

JAN 22 2021

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# A BILL FOR AN ACT

RELATING TO REAL ESTATE DISCLOSURE.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1       SECTION 1. The legislature finds that real property in the  
2 State is often vulnerable to hazards, such as coastal erosion  
3 and flooding from tsunamis, storms, and high waves. These  
4 hazards can be exacerbated by sea level rise and human-caused  
5 interruptions to natural sand supply. In Hawai'i, all beaches  
6 are prone to seasonal or episodic erosion from high waves and  
7 storms. In addition, chronic erosion affects seventy per cent  
8 of the beaches on O'ahu, Maui, and Kaua'i.

9       The legislature further finds that numerous court decisions  
10 have affirmed that privately owned oceanfront land is lost when  
11 shorelines undergo landward retreat and oceanfront properties  
12 become smaller. When oceanfront property experiences landward  
13 retreat, building setbacks, property values, and insurance  
14 availability can be adversely impacted. Another challenge  
15 property owners face in Hawai'i is the stringent permit  
16 requirements imposed by the counties and State for shoreline  
17 protection. When shoreline retreat occurs, obtaining a permit



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1 to repair or install shoreline protection structures, such as  
2 seawalls, revetments, geotextile sandbags, or groins, can be  
3 challenging due to Hawai'i's coastal zone management policies,  
4 which protect coastal natural resources and shoreline public  
5 access. Furthermore, the legislature recognizes sea level rise  
6 and shoreline retreat as concerns for all property owners, not  
7 just oceanfront property owners.

8 Accordingly, the purpose of this Act is to require:

9 (1) A sea level rise hazard exposure statement with the  
10 sale or transfer of vulnerable coastal property to  
11 ensure that new property owners and transferees  
12 understand the special hazards, permitting  
13 requirements, and limitations that may affect the  
14 property; and

15 (2) Inclusion of the material fact that a residential real  
16 property lies within a sea level rise exposure area,  
17 if applicable, within a seller's mandatory disclosure  
18 statement to a buyer.

19 SECTION 2. Chapter 508D, Hawaii Revised Statutes, is  
20 amended by adding a new section to be appropriately designated  
21 and to read as follows:



1        "§508D-        Sea level rise hazard exposure statement;  
2 vulnerable coastal property.    (a)    Beginning November 1, 2021,  
3 every sale or transfer of vulnerable coastal property shall  
4 include a sea level rise hazard exposure statement executed by  
5 the purchaser or transferee.

6        (b)    Every sea level rise hazard exposure statement shall  
7 include acknowledgment by the purchaser or transferee that:

8        (1)    The coastal property is at risk of losing area if the  
9        shoreline retreats inland due to erosion, sea level  
10       rise, or permitting requirements;

11       (2)    Maps showing historic coastal erosion, flood insurance  
12       zones, and sea level rise exposure areas exist to  
13       inform the public of risks;

14       (3)    Shoreline certifications and setbacks are determined  
15       pursuant to chapter 205A, and the location of the  
16       certified shoreline and setback may be affected by  
17       inland migration of the upper reach of the wash of the  
18       waves;

19       (4)    Obtaining permits to repair or install shoreline  
20       protection structures may be difficult due to state



1           and federal coastal zone management policies

2           discouraging coastal hardening;

3       (5) Beaches are public trust resources that governmental

4           agencies have a responsibility to protect;

5       (6) The public enjoys a right of access to Hawaii's

6           shorelines, including the right of transit along the

7           shorelines, pursuant to section 115-4, and this right

8           of transit can be threatened by shoreline protection

9           structures that reduce the width of beaches as sea

10          level rise occurs; and

11       (7) The department of land and natural resources may

12          require a landowner to remove encroaching vegetation

13          if a landowner's human-induced, enhanced, or

14          unmaintained vegetation interferes with or encroaches

15          on a beach transit corridor pursuant to section

16          115-10.

17       (c) All vulnerable coastal property purchaser statements

18 shall be notarized and recorded in the bureau of conveyances.

19       (d) For purposes of this section, "vulnerable coastal

20 property" means real property within the sea level rise exposure



1 area as officially designated by the Hawaii climate change  
2 mitigation and adaptation commission."

3 SECTION 3. Section 508D-15, Hawaii Revised Statutes, is  
4 amended by amending subsection (a) to read as follows:

5 "(a) When residential real property lies:

6 (1) Within the boundaries of a special flood hazard area  
7 as officially designated on Flood Insurance  
8 Administration maps promulgated by the United States  
9 Department of Housing and Urban Development for the  
10 purposes of determining eligibility for emergency  
11 flood insurance programs;

12 (2) Within the boundaries of the noise exposure area shown  
13 on maps prepared by the department of transportation  
14 in accordance with Federal Aviation Regulation part  
15 150, Airport Noise Compatibility Planning (14 C.F.R.  
16 part 150), for any public airport;

17 (3) Within the boundaries of the Air Installation  
18 Compatible Use Zone of any Air Force, Army, Navy, or  
19 Marine Corps airport as officially designated by  
20 military authorities; [~~or~~]



1           (4) Within the anticipated inundation areas designated on  
2           the department of defense's emergency management  
3           tsunami inundation maps~~[7]~~; or

4           (5) Within a sea level rise exposure area as officially  
5           designated by the Hawaii climate change mitigation and  
6           adaptation commission,

7 subject to the availability of maps that designate the ~~[four]~~  
8 five areas by tax map key (zone, section, parcel), the seller  
9 shall include the material fact information in the disclosure  
10 statement provided to the buyer subject to this chapter. Each  
11 county shall provide, where available, maps of its jurisdiction  
12 detailing the ~~[four]~~ five designated areas specified in this  
13 subsection. The maps shall identify the properties situated  
14 within the ~~[four]~~ five designated areas by tax map key number  
15 (zone, section, parcel) and shall be of a size sufficient to  
16 provide information necessary to serve the purposes of this  
17 section. Each county shall provide legible copies of the maps  
18 and may charge a reasonable copying fee."

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



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1 SECTION 5. This Act shall take effect upon its approval.

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

*Karl Rhoads*



# S.B. NO. 292

**Report Title:**

Real Estate Disclosure; Sea Level Rise; Hazard Exposure Statement; Vulnerable Coastal Property

**Description:**

Beginning on November 1, 2021, requires all vulnerable coastal property sales or transfers to include a sea level rise hazard exposure statement to ensure that new property owners and transferees understand the special hazards, requirements, and limitations that may affect the property. Requires sellers to include whether property is within a sea level rise exposure area in the disclosure statement provided to the buyer.

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