coastal resources; and
- 16 (E) Encourage research and development of new,
- 17 innovative technologies for exploring, using, or
- 18 protecting marine and coastal resources."

19 SECTION 4. Section 205A-22, Hawaii Revised Statutes, is
 20 amended by amending the definitions of "department",
 21 "development", "special management area emergency permit",



1 "special management area minor permit", "special management area
2 use permit", and "structure" to read as follows:

3 "Department" means the planning department in the counties
4 of Kauai, Maui, and Hawaii, and the department of [~~land~~
5 ~~utilization~~] planning and permitting in the city and county of
6 Honolulu, or other appropriate agency as designated by the
7 county councils.

8 "Development" means any of the uses, activities, or
9 operations on land or in or under water within a special
10 management area that are included below:

- 11 (1) Placement or erection of any solid material or any
12 gaseous, liquid, solid, or thermal waste;
- 13 (2) Grading, removing, dredging, mining, or extraction of
14 any materials;
- 15 (3) Change in the density or intensity of use of land,
16 including but not limited to the division or
17 subdivision of land;
- 18 (4) Change in the intensity of use of water, ecology
19 related thereto, or of access thereto; and
- 20 (5) Construction, reconstruction, [~~demolition,~~] or
21 alteration of the size of any structure.



- 1 "Development" does not include the following:
- 2 (1) Construction or reconstruction of a single-family
- 3 residence that is less than seven thousand five
- 4 hundred square feet of floor area and is not part of a
- 5 larger development;
- 6 (2) Repair or maintenance of roads and highways within
- 7 existing rights-of-way;
- 8 (3) Routine maintenance dredging of existing streams,
- 9 channels, and drainage ways;
- 10 (4) Repair and maintenance of underground utility lines,
- 11 including but not limited to water, sewer, power, and
- 12 telephone and minor appurtenant structures such as pad
- 13 mounted transformers and sewer pump stations;
- 14 (5) Zoning variances, except for height, density, parking,
- 15 and shoreline setback;
- 16 (6) Repair, maintenance, or interior alterations to
- 17 existing structures;
- 18 (7) Demolition or removal of structures, except those
- 19 structures located on any historic site as designated
- 20 in national or state registers;



- 1 (8) Use of any land for the purpose of cultivating,
2 planting, growing, and harvesting plants, crops,
3 trees, and other agricultural, horticultural, or
4 forestry products or animal husbandry, or aquaculture
5 or mariculture of plants or animals, or other
6 agricultural purposes;
- 7 (9) Transfer of title to land;
- 8 (10) Creation or termination of easements, covenants, or
9 other rights in structures or land;
- 10 (11) Final subdivision approval; provided that in counties
11 that may automatically approve tentative subdivision
12 applications as a ministerial act within a fixed time
13 of the submission of a preliminary plat map, unless
14 the director takes specific action, a special
15 management area use permit if required, shall be
16 processed concurrently with an application for
17 tentative subdivision approval or after tentative
18 subdivision approval and before final subdivision
19 approval;
- 20 (12) Subdivision of land into lots greater than twenty
21 acres in size;



- 1 (13) Subdivision of a parcel of land into four or fewer
2 parcels when no associated construction activities are
3 proposed; provided that any land that is so subdivided
4 shall not thereafter qualify for this exception with
5 respect to any subsequent subdivision of any of the
6 resulting parcels; provided further that any future
7 development on any of the resulting parcels would not
8 be located in areas significantly affected by sea
9 level rise over the typical lifespan of the structure
10 or facility, or fifty years, whichever is later;
- 11 (14) Installation of underground utility lines and
12 appurtenant aboveground fixtures less than four feet
13 in height along existing corridors;
- 14 (15) Structural and nonstructural improvements to existing
15 single-family residences, where otherwise permissible;
- 16 (16) Nonstructural improvements to existing commercial
17 structures; and
- 18 (17) Construction, installation, maintenance, repair, and
19 replacement of emergency management warning or signal
20 devices and sirens;



1 provided that whenever the authority finds that any excluded
2 use, activity, or operation may have a cumulative impact, or a
3 significant environmental or ecological effect on a special
4 management area, that use, activity, or operation shall be
5 defined as "development" for the purpose of this part.

6 "Special management area emergency permit" means an action
7 by the authority authorizing development in cases of emergency
8 requiring immediate action to prevent [~~substantial~~] significant
9 physical harm to persons or property or to allow the
10 reconstruction of structures damaged by [~~natural~~] coastal
11 hazards to their original form; provided that such structures
12 were previously found to be legal and in compliance with
13 requirements of the [~~Federal~~] National Flood Insurance Program.

14 "Special management area minor permit" means an action by
15 the authority authorizing development the valuation of which is
16 not in excess of \$500,000 and which has no [~~substantial~~]
17 significant adverse environmental or ecological effect, taking
18 into account potential cumulative effects.

19 "Special management area use permit" means an action by the
20 authority authorizing development the valuation of which exceeds
21 \$500,000 or which may have a [~~substantial~~] significant adverse



1 environmental or ecological effect, taking into account
2 potential cumulative effects.

3 "Structure" includes but is not limited to any building,
4 road, pipe, flume, conduit, siphon, aqueduct, telephone line,
5 [and] electrical power transmission and distribution line[-],
6 wall, revetment, and groin."

7 SECTION 5. Section 205A-26, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "§205A-26 Special management area guidelines. In
10 implementing this part, the authority shall adopt the following
11 guidelines for the review of developments proposed in the
12 special management area:

13 (1) All development in the special management area shall
14 be subject to reasonable terms and conditions set by
15 the authority in order to ensure:

16 (A) Adequate public access, by dedication or other
17 means, to and along the publicly owned or used
18 beaches, recreation areas, and natural reserves
19 is provided to the extent consistent with sound
20 conservation principles;



- 1 (B) Adequate and properly located public recreation
- 2 areas and wildlife preserves are reserved;
- 3 (C) Provisions are made for solid and liquid waste
- 4 treatment, disposition, and management which will
- 5 minimize adverse effects upon special management
- 6 area resources; and
- 7 (D) Alterations to existing land forms and
- 8 vegetation, except crops, and construction of
- 9 structures shall cause minimum adverse effect to
- 10 water resources and scenic and recreational
- 11 amenities and minimum danger of floods, wind
- 12 damage, wave damage, storm surge, landslides,
- 13 erosion, siltation, or failure in the event of
- 14 earthquake.
- 15 (2) No development shall be approved unless the authority
- 16 has first found:
- 17 (A) That the development will not have any
- 18 [~~substantial~~] significant adverse environmental
- 19 or ecological effect, except as such adverse
- 20 effect is minimized to the extent practicable and
- 21 clearly outweighed by public health, safety, or



1 compelling public interests. Such adverse
 2 effects shall include, but not be limited to, the
 3 potential cumulative impact of individual
 4 developments, each one of which taken in itself
 5 might not have a substantial adverse effect, and
 6 the elimination of planning options;

7 (B) That the development is consistent with the
 8 objectives, policies, and special management area
 9 guidelines of this chapter and any guidelines
 10 enacted by the legislature; [~~and~~]

11 (C) That the development is consistent with the
 12 county general plan and zoning. Such a finding
 13 of consistency does not preclude concurrent
 14 processing where a general plan or zoning
 15 amendment may also be required[-]; and

16 (D) Adequate mitigation, including adaptive or
 17 resilient design, is required of development
 18 located in areas subject to coastal hazards.

19 (3) The authority shall seek to minimize, where
 20 reasonable:



- 1 (A) Dredging, filling, or otherwise altering any bay,
2 estuary, salt marsh, river mouth, slough or
3 lagoon;
- 4 (B) Any development which would reduce the size of
5 any beach or other area usable for public
6 recreation;
- 7 (C) Any development which would reduce or impose
8 restrictions upon public access to tidal and
9 submerged lands, beaches, portions of rivers and
10 streams within the special management areas and
11 the mean high tide line where there is no beach;
- 12 (D) Any development which would substantially
13 interfere with or detract from the line of sight
14 toward the sea from the state highway nearest the
15 coast; and
- 16 (E) Any development which would adversely affect
17 water quality, existing areas of open water free
18 of visible structures, existing and potential
19 fisheries and fishing grounds, wildlife habitats,
20 or potential or existing agricultural uses of
21 land."



1 SECTION 6. Section 205A-41, Hawaii Revised Statutes, is
2 amended by adding a new definition to be appropriately inserted
3 and to read as follows:

4 "Department" means the planning department in the counties
5 of Kauai, Maui, and Hawaii, and the department of planning and
6 permitting in the city and county of Honolulu, or other
7 appropriate agency as designated by the county councils."

8 SECTION 7. Section 205A-43, Hawaii Revised Statutes, is
9 amended to read as follows:

10 **"§205A-43 Establishment of shoreline setbacks and duties**
11 **and powers of the department.** (a) Setbacks along shorelines
12 are established of not less than twenty feet [~~and not more than~~
13 ~~forty feet~~] inland from the shoreline. No later than January 1,
14 2018, in each county where shoreline erosion rate data is
15 available and has been reviewed for use by the department, the
16 shoreline setback line shall be established using a method to be
17 prescribed by the department, including but not limited to at
18 least fifty-year annual shoreline erosion rates and may be at
19 least sixty feet inland from the shoreline. The department
20 shall adopt rules pursuant to chapter 91[7] prescribing



1 procedures for determining the shoreline setback line and shall
2 enforce the shoreline setbacks and rules pertaining thereto.

3 (b) The powers and duties of the department shall
4 include [7] but not be limited to [+

5 ~~(1) The department shall adopt rules under chapter 91~~
6 ~~prescribing procedures for determining the shoreline~~
7 ~~setback line; and~~

8 ~~(2) The department shall review]~~ reviewing the plans of
9 all applicants who propose any structure, activity, or
10 facility that would be prohibited without a variance
11 pursuant to this part. The department may require
12 that the plans be supplemented by accurately mapped
13 data and photographs showing natural conditions and
14 topography relating to all existing and proposed
15 structures and activities."

16 SECTION 8. Section 205A-46, Hawaii Revised Statutes, is
17 amended by amending subsection (c) to read as follows:

18 "(c) No variance shall be granted unless appropriate
19 conditions are imposed:

20 (1) To maintain safe lateral access to and along the
21 shoreline or adequately compensate for its loss;



- 1 (2) To minimize risk of adverse impacts on beach
- 2 processes;
- 3 (3) To minimize risk of structures failing and becoming
- 4 loose rocks or rubble on public property; [~~and~~]
- 5 (4) To minimize adverse impacts on public views to, from,
- 6 and along the shoreline[~~-~~]; and
- 7 (5) To minimize adverse environmental or ecological
- 8 impacts to coastal ecosystems and marine resources."

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

11 SECTION 10. This Act shall take effect upon its approval.



Report Title:

Coastal Zone Management; Sea Level Rise Impacts; Shoreline Setbacks

Description:

Amends the coastal zone management program's objectives and policies. Amends the special management area law by: removing demolition of a structure from the definition of "development"; requiring that any future development on a subdivided lot takes into account the long-term impact of sea level rise; amending the definitions of "special management area emergency permit", "special management area minor permit", and "special management area use permit"; and prohibiting the approval of development unless adequate mitigation is required in areas subject to coastal hazards. By January 1, 2018, requires counties with available and reviewed shoreline erosion rate data to establish shoreline setbacks using a method prescribed by DLNR, which may be at least sixty feet inland from the shoreline. (SD1)

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

