
A BILL FOR AN ACT

RELATING TO COASTAL ZONE MANAGEMENT.

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

1 SECTION 1. Section 205A-43.5, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "(a) Prior to action on a variance application, the
4 authority shall hold a public hearing under chapter 91. By
5 adoption of rules under chapter 91, the authority may delegate
6 responsibility to the department. Public and private notice,
7 including reasonable notice to abutting property owners and
8 persons who have requested this notice, shall be provided, but a
9 public hearing may be waived prior to action on a variance
10 application for:

11 (1) Stabilization of shoreline erosion by the moving of
12 sand entirely on public lands;

13 (2) Protection of a legal structure costing more than
14 \$20,000; provided the structure is at risk of
15 immediate damage from shoreline erosion;

16 (3) Other structures or activities; provided that no
17 person or agency has requested a public hearing within



1 twenty-five calendar days after public notice of the
2 application; or

3 (4) Maintenance, repair, reconstruction, and minor
4 additions or alterations of legal boating, maritime,
5 or watersports recreational facilities, which result
6 in little or no interference with natural shoreline
7 processes[-];

8 provided that a public hearing shall not be waived for action on
9 a variance application for a seawall subject to section 205A-
10 46(d)."

11 SECTION 2. Section 205A-44, Hawaii Revised Statutes, is
12 amended by amending subsection (b) to read as follows:

13 "(b) Except as provided in this section, structures are
14 prohibited in the shoreline area without a variance pursuant to
15 this part. [~~Structures~~] Except as provided in section 205A-
16 46(d), structures in the shoreline area shall not need a
17 variance if:

- 18 (1) They were completed prior to June 22, 1970;
- 19 (2) They received either a building permit, board
20 approval, or shoreline setback variance prior to
21 June 16, 1989;



- 1 (3) They are outside the shoreline area when they receive
- 2 either a building permit or board approval;
- 3 (4) They are necessary for or ancillary to continuation of
- 4 existing agriculture or aquaculture in the shoreline
- 5 area on June 16, 1989;
- 6 (5) They are minor structures permitted under rules
- 7 adopted by the department which do not affect beach
- 8 processes or artificially fix the shoreline and do not
- 9 interfere with public access or public views to and
- 10 along the shoreline; or
- 11 (6) Work being done consists of maintenance, repair,
- 12 reconstruction, and minor additions or alterations of
- 13 legal boating, maritime, or watersports recreational
- 14 facilities, which are publicly owned, and which result
- 15 in little or no interference with natural shoreline
- 16 processes;
- 17 provided that permitted structures may be repaired, but shall
- 18 not be enlarged within the shoreline area without a variance."

19 SECTION 3. Section 205A-46, Hawaii Revised Statutes, is
20 amended to read as follows:



1 "§205A-46 Variances. (a) [A] Except as provided in
2 subsection (d), a variance may be granted for a structure or
3 activity otherwise prohibited in this part if the authority
4 finds in writing, based on the record presented, that the
5 proposed structure or activity is necessary for or ancillary to:

- 6 (1) Cultivation of crops;
- 7 (2) Aquaculture;
- 8 (3) Landscaping; provided that the authority finds that
9 the proposed structure or activity will not adversely
10 affect beach processes and will not artificially fix
11 the shoreline;
- 12 (4) Drainage;
- 13 (5) Boating, maritime, or watersports recreational
14 facilities;
- 15 (6) Facilities or improvements by public agencies or
16 public utilities regulated under chapter 269;
- 17 (7) Private facilities or improvements that are clearly in
18 the public interest;
- 19 (8) Private facilities or improvements which will neither
20 adversely affect beach processes nor artificially fix
21 the shoreline; provided that the authority also finds



1 that hardship will result to the applicant if the
2 facilities or improvements are not allowed within the
3 shoreline area;

4 (9) Private facilities or improvements that may
5 artificially fix the shoreline; provided that the
6 authority also finds that shoreline erosion is likely
7 to cause hardship to the applicant if the facilities
8 or improvements are not allowed within the shoreline
9 area, and the authority imposes conditions to prohibit
10 any structure seaward of the existing shoreline unless
11 it is clearly in the public interest; or

12 (10) Moving of sand from one location seaward of the
13 shoreline to another location seaward of the
14 shoreline; provided that the authority also finds that
15 moving of sand will not adversely affect beach
16 processes, will not diminish the size of a public
17 beach, and will be necessary to stabilize an eroding
18 shoreline.

19 (b) Hardship shall be defined in rules adopted by the
20 authority under chapter 91. Hardship shall not be determined as
21 a result of county zoning changes, planned development permits,



1 cluster permits, or subdivision approvals after June 16, 1989,
2 or as a result of any other permit or approval listed in rules
3 adopted by the authority.

4 (c) No variance shall be granted unless appropriate
5 conditions are imposed:

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

8 (2) To minimize risk of adverse impacts on beach
9 processes;

10 (3) To minimize risk of structures failing and becoming
11 loose rocks or rubble on public property; and

12 (4) To minimize adverse impacts on public views to, from,
13 and along the shoreline.

14 (d) No variance for the construction of a seawall in the
15 shoreline area shall be approved unless the applicant
16 demonstrates that the seawall is necessary to protect an
17 existing legal object, structure, or activity from damage due to
18 seawater inundation or shoreline erosion and the object or
19 structure cannot reasonably be protected by relocating it
20 outside of the shoreline area. In determining whether a



1 variance for a seawall may be approved, the authority shall
2 consider:

3 (1) The feasibility and cost of relocating the relevant
4 structures, objects, or activities outside of the
5 shoreline area;

6 (2) The likelihood that damage will occur if the seawall
7 is not constructed and the likely severity of that
8 damage; and

9 (3) The availability of alternate means to protect the
10 relevant objects, structures, or activities."

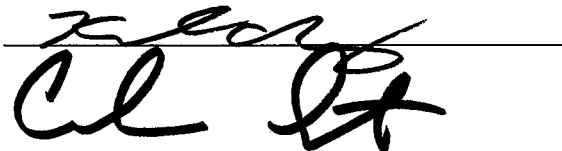
11 SECTION 4. This Act does not affect rights and duties that
12 matured, penalties that were incurred, and proceedings that were
13 begun before its effective date.

14 SECTION 5. Statutory material to be repealed is bracketed
15 and stricken. New statutory material is underscored.

16 SECTION 6. This Act shall take effect upon its approval.

17

INTRODUCED BY:



JAN 20 2017



H.B. NO. 437

Report Title:

Shoreline Area; Coastal Zone Management; Seawall

Description:

Prohibits construction of seawalls in shoreline areas without a public hearing and a showing that the seawall is necessary to protect an existing legal object, structure, or activity from damage due seawater inundation or shoreline erosion and no reasonable alternatives exist.

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