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# A BILL FOR AN ACT

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RELATING TO SPECIAL MANAGEMENT AREAS.

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

- 1       SECTION 1. The legislature finds that the special  
2 management areas law was established as part of the Shoreline  
3 Protection Act under Act 176, Session Laws of Hawaii 1975. The  
4 Act declared that it is state policy to preserve, protect, and  
5 where possible, restore the natural resources of the coastal  
6 zone of Hawaii.
- 7       The legislature further finds that due to a general sea  
8 level rise, coastal erosion has created the need to ensure that  
9 developments proposed within special management areas are  
10 appropriately reviewed and approved by counties, including minor  
11 residential developments. Special controls on development  
12 within areas along the shoreline are necessary in order to avoid  
13 permanent loss of valuable resources and to ensure sufficient  
14 access to public beaches, recreation areas, and natural  
15 reserves.
- 16       The purpose of this Act is to better manage development  
17 within special management areas by:



(1) Excluding the reconstruction or alteration of certain existing single-family residences, and authorizing county planning authorities to further define new single-family residence construction; and

(2) Requiring the county authorities to consider sea level rise when reviewing and approving all developments.

SECTION 2. Section 205A-22, Hawaii Revised Statutes, is amended as follows:

1. By adding a new definition to be appropriately inserted and to read:

"Single-family residence" means a structure used for residential habitation, and not for short-term transient vacation rental usage."

2. By amending the definition of "development" to read:

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

(1) Placement or erection of any solid material or any gaseous, liquid, solid, or thermal waste;

(2) Grading, removing, dredging, mining, or extraction of any materials;



1 (3) Change in the density or intensity of use of land,  
2 including but not limited to the division or  
3 subdivision of land;

4 (4) Change in the intensity of use of water, ecology  
5 related thereto, or of access thereto; and

6 (5) Construction, reconstruction, demolition, or  
7 alteration of the size of any structure.

8 "Development" does not include the following:

9 (1) [~~Construction or reconstruction~~] Reconstruction or  
10 alteration of [a] an existing single-family residence  
11 that is less than [seven thousand five hundred square  
12 feet of floor area] the valuation threshold for a  
13 special management area minor permit when cumulatively  
14 combined with other reconstruction ten years trailing  
15 and is not part of a larger development; provided that  
16 for the purposes of this paragraph, the authority may  
17 define new single-family residence construction taking  
18 into account its size, location relative to the  
19 shoreline, or any related characteristics which may  
20 not cumulatively and negatively impact the shoreline



1        area, yet provide for reasonable residential  
2        habitation;

3        (2) Repair or maintenance of roads and highways within  
4        existing rights-of-way;

5        (3) Routine maintenance dredging of existing streams,  
6        channels, and drainage ways;

7        (4) Repair and maintenance of underground utility lines,  
8        including but not limited to water, sewer, power, and  
9        telephone and minor appurtenant structures, such as  
10       pad mounted transformers and sewer pump stations;

11       (5) Zoning variances, except for height, density, parking,  
12       and shoreline setback;

13       (6) Repair, maintenance, or interior alterations to  
14       existing structures;

15       (7) Demolition or removal of structures, except those  
16       structures located on any historic site as designated  
17       in national or state registers;

18       (8) Use of any land for the purpose of cultivating,  
19       planting, growing, and harvesting plants, crops,  
20       trees, and other agricultural, horticultural, or  
21       forestry products or animal husbandry, or aquaculture



1 or mariculture of plants or animals, or other

2 agricultural purposes;

3 (9) Transfer of title to land;

4 (10) Creation or termination of easements, covenants, or

5 other rights in structures or land;

6 (11) Final subdivision approval; provided that in counties

7 that may automatically approve tentative subdivision

8 applications as a ministerial act within a fixed time

9 of the submission of a preliminary plat map, unless

10 the director takes specific action, a special

11 management area use permit if required, shall be

12 processed concurrently with an application for

13 tentative subdivision approval or after tentative

14 subdivision approval and before final subdivision

15 approval;

16 (12) Subdivision of land into lots greater than twenty

17 acres in size;

18 (13) Subdivision of a parcel of land into four or fewer

19 parcels when no associated construction activities are

20 proposed; provided that any land that is so subdivided

21 shall not thereafter qualify for this exception with



1           respect to any subsequent subdivision of any of the  
2           resulting parcels;

3       (14)   Installation of underground utility lines and  
4           appurtenant aboveground fixtures less than four feet  
5           in height along existing corridors;

6       (15)   Structural and nonstructural improvements to existing  
7           single-family residences, where otherwise permissible;

8       (16)   Nonstructural improvements to existing commercial  
9           structures; and

10      (17)   Construction, installation, maintenance, repair, and  
11           replacement of emergency management warning or signal  
12           devices and sirens;

13   provided that whenever the authority finds that any excluded  
14   use, activity, or operation may have a cumulative impact, or a  
15   significant environmental or ecological effect on a special  
16   management area, that use, activity, or operation shall be  
17   defined as "development" for the purpose of this part."

18       SECTION 3.   Section 205A-26, Hawaii Revised Statutes, is  
19   amended to read as follows:

20       "**§205A-26   Special management area guidelines.**   In  
21   implementing this part, the authority shall adopt the following



1 guidelines for the review of developments proposed in the  
2 special management area:

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

6 (A) Adequate access, by dedication or other means, to  
7 publicly owned or used beaches, recreation areas,  
8 and natural reserves is provided to the extent  
9 consistent with sound conservation principles;

10 (B) Adequate and properly located public recreation  
11 areas and wildlife preserves are reserved;

12 (C) Provisions are made for solid and liquid waste  
13 treatment, disposition, and management [~~which~~]  
14 that will minimize adverse effects upon special  
15 management area resources; and

16 (D) Alterations to existing land forms and  
17 vegetation, except crops, and construction of  
18 structures shall cause minimum adverse effect to  
19 water resources and scenic and recreational  
20 amenities and minimum danger of floods, wind  
21 damage, storm surge, landslides, erosion,



1           siltation, or failure in the event of  
2           earthquake[-];

3       (2) No development shall be approved unless the authority  
4       has first found:

5       (A) That the development will not have any  
6       substantial adverse environmental or ecological  
7       effect, except as such adverse effect is  
8       minimized to the extent practicable and clearly  
9       outweighed by public health, safety, or  
10      compelling public interests. Such adverse  
11      effects shall include[-] but not be limited to[-]  
12      the potential cumulative impact of individual  
13      developments, each one of which taken in itself  
14      might not have a substantial adverse effect, and  
15      the elimination of planning options;

16      (B) That the development is consistent with the  
17      objectives, policies, and special management area  
18      guidelines of this chapter and any guidelines  
19      enacted by the legislature; [and]

20      (C) That the development is consistent with the  
21      county general plan and zoning. Such a finding





1 of consistency does not preclude concurrent  
2 processing where a general plan or zoning  
3 amendment may also be required[-];

4 (D) That the applicant has considered the risk of sea  
5 level rise on the area of the development; and

6 (E) That the effect of sea level rise on the  
7 development during its normal useful life will be  
8 minimal; and

9 (3) The authority shall seek to minimize, where  
10 reasonable:

11 (A) Dredging, filling or otherwise altering any bay,  
12 estuary, salt marsh, river mouth, slough or  
13 lagoon;

14 (B) Any development [~~which~~] that would reduce the  
15 size of any beach or other area usable for public  
16 recreation;

17 (C) Any development [~~which~~] that would reduce or  
18 impose restrictions upon public access to tidal  
19 and submerged lands, beaches, portions of rivers  
20 and streams within the special management areas



1 and the mean high tide line where there is no  
2 beach;

3 (D) Any development [~~which~~] that would substantially  
4 interfere with or detract from the line of sight  
5 toward the sea from the state highway nearest the  
6 coast; and

7 (E) Any development [~~which~~] that would adversely  
8 affect water quality, existing areas of open  
9 water free of visible structures, existing and  
10 potential fisheries and fishing grounds, wildlife  
11 habitats, or potential or existing agricultural  
12 uses of land."

13 SECTION 4. Statutory material to be repealed is bracketed  
14 and stricken. New statutory material is underscored.

15 SECTION 5. This Act shall take effect on July 1, 2100;  
16 provided that section 2 shall take effect on January 1, 2020.



**Report Title:**

Special Management Areas; Development; Single-family Residences;  
Sea Level Rise; Authorities

**Description:**

Excludes the reconstruction or alteration of certain existing single-family residences from the definition of "development" for purposes of the special management areas law. Authorizes county planning authorities to further define new single-family residence construction. Requires the county authorities to consider sea level rise when reviewing and approving all developments. (SB2969 HD1)

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

