

DAVID Y. IGE  
GOVERNOR OF  
HAWAII



**STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621  
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**SUZANNE D. CASE**  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

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FIRST DEPUTY

**JEFFREY T. PEARSON, P.E.**  
DEPUTY DIRECTOR - WATER

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BOATING AND OCEAN RECREATION  
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COMMISSION ON WATER RESOURCE MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
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FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

**Testimony of  
SUZANNE D. CASE  
Chairperson**

**Before the Senate Committee on  
WATER AND LAND**

**Wednesday, February 28, 2018  
2:45 P.M.  
State Capitol, Conference Room 224**

**In consideration of  
SEANTE BILL 2969, SENATE DRAFT 1  
RELATING TO SPECIAL MANAGEMENT AREAS**

Senate Bill 2969, Senate Draft 1 proposes to reduce the size threshold for a single-family residence that is not part of a larger development to be deemed a "development" for purposes of the Special Management Areas (SMA) Law. **The Department of Land and Natural Resources (Department) supports this measure and offers the following comments.**

In December 2017, the Hawaii Climate Change Mitigation and Adaptation Commission accepted the Hawaii Sea Level Rise Vulnerability and Adaptation Report (SLR Report). Recommendation 2.7 "Requires the design and siting of planned development and capital improvement projects to include an in-depth analysis of sea level rise impacts based on elevation, tolerance for risk, and the lifetime of the structure;" and recommendation 2.10, "Integrate sea level rise vulnerability considerations into the Hawaii Coastal Zone Management (CZM) act." The SLR Report further recommends:

"Consider language that results in more restrictive conditions on variances and SMA permits or modifying laws and rules to make variances and permits more difficult to obtain within the Sea Level Rise Vulnerability Area (which coincides with the SMA boundaries in many cases)."

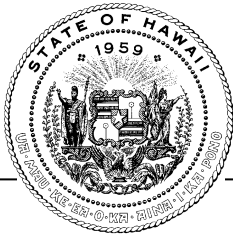
The SMA permit was established by way of Act 176, Session Laws of Hawaii 1975, known as the Shoreline Protection Act. The Legislature in enacting PART II of Chapter 205A, Hawaii Revised Statutes (HRS), found that:

. . . special controls on developments within an area along the shoreline are necessary to avoid permanent losses of valuable resources and the foreclosure of management options, and to ensure that adequate access, by dedication or other means, to public owned or used beaches, recreation areas, and natural reserves is provided.

The Legislature further found and declared that it is state policy to preserve, protect, and where possible, to restore the natural resources of the coastal zone of Hawai'i. pursuant to Section 205A-5, HRS, all state and county agencies shall enforce the CZM objectives and policies defined in Section 205A-2, HRS.

Senate Bill 2969, Senate Draft 1 would require large home development within the SMA to undergo a more rigorous evaluation in regards to existing CZM objectives and policies. This is a step in the right direction. However, current CZM objectives and policies do not require an analysis of sea level rise vulnerability. One of the Department's main concerns over large slab on grade development within the SMA and SLR Exposure Area is that it contributes to, rather than ameliorates, community vulnerability. If this Committee intends to move this measure forward, the Department suggests that it take this opportunity to include language in Chapter 205A, HRS, under policies and objectives, which requires developers and builders to consider sea level rise risks within the evaluation of SMA Use Permits.

Thank you for the opportunity to comment on this measure.



# OFFICE OF PLANNING STATE OF HAWAII

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DAVID Y. IGE  
GOVERNOR

LEO R. ASUNCION  
DIRECTOR  
OFFICE OF PLANNING

Statement of  
**LEO R. ASUNCION**  
Director, Office of Planning  
before the  
**SENATE COMMITTEE ON WATER AND LAND**  
Wednesday, February 28, 2018  
2:45 PM  
State Capitol, Conference Room 224

in consideration of  
**SB 2969, SD1**  
**RELATING TO SPECIAL MANAGEMENT AREAS.**

Chair Rhoads, Vice Chair Gabbard, and Members of the Senate Committee on Water and Land.

SB 2969, SD1 proposes to amend the floor area threshold for a single-family residence from 7,500 square feet to 2,750 square feet, on the list of “not development” under Hawaii Revised Statutes (HRS) § 205A-22 for exemption from Special Management Area (SMA) Permitting.

The Office of Planning (OP) respectfully offers the following comments on SB 2969, SD1:

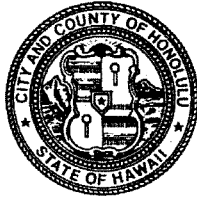
1. The proposed reduction in the floor area threshold of a single-family residence will offer further opportunity for the county planning departments to assess potential cumulative impacts, or significant environmental or ecological effects from construction or reconstruction of a single-family residence on a SMA.
2. OP recommends that determination for whether the proposed size threshold from SB 2969, SD1 is appropriate for construction or reconstruction of a single-family residence to be exempted from the requirements of SMA permit remain with the county authorities.

Thank you for the opportunity to offer comments on this measure.

DEPARTMENT OF PLANNING AND PERMITTING  
**CITY AND COUNTY OF HONOLULU**

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KIRK CALDWELL  
MAYOR



KATHY K. SOKUGAWA  
ACTING DIRECTOR

TIMOTHY F. T. HIU  
DEPUTY DIRECTOR

EUGENE H. TAKAHASHI  
DEPUTY DIRECTOR

February 28, 2018

The Honorable Karl Rhoads, Chair  
and Members of the Committee on Water and Land  
Hawaii State Senate  
Hawaii State Capitol  
415 South Beretania Street  
Honolulu, Hawaii 96813

Dear Chair Rhoads and Committee Members:

**Subject:** Senate Bill No. 2969, SD 1  
Relating to Special Management Areas

The Department of Planning and Permitting (DPP) **supports the intent** of Senate Bill No. 2969, SD 1, which reduces the threshold for a single-family residence that is not part of a larger development to be excluded from the definition of "development" for the purposes of the Special Management Area (SMA) law.

We agree that the current 7,500-square-foot threshold for SMA permits is too large. However, the proposed 2,750-square-foot threshold may be too small. The City is currently considering new zoning regulations for "super-sized homes." Given the same public concern regarding the effect of large homes, whether on the shoreline or elsewhere, it may be useful to adopt the same threshold and trigger for "development" in the SMA. Under pending Bill 110 (2017), the City Council is considering a temporary limit defined by floor area ratio; this would make allowances for homes on large lots. Under adopted Resolution 17-276, permanent regulations for large homes would be determined by the number of bedrooms; although final regulations may reflect other standards.

While reducing the threshold may deter some property owners from proposing very large houses, given the property values of beachfront lots, we do not expect many to be deterred. Those who can afford beachfront property will also be able to afford the consultants needed to prepare SMA applications. Thus, the DPP expects that decreasing the threshold will increase the number of permit applications that will need to be processed.

The Honorable Karl Rhoads, Chair  
and Members of the Committee on Water and Land  
Hawaii State Senate  
February 28, 2018  
Senate Bill No. 2969, SD 1  
Page 2

Thank you for the opportunity to testify.

Very truly yours,

A handwritten signature in black ink, appearing to read "Kathy K. Sokugawa". The signature is fluid and cursive, with a long horizontal stroke at the end.

Kathy K. Sokugawa  
Acting Director

**LATE**

**SB-2969-SD-1**

Submitted on: 2/27/2018 3:49:07 PM  
Testimony for WTL on 2/28/2018 2:45:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Planning	Testifying for County of Maui-Dept. of Planning	Comments	No

Comments:

February 27, 2018

Honorable Karl Rhoads, Chair  
and Members of the Senate Committee on Water and Land  
State Capitol  
Honolulu, Hawaii 96813

**RE: Senate Bill 2969 (2018), Senate Draft 1, Relating to Special Management Areas; Hearing Scheduled for 2:45 p.m., February 28, 2018**

Dear Chair Rhoads and Committee Members:

Thank you for the opportunity to provide comments on SB2969, SD1, which would provide that the construction of a single-family residence of 2,750 square feet or larger in any Special Management Area would be a "development" requiring an SMA permit.

The current threshold is 7,500 square feet. By lowering the threshold so significantly, this bill would have the effect of subjecting more residential projects to the permitting processes of the Planning Department-staffed Lanai Planning Commission, Maui Planning Commission, and Molokai Planning Commission (all composed of volunteers) and of the other counties' SMA authorities.

This burden on SMA authorities and on residential applicants does not appear warranted. Notwithstanding the bill's stated purpose of addressing sea-level rise and coastal erosion, many of these projects will have no impact on the shoreline. We support more direct and efficient means to "strengthen coastal-zone management," which is a policy of the Maui County General Plan. In addition, there is not necessarily a relationship between a project's square footage and its potential impact on the shoreline.

If the Legislature determines it advisable to lower the threshold, we would suggest 5,000 square feet as a reasonable compromise.

We have another suggested amendment, if this bill advances.

Maui County currently interprets "a single family residence" and the 7,500 s.f. size limitation to include a single-family dwelling and all structures customarily associated with (accessory to) residential use, such as garages and carports, sheds, and swimming pools. In Maui County, the zoning code allows in many zoning districts one "accessory dwelling" of limited size, which we consider to be a residential accessory use, and therefore include it in the statute's "single family residence" exemption and size limitation. We suggest an amendment to clarify "single-family residence" includes (in the exemption and size limitation) accessory residential structures and one accessory dwelling.

Thank you for your consideration of my testimony.

Sincerely,

WILLIAM R. SPENCE

Planning Director, County of Maui

**Bernard P. Carvalho, Jr.**  
Mayor



**Michael A. Dahilig**  
Director of Planning

**Wallace G. Rezentes, Jr.**  
Managing Director

**Ka'āina S. Hull**  
Deputy Director of Planning

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**LATE**

Testimony before the Senate Committee on Water and Land  
SB2969 Relating to Special Management Areas

February 28, 2016 at 2:45pm Conference Room 224

By Michael A. Dahilig  
Director of Planning, County of Kauai

Chair Rhoads and Honorable Members of the Committee:

On behalf of the County of Kaua'i Planning Department, I offer testimony in **SUPPORT** of this measure as it addresses a persistent issue concerning the incremental hardening of our shorelines. The large massing and scale of exempt single family in our near shore area is running contrary to many of the stated policies related to shoreline retreat, adaptation, and letting natural beach processes run their course.

We would suggest language be added to the bill to allow each county, by rule, provide for an even lesser square footage trigger threshold beyond that proposed in the measure.

We respectfully request the committee **APPROVES** the measure, and forward to the next Committee for consideration. Mahalo for your consideration.



**LATE**

**SB-2969-SD-1**

Submitted on: 2/28/2018 11:36:46 AM  
Testimony for WTL on 2/28/2018 2:45:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Gladys Quinto Marrone	Testifying for BIA Hawaii	Oppose	No

Comments: