

ACT 113

S.B. NO. 2180-84

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:

“§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 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 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[.];
 - (xii) The subdivision of a parcel of land into four or fewer parcels when no associated construction activities are proposed, provided that any such land which is so subdivided shall not thereafter qualify for this exception with respect to any subsequent subdivision of any of the resulting parcels;
 - (xiii) Installation of underground utility lines and appurtenant aboveground fixtures less than four feet in height along existing corridors;
 - (xiv) Structural and nonstructural improvements to existing single-family residences including additional dwelling unit, where otherwise permissible; and
 - (xv) Nonstructural improvements to existing commercial structures.
- (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[.] or to allow the reconstruction of structures damaged by natural hazards to their original form, provided that such structures were previously found to be in compliance with requirements of the Federal Flood Insurance Program.
- (6) “Special management area minor permit” means an action by the authority authorizing development, the valuation of which is not in excess of \$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 valuation of which exceeds \$65,000 or which may have a 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] aqueduct, 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 3(A)] above, the fair market value of the development.”

SECTION 2. Section 205A-26, Hawaii Revised Statutes, is amended to read:

“§205A-26 **Special management area guidelines.** In implementing this part, the authority shall adopt the following guidelines for the review of developments proposed in the special management area:

- (1) All development in the special management area shall be subject to reasonable terms and conditions set by the authority in order to ensure:
 - (A) Adequate access, by dedication or other means, to publicly owned or used beaches, recreation areas, and natural reserves

is provided to the extent consistent with sound conservation principles.

- (B) Adequate and properly located public recreation areas and wildlife preserves are reserved.
 - (C) Provisions are made for solid and liquid waste treatment, disposition, and management which will minimize adverse effects upon special management area resources.
 - (D) Alterations to existing land forms and vegetation, except crops, and construction of structures shall cause minimum adverse effect to water resources and scenic and recreational amenities and minimum danger of floods, landslides, erosion, siltation, or failure in the event of earthquake.
- (2) No development shall be approved unless the authority has first found:
- (A) That the development will not have any substantial adverse environmental or ecological effect, except as such adverse effect is minimized to the extent practicable and clearly outweighed by public health, safety, or compelling public interests. Such adverse effects shall include, but not be limited to, the potential cumulative impact of individual developments, each one of which taken in itself might not have a substantial adverse effect, and the elimination of planning options; and
 - (B) That the development is consistent with the objectives, policies, and special management area guidelines of this chapter and any guidelines enacted by the legislature.
 - (C) That the development is consistent with the county general plan[,] and zoning [and subdivision codes and other applicable ordinances]. Such a finding of consistency does not preclude concurrent processing where a general plan or zoning amendment may also be required.
- (3) The authority shall seek to minimize, where reasonable:
- (A) Dredging, filling or otherwise altering any bay, estuary, salt marsh, river mouth, slough, or lagoon[.];
 - (B) Any development which would reduce the size of any beach or other area usable for public recreation[.];
 - (C) Any development which would reduce or impose restrictions upon public access to tidal and submerged lands, beaches, portions of rivers and streams within the special management areas and the mean high tide where there is no beach[.];

- (D) Any development which would substantially interfere with or detract from the line of sight toward the sea from the state highway nearest the coast[.]; and
- (E) Any development which would adversely affect water quality, existing areas of open water free of visible structures, existing and potential fisheries and fishing grounds, wildlife habitats, or potential or existing agricultural uses of land.”

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 18, 1984.)