
A BILL FOR AN ACT

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 (1) Reducing the square footage threshold, and authorizing
2 county planning authorities to further reduce the
3 threshold, for a single-family residence that is not
4 part of a larger development to be excluded from the
5 special management areas law; and
- 6 (2) Requiring the county authorities to consider sea level
7 rise when reviewing and approving all developments.

8 SECTION 2. Section 205A-22, Hawaii Revised Statutes, is
9 amended by amending the definition of "development" to read as
10 follows:

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

- 14 (1) Placement or erection of any solid material or any
15 gaseous, liquid, solid, or thermal waste;
- 16 (2) Grading, removing, dredging, mining, or extraction of
17 any materials;
- 18 (3) Change in the density or intensity of use of land,
19 including but not limited to the division or
20 subdivision of land;



- 1 (4) Change in the intensity of use of water, ecology
2 related thereto, or of access thereto; and
3 (5) Construction, reconstruction, demolition, or
4 alteration of the size of any structure.

5 "Development" does not include the following:

- 6 (1) Construction or reconstruction of a single-family
7 residence that is less than [~~seven thousand five~~
8 ~~hundred~~] two thousand square feet of floor area and is
9 not part of a larger development; provided that for
10 purposes of this paragraph, the authority may
11 establish a maximum floor area square footage
12 requirement that is less than two thousand square
13 feet;
14 (2) Repair or maintenance of roads and highways within
15 existing rights-of-way;
16 (3) Routine maintenance dredging of existing streams,
17 channels, and drainage ways;
18 (4) Repair and maintenance of underground utility lines,
19 including but not limited to water, sewer, power, and
20 telephone and minor appurtenant structures, such as
21 pad mounted transformers and sewer pump stations;



- 1 (5) Zoning variances, except for height, density, parking,
2 and shoreline setback;
- 3 (6) Repair, maintenance, or interior alterations to
4 existing structures;
- 5 (7) Demolition or removal of structures, except those
6 structures located on any historic site as designated
7 in national or state registers;
- 8 (8) Use of any land for the purpose of cultivating,
9 planting, growing, and harvesting plants, crops,
10 trees, and other agricultural, horticultural, or
11 forestry products or animal husbandry, or aquaculture
12 or mariculture of plants or animals, or other
13 agricultural purposes;
- 14 (9) Transfer of title to land;
- 15 (10) Creation or termination of easements, covenants, or
16 other rights in structures or land;
- 17 (11) Final subdivision approval; provided that in counties
18 that may automatically approve tentative subdivision
19 applications as a ministerial act within a fixed time
20 of the submission of a preliminary plat map, unless
21 the director takes specific action, a special



1 management area use permit if required, shall be
2 processed concurrently with an application for
3 tentative subdivision approval or after tentative
4 subdivision approval and before final subdivision
5 approval;

6 (12) Subdivision of land into lots greater than twenty
7 acres in size;

8 (13) Subdivision of a parcel of land into four or fewer
9 parcels when no associated construction activities are
10 proposed; provided that any land that is so subdivided
11 shall not thereafter qualify for this exception with
12 respect to any subsequent subdivision of any of the
13 resulting parcels;

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

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

19 (16) Nonstructural improvements to existing commercial
20 structures; and



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

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

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

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

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

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



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

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

(D) Alterations to existing land forms and vegetation, except crops, and construction of structures shall cause minimum adverse effect to water resources and scenic and recreational amenities and minimum danger of floods, wind damage, storm surge, landslides, erosion, siltation, or failure in the event of earthquake[-];

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

(A) That the development will not have any substantial adverse environmental or ecological effect, except as such adverse effect is minimized to the extent practicable and clearly outweighed by public health, safety, or



1 compelling public interests. Such adverse
2 effects shall include[7] but not be limited to[7]
3 the 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[-];

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

18 (E) That the effect of sea level rise on the
19 development during its normal useful life will be
20 minimal; and



1 (3) The authority shall seek to minimize, where
2 reasonable:

3 (A) Dredging, filling or otherwise altering any bay,
4 estuary, salt marsh, river mouth, slough or
5 lagoon;

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

9 (C) Any development [~~which~~] that would reduce or
10 impose restrictions upon public access to tidal
11 and submerged lands, beaches, portions of rivers
12 and streams within the special management areas
13 and the mean high tide line where there is no
14 beach;

15 (D) Any development [~~which~~] that would substantially
16 interfere with or detract from the line of sight
17 toward the sea from the state highway nearest the
18 coast; and

19 (E) Any development [~~which~~] that would adversely
20 affect water quality, existing areas of open
21 water free of visible structures, existing and



1 potential fisheries and fishing grounds, wildlife
2 habitats, or potential or existing agricultural
3 uses of land."

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

6 SECTION 5. This Act shall take effect on July 1, 2050.



Report Title:

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

Description:

Reduces the size threshold, and authorizes the county planning authority to further reduce the threshold, for a single-family residence that is not part of a larger development to be excluded from the definition of "development" for purposes of the special management areas law. Requires the county authorities to consider sea level rise when reviewing and approving all developments. Takes effect on 7/1/2050. (SD2)

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