

GOV. MSG. NO. 1332

EXECUTIVE CHAMBERS
KE KE'ENA O KE KIA'ĀINA

JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA

July 6, 2023

The Honorable Ronald D. Kouchi
President of the Senate,
and Members of the Senate
Thirty-Second State Legislature
State Capitol, Room 409
Honolulu, Hawai'i 96813

✓ The Honorable Scott K. Saiki
Speaker, and Members of the
House of Representatives
Thirty-Second State Legislature
State Capitol, Room 431
Honolulu, Hawai'i 96813

Dear President Kouchi, Speaker Saiki, and Members of the Legislature:

This is to inform you that on July 6, 2023, the following bill was signed into law:

HB365 HD1 SD2

RELATING TO SPECIAL MANAGEMENT
AREAS.
ACT 229

Sincerely,

Josh Green, M.D.
Governor, State of Hawai'i

on JUL 6 2023

HOUSE OF REPRESENTATIVES
THIRTY-SECOND LEGISLATURE, 2023
STATE OF HAWAII

H.B. NO. 365
H.D. 1
S.D. 2

A BILL FOR AN ACT

RELATING TO SPECIAL MANAGEMENT AREAS.

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

1 SECTION 1. The legislature finds that targeted amendments
2 to the definition of "development" as it relates to special
3 management areas will promote, not undercut, the environmental
4 controls and quality that special management area regulations
5 are intended to protect. Under existing law, the broad
6 definition of "development" coupled with rising labor and
7 materials costs can trigger a mandatory special management area
8 use permit review for improvements, facilities, and incidental
9 structures that may not warrant such intense scrutiny and the
10 associated costs and delays that go along with it.

11 The legislature further finds that exclusions from the
12 special management area definition of "development" are
13 desirable for activities such as the following:

- 14 (1) Installation, maintenance, repair, and replacement of
15 public pedestrian and bicycle facilities to reduce
16 reliance on vehicles;



1 (2) Trash removal, invasive vegetation removal or control,
2 and fencing for invasive species control or
3 preservation of native habitats to improve the quality
4 of the environment;

5 (3) Installation, maintenance, repair, and replacement of
6 lighting, fixtures, and equipment to comply with
7 standards at public facilities, including health and
8 safety standards, to protect native seabird
9 populations and reduce light pollution; and

10 (4) Installation, maintenance, repair, and replacement of
11 security measures for existing public facilities.

12 The purpose of this Act is to expand exclusions to the
13 definition of "development" in chapter 205A, Hawaii Revised
14 Statutes, to reduce the need for special management area permits
15 for certain activities.

16 SECTION 2. Section 205A-22, Hawaii Revised Statutes, is
17 amended by amending the definition of "development" to read as
18 follows:

19 ""Development" [~~means~~]:



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

4 ~~[(1)]~~ (A) Placement or erection of any solid material
5 or any gaseous, liquid, solid, or thermal waste;

6 ~~[(2)]~~ (B) Grading, removing, dredging, mining, or
7 extraction of any materials;

8 ~~[(3)]~~ (C) Change in the density or intensity of use of
9 land, including but not limited to the division
10 or subdivision of land;

11 ~~[(4)]~~ (D) Change in the intensity of use of water,
12 ecology related thereto, or of access thereto;
13 and

14 ~~[(5)]~~ (E) Construction, reconstruction, or alteration
15 of the size of any structure~~[-]~~; and

16 ~~["Development" does]~~ (2) Does not include the following:

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



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



1 horticultural, or forestry products or animal
2 husbandry, or aquaculture or mariculture of
3 plants or animals, or other agricultural
4 purposes[+], including all traditional fishpond
5 and traditional agricultural practices;

6 [~~9~~] (I) Transfer of title to land;

7 [~~10~~] (J) Creation or termination of easements,
8 covenants, or other rights in structures or land;

9 [~~11~~] (K) Subdivision of land into lots greater than
10 twenty acres in size;

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

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



1 ~~(+14)~~ (N) Structural and nonstructural improvements to
2 existing single-family residences, where
3 otherwise permissible;

4 ~~(+15)~~ (O) Nonstructural improvements to existing
5 commercial or noncommercial structures; ~~and~~

6 ~~(+16)~~ (P) Construction, installation, maintenance,
7 repair, and replacement of emergency management
8 warning or signal devices and sirens;

9 (Q) Installation, maintenance, repair, and
10 replacement of public pedestrian and bicycle
11 facilities, including sidewalks, paths, bikeways,
12 crosswalks, stairs, ramps, traffic control
13 barriers, signs, signals, and associated
14 improvements;

15 (R) Trash removal or invasive vegetation removal or
16 control, including incidental ground disturbance,
17 excluding the use of herbicides;

18 (S) Installation of fencing, including associated
19 improvements and incidental structures, for
20 invasive species control or preservation of
21 native habitats on conservation land;



1 (T) Installation, maintenance, repair, and
2 replacement of lighting, fixtures, and equipment
3 to establish compliance with current standards at
4 existing public facilities;

5 (U) Installation, maintenance, repair, and
6 replacement of security measures, including
7 fencing, to existing public facilities; and

8 (V) Hawaiian traditional and customary practices,
9 including work conducted by traditional means
10 near, in, or related to loko i'a, traditional
11 Hawaiian fishponds;

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

18 SECTION 3. This Act does not affect rights and duties that
19 matured, penalties that were incurred, and proceedings that were
20 begun before its effective date.

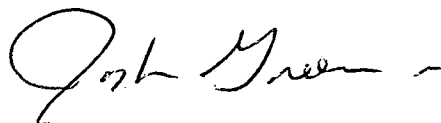


1 SECTION 4. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

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

4

APPROVED this 6th day of July , 2023



GOVERNOR OF THE STATE OF HAWAII



HB No. 365, HD 1, SD 2

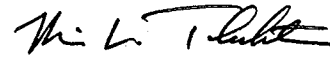
THE HOUSE OF REPRESENTATIVES OF THE STATE OF HAWAII

Date: April 27, 2023
Honolulu, Hawaii

We hereby certify that the above-referenced Bill on this day passed Final Reading in the House of Representatives of the Thirty-Second Legislature of the State of Hawaii, Regular Session of 2023.



Scott K. Saiki
Speaker
House of Representatives

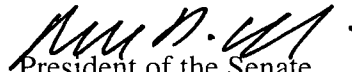



Brian L. Takeshita
Chief Clerk
House of Representatives

THE SENATE OF THE STATE OF HAWAI‘I

Date: April 6, 2023
Honolulu, Hawai‘i 96813

We hereby certify that the foregoing Bill this day passed Third Reading in the Senate of the Thirty-Second Legislature of the State of Hawai‘i, Regular Session of 2023.


President of the Senate


Clerk of the Senate