

A Bill for an Act Relating to Real Property Disclosures Within Shoreline Areas.

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

SECTION 1. As reflected in Act 32, Session Laws of Hawaii 2017 (Act 32), the legislature recognizes that not only is climate change real, but it is also the overriding challenge of the twenty-first century and one of the priority issues of the legislature. Climate change poses immediate and long-term threats to the State's economy, sustainability, security, and residents' way of life.

The legislature recognized the existential threat of sea level rise to real property and amended section 508D-15, Hawaii Revised Statutes, to require mandatory seller disclosures in real property transactions to indicate that a parcel of residential real property lies within the sea level rise exposure area. Research published by the Intergovernmental Panel on Climate Change and the National Aeronautics and Space Administration shows that sea levels in Hawaii will continue to rise, but sea level rise has no detectable effect on valuations or sales data on real property. The lack of a sea level rise discount indicates that purchasers may be underprepared for the future challenges and implications of sea level rise and the ancillary effects of coastal erosion, future flooding, inundation, and storm surges.

The purpose of this Act is to further strengthen purchaser protections by requiring the disclosure of all permitted and unpermitted erosion control structures on the parcel in real estate transactions when residential real property lies adjacent to the shoreline.

SECTION 2. Section 508D-15, Hawaii Revised Statutes, is amended to read as follows:

"§508D-15 Notification required; ambiguity. (a) When residential real property lies~~[:] within:~~

- (1) ~~[Within the]~~ The boundaries of a special flood hazard area as officially designated on flood maps promulgated by the National Flood Insurance Program of the Federal Emergency Management Agency for the purposes of determining eligibility for emergency flood insurance programs;
- (2) ~~[Within the]~~ The boundaries of the noise exposure area shown on maps prepared by the department of transportation in accordance with Federal Aviation Regulation part 150, Airport Noise Compatibility Planning (14 C.F.R. part 150), for any public airport;
- (3) ~~[Within the]~~ The boundaries of the Air Installation Compatible Use Zone of any Air Force, Army, Navy, or Marine Corps airport as officially designated by military authorities;
- (4) ~~[Within the]~~ The anticipated inundation areas designated on the department of defense's emergency management tsunami inundation maps; or
- (5) ~~[Within the]~~ The sea level rise exposure area as designated by the Hawaii climate change mitigation and adaptation commission or its successor,

subject to the availability of maps that designate the five areas by tax map key (zone, section, parcel), the seller shall include the material fact information in the disclosure statement provided to the buyer subject to this chapter. Each county shall provide, where available, maps of its jurisdiction detailing the five designated areas specified in this subsection. The maps shall identify the properties

situated within the five designated areas by tax map key number (zone, section, parcel) and shall be of a size sufficient to provide information necessary to serve the purposes of this section. Each county shall provide legible copies of the maps and may charge a reasonable copying fee.

(b) When residential real property lies adjacent to the shoreline, the seller shall disclose all permitted and unpermitted erosion control structures on the parcel, expiration dates of any permitted structures, any notices of alleged violation associated with the parcel, and any fines for expired permits or unpermitted structures associated with the parcel.

~~[(b)]~~ (c) When it is questionable whether residential real property lies within any of the designated areas referred to in subsection (a) due to the inherent ambiguity of boundary lines drawn on maps of large scale, the ambiguity shall be construed in favor of the seller; provided that a good faith effort has been made to determine the applicability of subsection (a) to the subject real property.

~~[(e)]~~ (d) Except as required under subsections (a) ~~[and]~~, (b), and (c) and ~~[as required under]~~ section 508D-3.5, the seller shall have no duty to examine any public record when preparing a disclosure statement.”

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

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

SECTION 5. This Act shall take effect on November 1, 2023.

(Approved July 6, 2023.)