
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 three new definitions to be appropriately
3 inserted and to read as follows:

4 "Authority" means the county planning commission, except
5 in counties where the county planning commission is advisory
6 only, in which case "authority" means the county council or such
7 body as the council may by ordinance designate. The authority
8 may, as appropriate, delegate the responsibility for
9 administering this chapter.

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

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



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

3 "(b) Objectives.

4 (1) Recreational resources;

5 (A) Provide coastal recreational opportunities
6 accessible to the public.

7 (2) Historic resources;

8 (A) Protect, preserve, and, where desirable, restore
9 those natural and manmade historic and
10 prehistoric resources in the coastal zone
11 management area that are significant in Hawaiian
12 and American history and culture.

13 (3) Scenic and open space resources;

14 (A) Protect, preserve, and, where desirable, restore
15 or improve the quality of coastal scenic and open
16 space resources.

17 (4) Coastal ecosystems;

18 (A) Protect valuable coastal ecosystems, including
19 reefs, beaches, and coastal dunes, from
20 disruption and minimize adverse impacts on all
21 coastal ecosystems.



- 1 (5) Economic uses;
- 2 (A) Provide public or private facilities and
- 3 improvements important to the State's economy in
- 4 suitable locations.
- 5 (6) Coastal hazards;
- 6 (A) Reduce hazard to life and property from [~~tsunami,~~
- 7 ~~storm waves, stream flooding, erosion,~~
- 8 ~~subsidence, and pollution.~~] coastal hazards.
- 9 (7) Managing development;
- 10 (A) Improve the development review process,
- 11 communication, and public participation in the
- 12 management of coastal resources and hazards.
- 13 (8) Public participation;
- 14 (A) Stimulate public awareness, education, and
- 15 participation in coastal management.
- 16 (9) Beach and coastal dune protection;
- 17 (A) Protect beaches and coastal dunes for [~~public~~]:
- 18 (i) Public use and recreation[~~+~~];
- 19 (ii) The benefit of coastal ecosystems; and
- 20 (iii) Use as natural buffers against coastal
- 21 hazards; and



- 1 (B) Coordinate and fund beach management and
- 2 protection.
- 3 (10) Marine and coastal resources;
- 4 (A) Promote the protection, use, and development of
- 5 marine and coastal resources to assure their
- 6 sustainability.
- 7 (c) Policies.
- 8 (1) Recreational resources;
- 9 (A) Improve coordination and funding of coastal
- 10 recreational planning and management; and
- 11 (B) Provide adequate, accessible, and diverse
- 12 recreational opportunities in the coastal zone
- 13 management area by:
- 14 (i) Protecting coastal resources uniquely suited
- 15 for recreational activities that cannot be
- 16 provided in other areas;
- 17 (ii) Requiring [~~replacement~~] restoration of
- 18 coastal resources [~~having~~] that have
- 19 significant recreational and ecosystem
- 20 value, including[7] but not limited to coral
- 21 reefs, surfing sites, fishponds, [~~and~~] sand



1 beaches, and coastal dunes, when [~~such~~]
2 these resources will be unavoidably damaged
3 by development; or requiring [~~reasonable~~]
4 monetary compensation to the State for
5 recreation when [~~replacement~~] restoration is
6 not feasible or desirable;

7 (iii) Providing and managing adequate public
8 access, consistent with conservation of
9 natural resources, to and along shorelines
10 with recreational value;

11 (iv) Providing an adequate supply of shoreline
12 parks and other recreational facilities
13 suitable for public recreation;

14 (v) Ensuring public recreational uses of county,
15 state, and federally owned or controlled
16 shoreline lands and waters having
17 recreational value consistent with public
18 safety standards and conservation of natural
19 resources;

20 (vi) Adopting water quality standards and
21 regulating point and nonpoint sources of



1 pollution to protect, and where feasible,
2 restore the recreational value of coastal
3 waters;

4 (vii) Developing new shoreline recreational
5 opportunities, where appropriate, such as
6 artificial lagoons, artificial beaches, and
7 artificial reefs for surfing and fishing;
8 and

9 (viii) Encouraging reasonable dedication of
10 shoreline areas with recreational value for
11 public use as part of discretionary
12 approvals or permits by the land use
13 commission, board of land and natural
14 resources, and county authorities; and
15 crediting [~~such~~] that dedication against the
16 requirements of section 46-6;

17 (2) Historic resources;

18 (A) Identify and analyze significant archaeological
19 resources;



- 1 (B) Maximize information retention through
- 2 preservation of remains and artifacts or salvage
- 3 operations; and
- 4 (C) Support state goals for protection, restoration,
- 5 interpretation, and display of historic
- 6 resources;
- 7 (3) Scenic and open space resources;
- 8 (A) Identify valued scenic resources in the coastal
- 9 zone management area;
- 10 (B) Ensure that new developments are compatible with
- 11 their visual environment by designing and
- 12 locating [~~such~~] those developments to minimize
- 13 the alteration of natural landforms and existing
- 14 public views to and along the shoreline;
- 15 (C) Preserve, maintain, and, where desirable, improve
- 16 and restore shoreline open space and scenic
- 17 resources; and
- 18 (D) Encourage those developments that are not coastal
- 19 dependent to locate in inland areas;
- 20 (4) Coastal ecosystems;



- 1 (A) Exercise an overall conservation ethic, and
- 2 practice stewardship in the protection, use, and
- 3 development of marine and coastal resources;
- 4 (B) Improve the technical basis for natural resource
- 5 management;
- 6 (C) Preserve valuable coastal ecosystems [~~including~~
- 7 ~~reefs,~~] of significant biological or economic
- 8 importance [~~+~~], including reefs, beaches, and
- 9 dunes;
- 10 (D) Minimize disruption or degradation of coastal
- 11 water ecosystems by effective regulation of
- 12 stream diversions, channelization, and similar
- 13 land and water uses, recognizing competing water
- 14 needs; and
- 15 (E) Promote water quantity and quality planning and
- 16 management practices that reflect the tolerance
- 17 of fresh water and marine ecosystems and maintain
- 18 and enhance water quality through the development
- 19 and implementation of point and nonpoint source
- 20 water pollution control measures;
- 21 (5) Economic uses;



- 1 (A) Concentrate coastal dependent development in
- 2 appropriate areas;
- 3 (B) Ensure that coastal dependent development [~~such~~
- 4 ~~as harbors and ports,~~] and coastal related
- 5 development [~~such as visitor industry facilities~~
- 6 ~~and energy generating facilities,~~] are located,
- 7 designed, and constructed to minimize exposure to
- 8 coastal hazards and adverse social, visual, and
- 9 environmental impacts in the coastal zone
- 10 management area; and
- 11 (C) Direct the location and expansion of coastal
- 12 [~~dependent developments~~] development to areas
- 13 [~~presently~~] designated and used for [~~such~~
- 14 ~~developments~~] that development and permit
- 15 reasonable long-term growth at [~~such~~] those
- 16 areas, and permit coastal [~~dependent~~] development
- 17 outside of [~~presently~~] designated areas when:
- 18 (i) Use of [~~presently~~] designated locations is
- 19 not feasible;
- 20 (ii) Adverse environmental effects and risks from
- 21 coastal hazards are minimized; and



- 1 (iii) The development is important to the State's
- 2 economy;
- 3 (6) Coastal hazards;
- 4 (A) Develop and communicate adequate information
- 5 about [~~storm wave, tsunami, flood, erosion,~~
- 6 ~~subsidence, and point and nonpoint source~~
- 7 ~~pollution~~] the risks of coastal hazards;
- 8 (B) Control development, including planning and
- 9 zoning control, in areas subject to [~~storm wave,~~
- 10 ~~tsunami, flood, erosion, hurricane, wind,~~
- 11 ~~subsidence, and point and nonpoint source~~
- 12 ~~pollution~~] coastal hazards;
- 13 (C) Ensure that developments comply with requirements
- 14 of the [~~Federal~~] National Flood Insurance
- 15 Program; and
- 16 (D) Prevent coastal flooding from inland projects;
- 17 (7) Managing development;
- 18 (A) Use, implement, and enforce existing law
- 19 effectively to the maximum extent possible in
- 20 managing present and future coastal zone
- 21 development;



- 1 (B) Facilitate timely processing of applications for
- 2 development permits and resolve overlapping or
- 3 conflicting permit requirements; and
- 4 (C) Communicate the potential short and long-term
- 5 impacts of proposed significant coastal
- 6 developments early in their life cycle and in
- 7 terms understandable to the public to facilitate
- 8 public participation in the planning and review
- 9 process;
- 10 (8) Public participation;
- 11 (A) Promote public involvement in coastal zone
- 12 management processes;
- 13 (B) Disseminate information on coastal management
- 14 issues by means of educational materials,
- 15 published reports, staff contact, and public
- 16 workshops for persons and organizations concerned
- 17 with coastal issues, developments, and government
- 18 activities; and
- 19 (C) Organize workshops, policy dialogues, and site-
- 20 specific mediations to respond to coastal issues
- 21 and conflicts;



- 1 (9) Beach protection;
- 2 (A) Locate new structures inland from the shoreline
- 3 setback to conserve open space, minimize
- 4 interference with natural shoreline processes,
- 5 and minimize loss of improvements due to erosion;
- 6 (B) Prohibit construction of private [~~erosion-~~
- 7 ~~protection~~] shoreline hardening structures
- 8 [~~seaward of the shoreline, except when they~~
- 9 ~~result in improved aesthetic and engineering~~
- 10 ~~solutions to erosion at the sites and do not~~],
- 11 including seawalls and revetments, at sites
- 12 having sand beaches and at sites where shoreline
- 13 hardening structures interfere with existing
- 14 recreational and waterline activities;
- 15 (C) Minimize the construction of public [~~erosion-~~
- 16 ~~protection~~] shoreline hardening structures
- 17 [~~seaward of the shoreline~~], including seawalls
- 18 and revetments, at sites having sand beaches and
- 19 at sites where shoreline hardening structures
- 20 interfere with existing recreational and
- 21 waterline activities;



1 (D) Minimize grading of and damage to coastal dunes;

2 [~~(D)~~] (E) Prohibit private property owners from
3 creating a public nuisance by inducing or
4 cultivating the private property owner's
5 vegetation in a beach transit corridor; and

6 [~~(E)~~] (F) Prohibit private property owners from
7 creating a public nuisance by allowing the
8 private property owner's unmaintained vegetation
9 to interfere or encroach upon a beach transit
10 corridor; and

11 (10) Marine and coastal resources;

12 (A) Ensure that the use and development of marine and
13 coastal resources are ecologically and
14 environmentally sound and economically
15 beneficial;

16 (B) Coordinate the management of marine and coastal
17 resources and activities to improve effectiveness
18 and efficiency;

19 (C) Assert and articulate the interests of the State
20 as a partner with federal agencies in the sound



1 management of ocean resources within the United
2 States exclusive economic zone;

3 (D) Promote research, study, and understanding of
4 ocean and coastal processes, impacts of climate
5 change and sea level rise, marine life, and other
6 ocean resources to acquire and inventory
7 information necessary to understand how [~~ocean~~]
8 coastal development activities relate to and
9 impact [~~upon~~] ocean and coastal resources; and

10 (E) Encourage research and development of new,
11 innovative technologies for exploring, using, or
12 protecting marine and coastal resources."

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

15 1. By amending the definition of "department" to read:

16 ""Department" means the planning department [~~is~~] of the
17 counties of Kauai, Maui, and Hawaii and the department of
18 planning and permitting [~~is~~] of the city and county of Honolulu,
19 or other appropriate agency as designated by the county
20 councils."

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



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

- 4 (1) Placement or erection of any solid material or any
5 gaseous, liquid, solid, or thermal waste;
- 6 (2) Grading, removing, dredging, mining, or extraction of
7 any materials;
- 8 (3) Change in the density or intensity of use of land,
9 including but not limited to the division or
10 subdivision of land;
- 11 (4) Change in the intensity of use of water, ecology
12 related thereto, or of access thereto; and
- 13 (5) Construction, reconstruction, [~~demolition,~~] or
14 alteration of the size of any structure.

15 "Development" does not include the following:

- 16 (1) Construction or reconstruction of a single-family
17 residence that is less than seven thousand five
18 hundred square feet of floor area, is not situated on
19 a shoreline parcel or a parcel that is impacted by
20 waves, storm surges, high tide, or shoreline erosion,
21 and is not part of a larger development;



- 1 (2) Repair or maintenance of roads and highways within
- 2 existing rights-of-way;
- 3 (3) Routine maintenance dredging of existing streams,
- 4 channels, and drainage ways;
- 5 (4) Repair and maintenance of underground utility lines,
- 6 including but not limited to water, sewer, power, and
- 7 telephone and minor appurtenant structures such as pad
- 8 mounted transformers and sewer pump stations;
- 9 (5) Zoning variances, except for height, density, parking,
- 10 and shoreline setback;
- 11 (6) Repair, maintenance, or interior alterations to
- 12 existing structures;
- 13 (7) Demolition or removal of structures, except those
- 14 structures located on any historic site as designated
- 15 in national or state registers;
- 16 (8) Use of any land for the purpose of cultivating,
- 17 planting, growing, and harvesting plants, crops,
- 18 trees, and other agricultural, horticultural, or
- 19 forestry products or animal husbandry, or aquaculture
- 20 or mariculture of plants or animals, or other
- 21 agricultural purposes;



- 1 (9) Transfer of title to land;
- 2 (10) Creation or termination of easements, covenants, or
- 3 other rights in structures or land;
- 4 ~~[(11) Final subdivision approval; provided that in counties~~
- 5 ~~that may automatically approve tentative subdivision~~
- 6 ~~applications as a ministerial act within a fixed time~~
- 7 ~~of the submission of a preliminary plat map, unless~~
- 8 ~~the director takes specific action, a special~~
- 9 ~~management area use permit if required, shall be~~
- 10 ~~processed concurrently with an application for~~
- 11 ~~tentative subdivision approval or after tentative~~
- 12 ~~subdivision approval and before final subdivision~~
- 13 ~~approval;~~
- 14 ~~+(12)]~~ (11) Subdivision of land into lots greater than
- 15 twenty acres in size;
- 16 ~~+(13)]~~ (12) Subdivision of a parcel of land into four or
- 17 fewer parcels when no associated construction
- 18 activities are proposed; provided that any land that
- 19 is so subdivided shall not thereafter qualify for this
- 20 exception with respect to any subsequent subdivision
- 21 of any of the resulting parcels;



1 [~~(14)~~] (13) Installation of underground utility lines and
2 appurtenant aboveground fixtures less than four feet
3 in height along existing corridors;

4 [~~(15)~~] (14) Structural and nonstructural improvements to
5 existing single-family residences, where otherwise
6 permissible;

7 [~~(16)~~] (15) Nonstructural improvements to existing
8 commercial or noncommercial structures; and

9 [~~(17)~~] (16) Construction, installation, maintenance, repair,
10 and replacement of emergency management warning or
11 signal devices and sirens;

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

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

19 ""Special management area emergency permit" means an action
20 by the authority authorizing development in cases of emergency
21 requiring immediate action to prevent substantial physical harm



1 to persons or property or to allow the reconstruction of
2 structures damaged by natural hazards to their original form;
3 provided that [~~such~~] those structures were previously found to
4 be in compliance with requirements of the [~~Federal~~] National
5 Flood Insurance Program."

6 4. By repealing the definition of "authority".

7 [~~"Authority" means the county planning commission, except~~
8 ~~in counties where the county planning commission is advisory~~
9 ~~only, in which case "authority" means the county council or such~~
10 ~~body as the council may by ordinance designate. The authority~~
11 ~~may, as appropriate, delegate the responsibility for~~
12 ~~administering this part."~~]

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

15 "**§205A-26 Special management area guidelines.** In
16 implementing this part, the authority shall adopt the following
17 guidelines for the review of developments proposed in the
18 special management area:

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



- 1 (A) Adequate access, by dedication or other means, to
2 publicly owned or used beaches, recreation areas,
3 and natural reserves is provided to the extent
4 consistent with sound conservation principles;
- 5 (B) Adequate and properly located public recreation
6 areas and wildlife preserves are reserved;
- 7 (C) Provisions are made for solid and liquid waste
8 treatment, disposition, and management [~~which~~
9 that will minimize adverse effects upon special
10 management area resources; and
- 11 (D) Alterations to existing land forms and
12 vegetation, except crops, and construction of
13 structures shall cause minimum adverse effect to
14 water resources, beaches, coastal dunes, and
15 scenic and recreational amenities and [~~minimum~~
16 ~~danger of~~] minimize impacts from floods, wind
17 damage, storm surge, landslides, erosion, sea
18 level rise, siltation, or failure in the event of
19 earthquake.
- 20 (2) No development shall be approved unless the authority
21 has first found:



- 1 (A) That the development will not have any
2 [~~substantial~~] significant adverse environmental
3 or ecological effect, except as [~~such~~] any
4 adverse effect is minimized to the extent
5 practicable and clearly outweighed by public
6 health, safety, or compelling public interests.
7 [~~Such~~] Those adverse effects shall include[~~7~~] but
8 not be limited to[~~7~~] the potential cumulative
9 impact of individual developments, each [~~one~~] of
10 which taken [~~in~~] by itself might not have a
11 [~~substantial~~] significant adverse effect, and the
12 elimination of planning options;
- 13 (B) That the development is consistent with the
14 objectives, policies, and special management area
15 guidelines of this chapter and any guidelines
16 enacted by the legislature; and
- 17 (C) That the development is consistent with the
18 county general plan, community plan, and zoning[~~-~~
19 ~~Such~~]; provided that a finding of consistency
20 [~~does~~] shall not preclude concurrent processing



1 where a general plan, community plan, or zoning
2 amendment may also be required.

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

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

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

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

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



1 (E) Any development [~~which~~] that would adversely
2 affect water quality, existing areas of open
3 water free of visible structures, existing and
4 potential fisheries and fishing grounds, wildlife
5 habitats, or potential or existing agricultural
6 uses of land."

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

9 "(a) The authority in each county, upon consultation with
10 the central coordinating agency, shall adopt rules under
11 chapter 91 setting the special management area use permit
12 application procedures, conditions under which hearings must be
13 held, and the time periods within which the hearing and action
14 for special management area use permits shall occur. The
15 authority shall provide for adequate notice to individuals whose
16 property rights may be adversely affected and to persons who
17 have requested in writing to be notified of special management
18 area use permit hearings or applications. The authority shall
19 also provide public notice [~~statewide~~] that is, at a minimum,
20 circulated throughout the county at least twenty days in advance



1 of the hearing. The authority may require a reasonable filing
2 fee which shall be used for the purposes set forth herein.

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

7 SECTION 7. Section 205A-41, Hawaii Revised Statutes, is
8 amended by adding a new definition to be appropriately inserted
9 and to read as follows:

10 "Department" means the planning department of the counties
11 of Kauai, Maui, and Hawaii and the department of planning and
12 permitting of the city and county of Honolulu, or other
13 appropriate agency as designated by the county councils."

14 SECTION 8. Section 205A-43, Hawaii Revised Statutes, is
15 amended by amending subsection (a) to read as follows:

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



1 SECTION 9. 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;~~] or public facility, including any facility
15 owned by a public utility that is regulated pursuant
16 to chapter 269, that does not fix the shoreline, under
17 an emergency authorization issued by the authority;
18 provided that the structure or public facility is at
19 risk of immediate damage from shoreline erosion[+] and
20 the authorization does not exceed three years;



1 (3) Other structures or activities; provided that no
2 person or agency has requested a public hearing within
3 twenty-five calendar days after public notice of the
4 application; or

5 (4) Maintenance, repair, reconstruction, and minor
6 additions or alterations of legal boating, maritime,
7 or watersports recreational facilities, [~~which~~] that
8 result in little or no interference with natural
9 shoreline processes."

10 SECTION 10. Section 205A-44, Hawaii Revised Statutes, is
11 amended by amending subsection (b) to read as follows:

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

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

20 (3) They are outside the shoreline area when they receive
21 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 11. 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; or

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 12. 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 13. 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 14. Statutory material to be repealed is bracketed
21 and stricken. New statutory material is underscored.



1 SECTION 15. This Act shall take effect upon its approval.



S.B. NO. 2060
S.D. 2
H.D. 2

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. (HD2)

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

SB2060 HD2 HMS 2020-2137

