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# 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 the coastal zone  
2 management program was established pursuant to Act 188, Session  
3 Laws of Hawaii 1977. The Act declared that it is state policy  
4 to:
- 5           (1) Protect, preserve, and where desirable, restore or  
6           improve the quality of coastal scenic and open space  
7           resources;
- 8           (2) Protect valuable coastal ecosystems from disruption  
9           and minimize adverse impacts on all coastal  
10           ecosystems;
- 11           (3) Reduce hazards to life and property from tsunami,  
12           storm waves, stream flooding, erosion, and subsidence;  
13           and
- 14           (4) Improve the development review process, communication,  
15           and public participation in the management of coastal  
16           resources and hazards.



1           The legislature also finds that a 2012 collaborative study  
2 by the United States Geological Survey and the University of  
3 Hawaii indicates that seventy per cent of beaches in Hawaii are  
4 undergoing a trend of chronic sand loss and shoreline retreat.  
5 Further, more than thirteen miles of beach in the State have  
6 been completely lost to erosion fronting seawalls and  
7 revetments. The Hawaii sea level rise vulnerability and  
8 adaptation report, accepted in 2017 by the Hawaii climate change  
9 mitigation and adaptation commission, finds that with just 1.1  
10 feet of sea level rise, many more miles of beach could be lost  
11 to erosion if widespread shoreline armoring is allowed. This  
12 could mean a loss of five miles of beach on Kauai, seven miles  
13 of beach on Oahu, and eight miles of beach on Maui. Based on  
14 its findings, the report recommends enabling beaches to persist  
15 with sea level rise and suggests integrating sea level rise  
16 considerations into Hawaii's laws regarding coastal zone  
17 management.

18           The legislature further finds that the convergence of dense  
19 development along shorelines, increasing landward migration of  
20 shoreline due to sea level rise and other human and natural  
21 impacts, and extensive beach loss fronting shoreline armoring



1 necessitates revision of existing policies and regulations.  
2 Revision of these existing policies and regulations would both  
3 protect beaches and other coastal environments from further  
4 degradation and reduce the exposure of shorefront communities to  
5 increasing erosion and flooding hazards caused by sea level  
6 rise.

7 The legislature also finds that a recent study by the  
8 University of Hawaii coastal geology group identified several  
9 primary causes for the State's failure to meet coastal zone  
10 management policy objectives. Specifically, the study found  
11 that current policies, ordinances, and practices allow for:

12 (1) The hardening of shorelines through a hardship  
13 variance that is granted based upon demonstrated  
14 hardship brought on by coastal erosion. When granted,  
15 these hardship variances set into motion a cycle of  
16 shoreline armoring that causes "flanking", or  
17 amplified erosion, on properties adjacent to armored  
18 shorelines. This continuous cycle of hardening and  
19 flanking can extend along an entire beach and, in a  
20 section of northeast Oahu, approximately forty-five  
21 per cent of observed shoreline hardening was



1 implemented in response to adjacent hardening. This  
2 cycle, caused by a combination of beach erosion and  
3 coastal policy, has resulted in the narrowing and even  
4 elimination of beaches to the extent that they can no  
5 longer be used for public recreation or cultural  
6 practice; and

- 7 (2) Renovation and expansion of single-family homes in  
8 erosion and flood-prone coastal areas, thereby  
9 extending building lifetimes indefinitely and allowing  
10 for virtually complete coverage of coastal parcels by  
11 these structures. The average building surface area  
12 increased by twenty per cent following the  
13 establishment of the State's coastal zone management  
14 program and, combined with sea level rise, this  
15 development increases the likelihood of mass  
16 structural failure and deposit of debris on public  
17 beaches.

18 The purpose of this Act is to strengthen coastal zone  
19 management policy by amending chapter 205A, Hawaii Revised  
20 Statutes, to protect state beaches and to reduce residential  
21 exposure to coastal hazards.



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

4 "Beach" means a coastal landform primarily composed of  
5 sand from eroded rock, coral, or shell material, or any  
6 combination thereof, that is established and shaped by wave  
7 action and tidal processes. "Beach" includes sand deposits in  
8 nearshore submerged areas, or sand dunes or upland beach  
9 deposits landward of the shoreline, that provide benefits for  
10 public use and recreation, for coastal ecosystems, and as a  
11 natural buffer against coastal hazards.

12 "Coastal hazards" means any tsunami, hurricane, wind, wave,  
13 storm surges, high tide, flooding, erosion, sea level rise,  
14 subsidence, or point and nonpoint source pollution."

15 SECTION 3. Section 205A-2, Hawaii Revised Statutes, is  
16 amended by amending subsections (b) and (c) to read as follows:

17 "(b) Objectives.

18 (1) Recreational resources;

19 (A) Provide coastal recreational opportunities  
20 accessible to the public.

21 (2) Historic resources;



1 (A) Protect, preserve, and, where desirable, restore  
2 those natural and manmade historic and  
3 prehistoric resources in the coastal zone  
4 management area that are significant in Hawaiian  
5 and American history and culture.

6 (3) Scenic and open space resources;

7 (A) Protect, preserve, and, where desirable, restore  
8 or improve the quality of coastal scenic and open  
9 space resources.

10 (4) Coastal ecosystems;

11 (A) Protect valuable coastal ecosystems, including  
12 reefs, beaches, and coastal dunes, from  
13 disruption and minimize adverse impacts on all  
14 coastal ecosystems.

15 (5) Economic uses;

16 (A) Provide public or private facilities and  
17 improvements important to the State's economy in  
18 suitable locations.

19 (6) Coastal hazards;



- 1 (A) Reduce hazard to life and property from [~~tsunami,~~  
2 ~~storm waves, stream flooding, erosion,~~  
3 ~~subsidence, and pollution.~~] coastal hazards.
- 4 (7) Managing development;
- 5 (A) Improve the development review process,  
6 communication, and public participation in the  
7 management of coastal resources and hazards.
- 8 (8) Public participation;
- 9 (A) Stimulate public awareness, education, and  
10 participation in coastal management.
- 11 (9) Beach protection;
- 12 (A) Protect beaches and coastal dunes for [~~public~~]:  
13 (i) Public use and recreation[-];  
14 (ii) The benefit of coastal ecosystems; and  
15 (iii) Natural buffers against coastal hazards; and
- 16 (B) Coordinate and fund beach management and  
17 protection.
- 18 (10) Marine and coastal resources;
- 19 (A) Promote the protection, use, and development of  
20 marine and coastal resources to assure their  
21 sustainability.



- 1 (c) Policies.
- 2 (1) Recreational resources;
- 3 (A) Improve coordination and funding of coastal
- 4 recreational planning and management; and
- 5 (B) Provide adequate, accessible, and diverse
- 6 recreational opportunities in the coastal zone
- 7 management area by:
- 8 (i) Protecting coastal resources uniquely suited
- 9 for recreational activities that cannot be
- 10 provided in other areas;
- 11 (ii) Requiring [~~replacement~~] restoration of
- 12 coastal resources [~~having~~] that have
- 13 significant recreational and ecosystem
- 14 value, including [~~7~~] but not limited to coral
- 15 reefs, surfing sites, fishponds, [~~and~~] sand
- 16 beaches, and coastal dunes, when [~~such~~]
- 17 these resources will be unavoidably damaged
- 18 by development; or requiring [~~reasonable~~]
- 19 monetary compensation to the State for
- 20 recreation when [~~replacement~~] restoration is
- 21 not feasible or desirable;





- 1           (iii) Providing and managing adequate public  
2           access, consistent with conservation of  
3           natural resources, to and along shorelines  
4           with recreational value;
- 5           (iv) Providing an adequate supply of shoreline  
6           parks and other recreational facilities  
7           suitable for public recreation;
- 8           (v) Ensuring public recreational uses of county,  
9           state, and federally owned or controlled  
10          shoreline lands and waters having  
11          recreational value consistent with public  
12          safety standards and conservation of natural  
13          resources;
- 14          (vi) Adopting water quality standards and  
15          regulating point and nonpoint sources of  
16          pollution to protect, and where feasible,  
17          restore the recreational value of coastal  
18          waters;
- 19          (vii) Developing new shoreline recreational  
20          opportunities, where appropriate, such as  
21          artificial lagoons, artificial beaches, and



- 1                   artificial reefs for surfing and fishing;  
2                   and  
3                   (viii) Encouraging reasonable dedication of  
4                   shoreline areas with recreational value for  
5                   public use as part of discretionary  
6                   approvals or permits by the land use  
7                   commission, board of land and natural  
8                   resources, and county authorities; and  
9                   crediting such dedication against the  
10                  requirements of section 46-6;  
11                  (2) Historic resources;  
12                   (A) Identify and analyze significant archaeological  
13                   resources;  
14                   (B) Maximize information retention through  
15                   preservation of remains and artifacts or salvage  
16                   operations; and  
17                   (C) Support state goals for protection, restoration,  
18                   interpretation, and display of historic  
19                   resources;  
20                  (3) Scenic and open space resources;



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



- 1 importance[+], including reefs, beaches, and  
2 dunes;
- 3 (D) Minimize disruption or degradation of coastal  
4 water ecosystems by effective regulation of  
5 stream diversions, channelization, and similar  
6 land and water uses, recognizing competing water  
7 needs; and
- 8 (E) Promote water quantity and quality planning and  
9 management practices that reflect the tolerance  
10 of fresh water and marine ecosystems and maintain  
11 and enhance water quality through the development  
12 and implementation of point and nonpoint source  
13 water pollution control measures;
- 14 (5) Economic uses;
- 15 (A) Concentrate coastal dependent development in  
16 appropriate areas;
- 17 (B) Ensure that coastal dependent development [~~such~~  
18 ~~as harbors and ports,~~] and coastal related  
19 development [~~such as visitor industry facilities~~  
20 ~~and energy generating facilities,~~] are located,  
21 designed, and constructed to minimize exposure to



1           coastal hazards and adverse social, visual, and  
2           environmental impacts in the coastal zone  
3           management area; and

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

11           (i) Use of ~~[presently]~~ designated locations is  
12           not feasible;

13           (ii) Adverse environmental effects and risks from  
14           coastal hazards are minimized; and

15           (iii) The development is important to the State's  
16           economy;

17          (6) Coastal hazards;

18           (A) Develop and communicate adequate information  
19           about ~~[storm wave, tsunami, flood, erosion,~~  
20           ~~subsidence, and point and nonpoint source~~  
21           ~~pollution]~~ the risks of coastal hazards;



- 1 (B) Control development, including planning and  
2 zoning control, in areas subject to [~~storm wave,~~  
3 ~~tsunami, flood, erosion, hurricane, wind,~~  
4 ~~subsidence, and point and nonpoint source~~  
5 ~~pollution~~] coastal hazards;
- 6 (C) Ensure that developments comply with requirements  
7 of the [~~Federal Flood Insurance Program,~~]  
8 National Flood Insurance Program; and
- 9 (D) Prevent coastal flooding from inland projects;
- 10 (7) Managing development;
- 11 (A) Use, implement, and enforce existing law  
12 effectively to the maximum extent possible in  
13 managing present and future coastal zone  
14 development;
- 15 (B) Facilitate timely processing of applications for  
16 development permits and resolve overlapping or  
17 conflicting permit requirements; and
- 18 (C) Communicate the potential short and long-term  
19 impacts of proposed significant coastal  
20 developments early in their life cycle and in  
21 terms understandable to the public to facilitate



- 1 public participation in the planning and review  
2 process;
- 3 (8) Public participation;
- 4 (A) Promote public involvement in coastal zone  
5 management processes;
- 6 (B) Disseminate information on coastal management  
7 issues by means of educational materials,  
8 published reports, staff contact, and public  
9 workshops for persons and organizations concerned  
10 with coastal issues, developments, and government  
11 activities; and
- 12 (C) Organize workshops, policy dialogues, and site-  
13 specific mediations to respond to coastal issues  
14 and conflicts;
- 15 (9) Beach protection;
- 16 (A) Locate new structures inland from the shoreline  
17 setback to conserve open space, minimize  
18 interference with natural shoreline processes,  
19 and minimize loss of improvements due to erosion;
- 20 (B) Prohibit construction of private [~~erosion-~~  
21 ~~protection~~] shoreline hardening structures



1           ~~[seaward of the shoreline, except when they~~  
2           ~~result in improved aesthetic and engineering~~  
3           ~~solutions to erosion at the sites and do not],~~  
4           including seawalls and revetments, at sites  
5           having sand beaches and at sites where shoreline  
6           hardening structures interfere with existing  
7           recreational and waterline activities;  
8           (C) Minimize the construction of public ~~[erosion-~~  
9           ~~protection]~~ shoreline hardening structures  
10           ~~[seaward of the shoreline;],~~ including seawalls  
11           and revetments, at sites having sand beaches and  
12           at sites where shoreline hardening structures  
13           interfere with existing recreational and  
14           waterline activities;  
15           (D) Minimize grading of and damage to coastal dunes;  
16           ~~[-(D)]~~ (E) Prohibit private property owners from  
17           creating a public nuisance by inducing or  
18           cultivating the private property owner's  
19           vegetation in a beach transit corridor; and  
20           ~~[-(E)]~~ (F) Prohibit private property owners from  
21           creating a public nuisance by allowing the





1 private property owner's unmaintained vegetation  
2 to interfere or encroach upon a beach transit  
3 corridor;

4 (10) Marine and coastal resources;

5 (A) Ensure that the use and development of marine and  
6 coastal resources are ecologically and  
7 environmentally sound and economically  
8 beneficial;

9 (B) Coordinate the management of marine and coastal  
10 resources and activities to improve effectiveness  
11 and efficiency;

12 (C) Assert and articulate the interests of the State  
13 as a partner with federal agencies in the sound  
14 management of ocean resources within the United  
15 States exclusive economic zone;

16 (D) Promote research, study, and understanding of  
17 ocean and coastal processes, impacts of climate  
18 change and sea level rise, marine life, and other  
19 ocean resources to acquire and inventory  
20 information necessary to understand how [ocean]



1           coastal development activities relate to and  
2           impact [~~upon~~] ocean and coastal resources; and  
3           (E) Encourage research and development of new,  
4           innovative technologies for exploring, using, or  
5           protecting marine and coastal resources."

6           SECTION 4. Section 205A-22, Hawaii Revised Statutes, is  
7 amended as follows:

8           1. By amending the definition of "department" to read:  
9            "Department" means the planning department [~~in~~] of the  
10 counties of Kauai, Maui, and Hawaii and the department of  
11 planning and permitting in the city and county of Honolulu, or  
12 other appropriate agency as designated by the county councils."

13           2. By amending the definition of "development" to read:  
14            "Development" means any of the uses, activities, or  
15 operations on land or in or under water within a special  
16 management area that are included below:

- 17           (1) Placement or erection of any solid material or any  
18           gaseous, liquid, solid, or thermal waste;
- 19           (2) Grading, removing, dredging, mining, or extraction of  
20           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 of a single-family  
10 residence that is less than seven thousand five  
11 hundred square feet of floor area, is not situated on  
12 a shoreline parcel or a parcel that is impacted by  
13 waves, storm surges, high tide, or shoreline erosion,  
14 and is not part of a larger development;

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

17 (3) Routine maintenance dredging of existing streams,  
18 channels, and drainage ways;

19 (4) Repair and maintenance of underground utility lines,  
20 including but not limited to water, sewer, power, and



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



1 ~~of the submission of a preliminary plat map, unless~~  
2 ~~the director takes specific action, a special~~  
3 ~~management area use permit if required, shall be~~  
4 ~~processed concurrently with an application for~~  
5 ~~tentative subdivision approval or after tentative~~  
6 ~~subdivision approval and before final subdivision~~  
7 ~~approval;~~

8 ~~(12)]~~ (11) Subdivision of land into lots greater than  
9 twenty acres in size;

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

16 ~~[(14)]~~ (13) Installation of underground utility lines and  
17 appurtenant aboveground fixtures less than four feet  
18 in height along existing corridors;

19 ~~[(15)]~~ (14) Structural and nonstructural improvements to  
20 existing single-family residences, where otherwise  
21 permissible;



1       ~~[(16)]~~ (15) Nonstructural improvements to existing  
2               commercial or noncommercial structures; and  
3       ~~[(17)]~~ (16) Construction, installation, maintenance, repair,  
4               and replacement of emergency management warning or  
5               signal devices and sirens;  
6 provided that whenever the authority finds that any excluded  
7 use, activity, or operation may have a cumulative impact, or a  
8 significant environmental or ecological effect on a special  
9 management area, that use, activity, or operation shall be  
10 defined as "development" for the purpose of this part."

11           3. By amending the definition of "special management area  
12 emergency permit" to read:

13           ""Special management area emergency permit" means an action  
14 by the authority authorizing development in cases of emergency  
15 requiring immediate action to prevent substantial physical harm  
16 to persons or property or to allow the reconstruction of  
17 structures damaged by natural hazards to their original form;  
18 provided that ~~[such]~~ those structures were previously found to  
19 be in compliance with requirements of the ~~[Federal Flood~~  
20 ~~Insurance Program.]~~ National Flood Insurance Program."



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

3 "§205A-26 Special management area guidelines. In  
4 implementing this part, the authority shall adopt the following  
5 guidelines for the review of developments proposed in the  
6 special management area:

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

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

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

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

20 (D) Alterations to existing land forms and  
21 vegetation, except crops, and construction of



1 structures shall cause minimum adverse effect to  
2 water resources, beaches, coastal dunes, and  
3 scenic and recreational amenities and [~~minimum~~  
4 ~~danger of~~] minimize impacts from floods, wind  
5 damage, storm surge, landslides, erosion, sea  
6 level rise, siltation, or failure in the event of  
7 earthquake.

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

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





- 1 (B) That the development is consistent with the  
2 objectives, policies, and special management area  
3 guidelines of this chapter and any guidelines  
4 enacted by the legislature; and
- 5 (C) That the development is consistent with the  
6 county general plan, community plan, and zoning[  
7 ~~such~~]; provided that a finding of consistency  
8 does not preclude concurrent processing where a  
9 general plan, community plan, or zoning amendment  
10 may also be required.
- 11 (3) The authority shall seek to minimize, where  
12 reasonable:
- 13 (A) Dredging, filling or otherwise altering any bay,  
14 estuary, salt marsh, river mouth, slough or  
15 lagoon;
- 16 (B) Any development [~~which~~] that would reduce the  
17 size of any beach or other area usable for public  
18 recreation;
- 19 (C) Any development [~~which~~] that would reduce or  
20 impose restrictions upon public access to tidal  
21 and submerged lands, beaches, portions of rivers



1 and streams within the special management areas  
2 and the mean high tide line where there is no  
3 beach;

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

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

14 SECTION 6. Section 205A-29, Hawaii Revised Statutes, is  
15 amended by amending subsection (a) to read as follows:

16 "(a) The authority in each county, upon consultation with  
17 the central coordinating agency, shall adopt rules under  
18 chapter 91 setting the special management area use permit  
19 application procedures, conditions under which hearings must be  
20 held, and the time periods within which the hearing and action  
21 for special management area use permits shall occur. The



1 authority shall provide for adequate notice to individuals whose  
2 property rights may be adversely affected and to persons who  
3 have requested in writing to be notified of special management  
4 area use permit hearings or applications. The authority shall  
5 also provide public notice [~~statewide~~] that is, at a minimum,  
6 circulated throughout the county at least twenty days in advance  
7 of the hearing. The authority may require a reasonable filing  
8 fee which shall be used for the purposes set forth herein.

9 Any rule adopted by the authority shall be consistent with  
10 the objectives, policies, and special management area guidelines  
11 provided in this chapter. Action on the special management  
12 permit shall be final unless otherwise mandated by court order."

13 SECTION 7. Section 205A-43, Hawaii Revised Statutes, is  
14 amended by amending subsection (a) to read as follows:

15 "(a) Setbacks along shorelines are established of not less  
16 than [~~twenty feet and not more than~~] forty feet inland from the  
17 shoreline. The department shall adopt rules pursuant to chapter  
18 91, and shall enforce the shoreline setbacks and rules  
19 pertaining thereto."

20 SECTION 8. Section 205A-43.5, Hawaii Revised Statutes, is  
21 amended by amending subsection (a) to read as follows:



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

- 9           (1) Stabilization of shoreline erosion by the moving of  
10 sand entirely on public lands;
- 11           (2) Protection of a legal structure [~~existing more than~~  
12 \$20,000,] or public facility, including any facility  
13 owned by a public utility that is regulated pursuant  
14 to chapter 269, that does not fix the shoreline, under  
15 an emergency authorization issued by the authority;  
16 provided that the structure or public facility is at  
17 risk of immediate damage from shoreline erosion[~~]~~ and  
18 the authorization does not exceed three years;
- 19           (3) Other structures or activities; provided that no  
20 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~~] that  
6           result in little or no interference with natural  
7           shoreline processes."

8           SECTION 9. Section 205A-44, Hawaii Revised Statutes, is  
9           amended by amending subsection (b) to read as follows:

10           "(b) Except as provided in this section, structures are  
11           prohibited in the shoreline area without a variance pursuant to  
12           this part. Structures in the shoreline area shall not need a  
13           variance if:

- 14           (1) They were completed prior to June 22, 1970;
- 15           (2) They received either a building permit, board  
16           approval, or shoreline setback variance prior to June  
17           16, 1989;
- 18           (3) They are outside the shoreline area when they receive  
19           either a building permit or board approval;



1 (4) They are necessary for or ancillary to continuation of  
2 existing agriculture or aquaculture in the shoreline  
3 area on June 16, 1989;

4 (5) They are minor structures permitted under rules  
5 adopted by the department which do not affect beach  
6 processes or artificially fix the shoreline and do not  
7 interfere with public access or public views to and  
8 along the shoreline; or

9 (6) Work being done consists of maintenance, repair,  
10 [~~reconstruction,~~] and minor additions or alterations  
11 of legal boating, maritime, or watersports  
12 recreational facilities, which are publicly owned, and  
13 which result in little or no interference with natural  
14 shoreline processes;

15 provided that permitted structures may be repaired, but shall  
16 not be enlarged, rebuilt, or replaced within the shoreline area  
17 without a variance."

18 SECTION 10. Section 205A-46, Hawaii Revised Statutes, is  
19 amended as follows:

20 1. By amending subsection (a) to read:



1           "(a) A variance may be granted for a structure or activity  
2 otherwise prohibited in this part if the authority finds in  
3 writing, based on the record presented, that the proposed  
4 structure or activity is necessary for or ancillary to:

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



- 1 ~~finds that]~~ may consider any hardship that will result  
2 to the applicant if the facilities or improvements are  
3 not allowed within the 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]~~ may consider hardship to the applicant if  
8 the facilities or improvements are not allowed within  
9 the shoreline area ~~[, and the authority imposes~~  
10 ~~conditions to prohibit any structure seaward of the~~  
11 ~~existing shoreline unless it is clearly in the public~~  
12 ~~interest, or]~~; provided further that a variance to  
13 artificially fix the shoreline shall not be granted in  
14 areas with sand beaches or where artificially fixing  
15 the shoreline may interfere with existing recreational  
16 and waterline activities unless the granting of the  
17 variance is clearly demonstrated to be in the interest  
18 of the general public;
- 19 (10) Moving of sand from one location seaward of the  
20 shoreline to another location seaward of the  
21 shoreline; provided that the authority also finds that





1 moving of sand will not adversely affect beach  
2 processes, will not diminish the size of a public  
3 beach, and will be necessary to stabilize an eroding  
4 shoreline."

5 2. By amending subsection (c) to read:

6 "(c) No variance shall be granted unless appropriate  
7 conditions are imposed:

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

10 (2) To minimize risk of adverse impacts on beach  
11 processes;

12 (3) To minimize risk of structures failing and becoming  
13 loose rocks, sharp or otherwise dangerous debris, or  
14 rubble on public property; and

15 (4) To minimize adverse impacts on public views to, from,  
16 and along the shoreline."

17 SECTION 11. Section 205A-62, Hawaii Revised Statutes, is  
18 amended to read as follows:

19 "**§205A-62 Duties and responsibilities of the lead agency.**

20 The lead agency shall have the following duties and  
21 responsibilities:



- 1 (1) Coordinate overall implementation of the plan, giving  
2 special consideration to the plan's priority  
3 recommendations;
- 4 (2) Review and periodically update the plan;
- 5 (3) Coordinate the development of state agency work plans  
6 to implement the ocean resources management plan. The  
7 work plans shall be revised on a biennial basis and  
8 coordinated with the budget process. State agencies  
9 with responsibilities relating to marine and coastal  
10 zone management include but are not limited to:
- 11 (A) The department of agriculture;
- 12 (B) The department of business, economic development,  
13 and tourism;
- 14 (C) The department of defense;
- 15 (D) The department of education;
- 16 [~~(D)~~] (E) The department of health;
- 17 [~~(E)~~] (F) The department of land and natural  
18 resources;
- 19 [~~(F)~~] (G) The department of public safety;
- 20 [~~(G)~~] (H) The department of transportation; and
- 21 [~~(H)~~] (I) The University of Hawaii;



- 1           (4) Ensure that state agency work plans are closely  
2                   coordinated with the work plans of relevant federal  
3                   and county agencies;
- 4           (5) Analyze, resolve conflicts between, and prioritize, in  
5                   cooperation with relevant agencies and as part of the  
6                   work plan development process, the sector-specific  
7                   recommendations included in the plan;
- 8           (6) Coordinate exclusive economic zone and other marine-  
9                   related issues with state and county agencies;
- 10          (7) Provide technical assistance to the agencies on policy  
11                   and issue-related matters regarding marine and coastal  
12                   resources management;
- 13          (8) Coordinate marine and coastal education activities;  
14                   and
- 15          (9) Adopt rules pursuant to chapter 91 to carry out the  
16                   purposes of this part."

17           SECTION 12. This Act does not affect rights and duties  
18 that matured, penalties that were incurred, and proceedings that  
19 were begun before its effective date.

20           SECTION 13. Statutory material to be repealed is bracketed  
21 and stricken. New statutory material is underscored.



1 SECTION 14. This Act shall take effect on July 1, 2050.



**Report Title:**

Office of Planning; Coastal Zone Management; Sea Level Rise;  
Coastal Erosion

**Description:**

Amends coastal zone management laws to further protect against  
impacts of sea level rise and coastal erosion. Effective  
7/1/2050. (HD1)

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

