

ACT 126

H.B. NO. 2813-82

A Bill for an Act Relating to Coastal Zone Management.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 205A-22, Hawaii Revised Statutes, is amended to read as follows:

“§205A-22 **Definitions.** As used in this part, unless the context otherwise requires:

- (1) “Applicant” means any individual, organization, partnership, or corporation, including any utility, and any agency of government.
- (2) “Authority” means the county planning commission, except in counties where the county planning commission is advisory only, in which case “authority” means the county council or such body as the council may by ordinance designate. The authority may, as appropriate, delegate the responsibility for administering this part.
- (3) “Development” means any of the uses, activities, or operations on land; in or under water, within the special management area that are included below, but not those uses, activities, or operations excluded in paragraph (B):
  - (A) “Development” includes the following:
    - (i) The placement or erection of any solid material or any gaseous, liquid, solid, or thermal waste;
    - (ii) Grading, removing, dredging, mining, or extraction of any materials;
    - (iii) Change in the density or intensity of use of land, including but not limited to the division or subdivision of land;
    - (iv) Change in the intensity of use of water, ecology related thereto, or of access thereto; and
    - (v) Construction, reconstruction, demolition, or alteration of the size of any structure.

- (B) "Development" does not include the following:
- (i) Construction of a single-family residence that is not part of a larger development;
  - (ii) Repair or maintenance of roads and highways within existing rights-of-way;
  - (iii) Routine maintenance dredging of existing streams, channels, and drainage ways;
  - (iv) The repair and maintenance of underground utility lines, including but not limited to water, sewer, power, and telephone and minor appurtenant structures such as pad mounted transformers and sewer pump stations;
  - (v) Zoning variances, except for height, density, parking, and shoreline setback;
  - (vi) Repair, maintenance, or interior alterations to existing structures;
  - (vii) Demolition or removal of structures, except those structures located on any historic site as designated in national or state registers;
  - (viii) The use of any land for the purpose of cultivating, planting, growing, and harvesting of plants, crops, trees, and other agricultural, horticultural, or forestry products or animal husbandry, or aquaculture or mariculture of plants or animals, or other agricultural purposes subject to review by the authority in accordance with paragraph (C);
  - (ix) The transfer of title to land;
  - (x) The creation or termination of easements, covenants, or other rights in structures or land; and
  - (xi) The subdivision of land into lots greater than twenty acres in size.
- (C) Whenever the authority finds that any use, activity, or operation excluded in paragraph (B) is or may become part of a larger project, the cumulative impact of which may have a significant environmental or ecological effect on the special management area, that use, activity, or operation shall be defined as "development" for the purpose of this part.
- (4) "Special management area" means the land extending inland from the shoreline as delineated on the maps filed with the authority as of June 8, 1977 or as amended pursuant to section 205A-23.
  - (5) "Special management area emergency permit" means an action by the authority authorizing development in cases of emergency requiring immediate action to prevent substantial physical harm to persons or property.
  - (6) "Special management area minor permit" means an action by the authority authorizing development, [the total cost or fair market value] valuation of which is not in excess of [\$25,000] \$65,000 and which has no substantial adverse environmental or ecological effect, taking into account potential cumulative effects.

- (7) "Special management area use permit" means an action by the authority authorizing development, the [total cost or fair market value] valuation of which exceeds [\$25,000] \$65,000 or which may have substantial adverse environmental or ecological effect, taking into account potential cumulative effects.
- (8) "Structure" includes, but is not limited to, any building, road, pipe, flume, conduit, siphon, aquaduct, telephone line, and electrical power transmission and distribution line.
- (9) "Valuation" shall be determined by the authority and means the estimated cost to replace the structure in kind, based on current replacement costs, or in the cases of other development, as defined in paragraph (A) above, the fair market value of the development."

SECTION 2. Be it further provided that the department of planning and economic development, in consultation with the authorities, is directed to conduct a statewide survey and overall assessment as to the manner in which Chapter 205A, Hawaii Revised Statutes, and the counties' implementation thereof has affected development projects impacted by the law. The survey and assessment should also include a review of the following: 1) future funding sources for the administration of the program, 2) the relationship between Chapter 205A, Hawaii Revised Statutes, and Chapter 343, Hawaii Revised Statutes, and 3) a review of special management area minor permits issued to date so as to evaluate the effectiveness of total cost of fair market value figures originally established by Section 205A-22, Hawaii Revised Statutes, and to recommend amended criteria, as appropriate.

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 26, 1982.)