

Honolulu, Hawaii

FEB 09 2023

RE: S.B. No. 1389

S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirty-Second State Legislature
Regular Session of 2023
State of Hawaii

Sir:

Your Committee on Water and Land, to which was referred S.B. No. 1389 entitled:

"A BILL FOR AN ACT RELATING TO REAL PROPERTY DISCLOSURES
WITHIN SHORELINE AREAS,"

begs leave to report as follows:

The purpose and intent of this measure is to require disclosures for real estate transactions involving oceanfront property of:

- (1) All permitted and unpermitted erosion control structures on the parcel or on state land adjacent to the parcel;
- (2) The annual coastal erosion rates for the zoning lot; and
- (3) The current actual setback of all structures from the shoreline.

Your Committee received testimony in support of this measure from the Department of Land and Natural Resources; University of Hawai'i System; Hawai'i Reef and Ocean Coalition; and Surfrider Foundation. Your Committee received comments on this measure from the Hawai'i Association of REALTORS.

Your Committee finds that climate change poses immediate and long-term threats to the State's economy, sustainability, and



security. Through Act 179, Session Laws of Hawaii 2021, the Legislature recognized the existential threat of sea level rise to real property and required mandatory seller disclosures in real property transactions to indicate that a residential real property lies within the sea level rise exposure area. Your Committee finds that additional protections are needed to ensure that purchasers are prepared for the future challenges and implications of sea level rise and the ancillary effects of coastal erosion, future flooding, inundation, and storm surges. Therefore, this measure requires disclosures for real estate transactions involving oceanfront property of all permitted and unpermitted erosion control structures on the parcel or on state land adjacent to the parcel, the annual coastal erosion rates for the zoning lot, and the current actual setback of all structures from the shoreline.

Your Committee has heard the testimony of the Department of Land and Natural Resources, expressing three concerns with this measure. First, this measure's language requiring that shoreline areas be identified by official tax maps is ambiguous because shoreline areas pursuant to section 205A-41, Hawaii Revised Statutes (HRS), are not identified on official tax maps. Second, this measure's language regarding the disclosure of the annual coastal erosion rates as identified by the Hawaii Shoreline Study web maps should be amended because historical erosion rates are now available through official county databases. Third, the Department of Land and Natural Resources is concerned that requiring sellers to disclose where their shoreline is pursuant to section 205A-1, HRS, may involve hiring a professional surveyor and possibly involving other state agencies, which could be overly burdensome in time and cost for the purposes of real estate transactions.

Therefore, Your Committee has amended this measure by:

- (1) Clarifying that shoreline area disclosures are required for properties adjacent to the shoreline, as opposed to shoreline areas identified by official tax maps;
- (2) Requiring disclosures of the annual coastal erosion rate to be based on the official county databases, instead of the derivative Hawaii Shoreline Study web maps;



- (3) Deleting language that would have required the seller to disclose the distance from the shoreline of all structures on the parcel;
- (4) Amending section 1 to reflect its amended purpose;
- (5) Inserting an effective date of July 1, 2050, to encourage further discussion; and
- (6) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Water and Land that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1389, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1389, S.D. 1, and be referred to your Committee on Commerce and Consumer Protection.


Respectfully submitted on
behalf of the members of the
Committee on Water and Land,


LORRAINE R. INOUYE, Chair



The Senate
Thirty-Second Legislature
State of Hawai'i

Record of Votes
Committee on Water and Land
WTL

Bill / Resolution No.:*	Committee Referral:	Date:		
SB1389	WTL, CPN	02/06/2023		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is:				
<input type="checkbox"/> Pass, unamended 2312	<input checked="" type="checkbox"/> Pass, with amendments 2311	<input type="checkbox"/> Hold 2310	<input type="checkbox"/> Recommit 2313	
Members	Aye	Aye (WR)	Nay	Excused
INOUYE, Lorraine R. (C)	✓			
ELEFANTE, Brandon J.C. (VC)	✓			
CHANG, Stanley	✓			
MCKELVEY, Angus L.K.	✓			
FEVELLA, Kurt	✓			
TOTAL	5	φ	φ	φ
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
Distribution:				
Original File with Committee Report	Yellow Clerk's Office	Pink Drafting Agency	Goldenrod Committee File Copy	

*Only one measure per Record of Votes