

JAN 27 2021

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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 many beachfront  
2 homeowners in Hawaii have resorted to building seawalls, groins,  
3 revetments, sandbag walls (known locally as "burritos") or other  
4 shoreline hardening structures to stave off the local sea level  
5 rise, strong wave action, and coastal flooding along the coast.  
6 However, these structures accelerate coastal erosion in the  
7 areas they are meant to protect and further cause increased  
8 erosion in adjacent areas of the beach that do not have similar  
9 structures.

10       The legislature further finds that some of these shoreline  
11 hardening structures are built without permission, while others  
12 are built with emergency permits from the department of land and  
13 natural resources. Although these emergency permits are  
14 typically limited to three years, they are often granted endless  
15 extensions and the temporarily permitted structures generally  
16 are not removed after the expiration of the permit. What was  
17 originally intended to be a stopgap measure to help beachfront



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1 homeowners has instead become permanent permission to keep the  
2 shoreline hardening structures in place.

3       The legislature recognizes that the State has a "no  
4 tolerance" policy for new shoreline armoring. Although property  
5 owners can still apply to build a seawall, the process is long  
6 and onerous, including a formal environmental review, public  
7 hearings, and approval from the department of land and natural  
8 resources. Alternatively, an emergency permit is comparatively  
9 simple as there is not even a formal application required. Due  
10 to the informal nature of the process, many property owners and  
11 contractors do not take the permit requirement seriously, nor do  
12 they understand the harm that these structures are doing to  
13 accelerate erosion. As the owner of a company that installs  
14 these unauthorized structures stated, "We still have plenty of  
15 beaches on this island that if you just let [a few beaches] go,  
16 it's not going to affect anyone. We still have plenty of places  
17 to go to the beach."

18       Accordingly, the purpose of this Act is to protect Hawaii's  
19 beaches from accelerated erosion resulting from shoreline  
20 hardening structures by:



(1) Requiring that an emergency permit for the construction, maintenance, or improvement of shoreline hardening structures be valid for up to three years and may not be renewed or extended;

(2) Establishing penalties for persons who build, improve, or maintain a shoreline hardening structure without a valid permit; and

(3) Requiring the division of conservation and resources enforcement of the department of land and natural resources to administer and enforce this Act.

SECTION 2. Section 183C-7, Hawaii Revised Statutes, is amended to read as follows:

**"§183C-7 Penalty for violation.** (a) The department shall prescribe administrative procedures as it deems necessary for the enforcement of this chapter and any zoning rule adopted in accordance therewith. These rules may be enforced by court order at the suit of the department or of the owner or owners of real estate directly affected by the rules. The provisions of section 607-25 shall apply to this chapter.

(b) Any person violating this chapter or any rule adopted in accordance with this chapter shall be fined not more than



1 \$15,000 per violation in addition to administrative costs, costs  
2 associated with land or habitat restoration, and damages to  
3 public land or natural resources, or any combination thereof.

4 After written or verbal notification from the department, wilful  
5 violation of this chapter or any rule adopted in accordance with  
6 this chapter may incur an additional fine of up to \$15,000 per  
7 day per violation for each day in which the violation persists.

8 The board may set, charge, and collect the fine based on the  
9 value of the natural resource that is damaged, the market value  
10 of the natural resource damaged, and any other factor it deems  
11 appropriate, such as the loss of the natural resource to its  
12 natural habitat and environment and the cost of restoration or  
13 replacement. The remedies provided for in this subsection are  
14 cumulative and in addition to any other remedies allowed by law.

15 (c) No person, including a property owner, contractor, or  
16 laborer shall build, construct, erect, make, manufacture,  
17 assemble, or maintain any shoreline hardening structure without  
18 a valid permit issued pursuant to section 205A-30 for such work.  
19 Any person who violates this subsection and shall be subject to  
20 a fine of no less than \$1,000 but no more than \$25,000 per  
21 violation. Each day that the unpermitted work continues or the



1 unpermitted shoreline hardening structure remains in place shall  
2 constitute a separate violation. In addition to these fines,  
3 the department may impose additional amounts, which may include  
4 administrative costs, costs associated with land or habitat  
5 restoration, damages to public land or natural resources, or any  
6 combination thereof. As used in this subsection:

7 "Laborer" means any person who performs work and labors on  
8 the shoreline hardening structure, whether the person receives  
9 wages or payment of any kind.

10 "Shoreline hardening structure" means any structure or  
11 project intended to stabilize sediment and prevent erosion or  
12 provide flood protection, including seawalls, groins, jetties,  
13 revetements, sandbags, and sand burritos.

14 ~~[(e)]~~ (d) This section shall not be construed to prohibit  
15 any person from exercising native Hawaiian gathering rights or  
16 traditional cultural practices as authorized by law or as  
17 permitted by the department pursuant to article XII, section 7,  
18 of the Hawaii constitution."

19 SECTION 3. Section 205A-30, Hawaii Revised Statutes, is  
20 amended to read as follows:



1       "§205A-30   Emergency and minor permits.   (a)   Each county  
2   authority shall provide specific procedures consistent with this  
3   part for the issuance of special management area emergency  
4   permits or special management area minor permits, pursuant to  
5   the procedural requirements within this part, and judicial  
6   review from the grant and denial thereof.   The lead agency shall  
7   file notice of special management area minor permits in the next  
8   available issue of the periodic bulletin of the office of  
9   environmental quality control.

10       (b)   If any applicant files for an emergency permit in any  
11   county for the purpose of constructing, maintaining, or  
12   improving a shoreline hardening structure, such permit shall:

13       (1)   Be valid for up to three years from the date of  
14       issuance by the county authority; and

15       (2)   Not be extended or renewed beyond the original three-  
16       year term.

17       (c)   For purposes of this section, "shoreline hardening  
18   structure" means any structure or project intended to stabilize  
19   sediment and prevent erosion or provide flood protection,  
20   including seawalls, groins, jetties, revetements, sandbags and  
21   sand burritos of any size."



SECTION 4. Section 607-25, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) As used in this section, "development" does not include:

(1) The transfer of title, easements, covenants, or other rights in structures or land;

(2) The repair and maintenance of existing structures<sup>[+]</sup>, unless the existing structures were constructed without a permit when a permit was required or when a previously issued permit has lapsed, expired, or terminated;

(3) The placement of a portable structure costing less than \$500; or

(4) The construction of a structure which only required a building permit and for which a building permit could be granted without any discretionary agency permit or approval."

SECTION 5. The department of land and natural resources shall adopt rules, pursuant to Chapter 91, Hawaii Revised Statutes, necessary for the enforcement of this Act. The division of conservation and resources enforcement within the



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1 department of land and natural resources shall be responsible  
2 for the administration and enforcement of the provisions of this  
3 Act.

4 SECTION 6. Statutory material to be repealed is bracketed  
5 and stricken. New statutory material is underscored.

6 SECTION 7. This Act shall take effect upon its approval.

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INTRODUCED BY: \_\_\_\_\_

A handwritten signature in black ink, appearing to be 'C. L. ...', written over a horizontal line.



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**Report Title:**

Shoreline Hardening Structures; Beach Erosion; Department of Land and Natural Resources; Division of Conservation and Resources

**Description:**

Requires that an emergency permit for the construction, maintenance, or improvement of shoreline hardening structures be valid for up to three years and may not be renewed or extended. Establishes penalties for persons who build, improve, or maintain a shoreline hardening structure without a valid permit. Requires the Division of Conservation and Resources Enforcement to administer and enforce the penalties.

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

