

JAN 20 2023

A BILL FOR AN ACT

RELATING TO LAND USE.

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

1 SECTION 1. The legislature finds that managed retreat is
2 the shifting of development inland from the coast either by the
3 physical movement of structures or changing the restrictions and
4 management of coastal areas. Managed retreat in Hawaii will be
5 an essential tool for relocating development away from areas
6 that are critically impacted by coastal erosion and flooding
7 with sea level rise, particularly in areas with high natural and
8 community resource value. The legislature further finds that in
9 2019, the office of planning and sustainable development
10 completed a study that assessed the feasibility and implications
11 of managed retreat strategies for vulnerable coastal areas in
12 Hawaii. The study had the following recommendations:

- 13 (1) Determine the feasibility and implications of
14 additional managed retreat tools such as transfer of
15 development rights;
- 16 (2) Establish criteria for areas to be retreated from and
17 priority lists;



- 1 (3) Identify funding for retreat;
- 2 (4) Review state and county land use to determine possible
- 3 locations to retreat;
- 4 (5) Review state and county plans to determine whether
- 5 amendments or updates are necessary to support
- 6 retreat;
- 7 (6) Review laws and regulations to determine whether
- 8 amendments or adoption are necessary to facilitate
- 9 retreat; and
- 10 (7) Conduct outreach to obtain community input and buy-in
- 11 for retreat strategies.

12 The legislature further finds that transferring development
13 rights and land exchanges are useful techniques to achieve
14 managed retreat strategies by voluntarily shifting development
15 away from areas that are critically threatened by sea level
16 rise, including areas with particularly high natural resource
17 and community resilience value. To help achieve this goal, the
18 legislature enacted Act 223, Session Laws of Hawaii 2022, which
19 expanded the authority of the counties to regulate the transfer
20 of development rights to protect areas vulnerable to sea level
21 rise, coastal erosion, storm surge, and flooding; thereby



1 facilitating the potential movement of development away from at-
2 risk areas to locations more appropriate for development.

3 The purpose of this Act is to effectuate some of the
4 recommendations in the office of planning and sustainable
5 development's 2019 report by:

- 6 (1) Requiring the department of land and natural resources
7 to prepare plans and a program to facilitate voluntary
8 relocation of residential development away from
9 certain at-risk areas;
- 10 (2) Establishing the sea level rise relocation special
11 fund;
- 12 (3) Requiring the department of land and natural resources
13 to complete and maintain a current inventory of all
14 public lands that are located outside the sea level
15 rise exposure area and special flood hazard area;
- 16 (4) Allowing the exchange of public land for private lands
17 for the transfer of development rights or land
18 exchanges to relocate private development away from
19 high risk areas;
- 20 (5) Expanding the climate change adaptation priority
21 guidelines; and



1 (6) Appropriating funds.

2 SECTION 2. Chapter 171, Hawaii Revised Statutes, is
3 amended by adding a new part to be appropriately designated and
4 to read as follows:

5 **"PART . VOLUNTARY RELOCATION OF RESIDENTIAL DEVELOPMENT FROM**
6 **SEA LEVEL RISE EXPOSURE AREAS INVOLVING STATE LANDS**

7 **§171-A Definitions.** As used in this chapter, unless the
8 context otherwise requires:

9 "Land exchanges" means mechanisms to secure lands while
10 compensating property owners in-kind, including partial or full
11 replacement to financial compensation, through providing land or
12 development rights.

13 "Receiving areas" means areas where additional growth and
14 development can be accommodated from a sending area.

15 "Sending areas" means areas where development is no longer
16 encouraged due to exposure to increasing hazards with climate
17 change and sea level rise.

18 "Transfer of development rights" means programs allowing
19 land owners to transfer development rights from property in
20 areas where development is no longer desirable or sustainable to
21 desirable or sustainable development areas. "Transfer of



1 development rights" includes programs allowing developers to
2 purchase development rights from property owners in areas where
3 development is no longer desirable or sustainable and transfer
4 those development rights to their own property.

5 **§171-B General powers.** (a) In carrying out its functions
6 under this part, the board may do all things necessary, useful,
7 and convenient in connection with voluntary relocation of
8 development from locations that are or will be critically
9 threatened by impacts related to climate change and sea level
10 rise and have high natural resource value, including transfer of
11 development rights, land exchanges, and restoration of coastal
12 lands from sending areas to receiving areas in state-owned
13 lands, subject to all applicable laws, so long as the public
14 interest is served.

15 **§171-C Sea level rise relocation plan.** (a) The
16 department, in cooperation with the appropriate state and county
17 agencies, shall prepare, and from time to time revise, plans for
18 the implementation of a program to facilitate voluntary
19 relocation of residential development from areas that:

20 (1) Are critically threatened by coastal erosion and
21 flooding due to sea level rise; and



1 (2) Have high natural resource value,
2 to areas outside of the sea level rise exposure area, as
3 designated by the Hawaii climate change mitigation and
4 adaptation commission, and special flood hazard areas.

5 (b) Plans developed pursuant to this section shall guide the
6 board in identifying and prioritizing:

7 (1) Coastal lands that are critically threatened by
8 coastal erosion and sea level rise and have high
9 natural and community resource value; and

10 (2) Potential sending areas and receiving areas for
11 relocation of development.

12 (c) In preparing plans pursuant to this section, the
13 department:

14 (1) May utilize studies:

15 (A) Pertaining to the need for restoration of lands
16 to natural conditions and for public purposes;
17 and

18 (B) Necessary to support the development of voluntary
19 relocation projects, including the development of
20 environmental studies pertaining to relocation of



1 development, cost-benefit analyses for project
2 viability, and engineering studies; and

3 (2) Shall consider any plan relating to the restoration of
4 lands that has been prepared by any federal, state,
5 county, or private agency or entity.

6 **§171-D Sea level rise relocation special fund.** (a) There
7 is established in the state treasury the sea level rise
8 relocation special fund, into which shall be deposited:

- 9 (1) Appropriations made by the legislature;
10 (2) Donations and contributions made by private
11 individuals or organizations;
12 (3) Grants provided by government agencies or other
13 sources;
14 (4) Proceeds from transfers of development rights and land
15 exchanges; and
16 (5) Proceeds from lawsuits holding industries accountable
17 for climate change impacts that threaten the State.

18 (b) The sea level rise relocation special fund may be used
19 for the following:

- 20 (1) Planning, designing, development, or implementation of
21 sea level rise relocation projects; or



1 (2) Providing grants to the counties, nongovernmental
2 organizations, and the University of Hawaii for the
3 restoration of coastal lands in sending areas and for
4 research or engineering studies necessary to support
5 sea level rise relocation projects."

6 SECTION 3. Chapter 171, Hawaii Revised Statutes, is
7 amended by adding a new section to part II, subpart C, to be
8 appropriately designated and to read as follows:

9 "§171-E Public lands suitable and available for transfer
10 of development rights or land exchanges; inventory. (a) The
11 department shall complete and maintain a current inventory of
12 all public lands, regardless of zoning, that:

13 (1) Are located outside of the sea level rise exposure
14 area, as designated by the Hawaii climate change
15 mitigation and adaptation commission, and special
16 flood hazard area; and

17 (2) May be suitable for relocation of residential
18 development from areas that are critically threatened
19 by coastal erosion and flooding due to sea level rise
20 and have high natural and community resource value.

21 (b) The inventory shall include the following:



- 1 (1) The island on and area in which the land is situated;
- 2 (2) The acreage; and
- 3 (3) Any other information that the department determines
- 4 may be necessary to identify land for the purposes of
- 5 this section."

6 SECTION 4. Section 171-50, Hawaii Revised Statutes, is

7 amended by amending subsection (a) to read as follows:

8 "(a) Purpose. No exchange of public land for private land

9 shall be made except for public purposes, including but not

10 limited to [~~(1) consolidation~~]:

- 11 (1) Consolidation of holdings of public lands; [~~(2)~~
- 12 ~~straightening]~~
- 13 (2) Straightening of boundaries of public lands; [~~(3)~~
- 14 ~~acquisition]~~
- 15 (3) Acquisition of adequate access for landlocked public
- 16 lands which have development potential; [~~(4)~~
- 17 ~~acquisition]~~
- 18 (4) Acquisition of lands suitable for residential use[~~-~~];
- 19 or



1 (5) Transfer of development rights or land exchanges to
2 relocate private development away from high risk areas
3 of sea level rise and flooding exposure.

4 Exchanges shall be effected without public auction. Public
5 notice of any proposed exchange shall be given in accordance
6 with the applicable provisions set forth in section 171-16(d).
7 All private lands conveyed to the State by way of exchanges
8 shall thereafter become public lands."

9 SECTION 5. Section 226-109, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "~~{}~~**§226-109**~~{}~~ **Climate change adaptation priority**
12 **guidelines.** Priority guidelines to prepare the State to address
13 the impacts of climate change, including impacts to the areas of
14 agriculture; conservation lands; coastal and nearshore marine
15 areas; natural and cultural resources; education; energy; higher
16 education; health; historic preservation; water resources; the
17 built environment, such as housing, recreation, transportation;
18 and the economy shall:

19 (1) Ensure that Hawaii's people are educated, informed,
20 and aware of the impacts climate change may have on
21 their communities;



- 1 (2) Encourage community stewardship groups and local
2 stakeholders to participate in planning and
3 implementation of climate change policies;
- 4 (3) Invest in continued monitoring and research of
5 Hawaii's climate and the impacts of climate change on
6 the State;
- 7 (4) Consider native Hawaiian traditional knowledge and
8 practices in planning for the impacts of climate
9 change;
- 10 (5) Encourage the preservation and restoration of natural
11 landscape features, such as coral reefs, beaches and
12 dunes, forests, streams, floodplains, and wetlands,
13 that have the inherent capacity to avoid, minimize, or
14 mitigate the impacts of climate change;
- 15 (6) Explore adaptation strategies that moderate harm or
16 exploit beneficial opportunities in response to actual
17 or expected climate change impacts to the natural and
18 built environments;
- 19 (7) Promote sector resilience in areas such as water,
20 roads, airports, and public health, by encouraging the
21 identification of climate change threats, assessment



- 1 of potential consequences, and evaluation of
2 adaptation options;
- 3 (8) Foster cross-jurisdictional collaboration between
4 county, state, and federal agencies and partnerships
5 between government and private entities and other
6 nongovernmental entities, including nonprofit
7 entities;
- 8 (9) Use management and implementation approaches that
9 encourage the continual collection, evaluation, and
10 integration of new information and strategies into new
11 and existing practices, policies, and plans; ~~and~~
- 12 (10) Encourage planning and management of the natural and
13 built environments that effectively integrate climate
14 change policy~~[]~~;
- 15 (11) Identify and prioritize climate change and sea level
16 rise adaptation action areas facing the greatest
17 threats from flooding, erosion, and other increasing
18 impacts; and
- 19 (12) Identify and prioritize sending areas and receiving
20 areas for transfer of development from locations that
21 are or will be critically threatened by impacts



1 related to climate change and sea level rise and have
2 high natural resource value."

3 SECTION 6. The department of land and natural resources
4 shall submit a report detailing the initial inventory of lands,
5 as required by section 171-E, Hawaii Revised Statutes, to the
6 governor, legislature, and Hawaii climate mitigation and
7 adaptation commission no later than twenty days prior to the
8 convening of the regular session of 2024.

9 SECTION 7. There is appropriated out of the general
10 revenues of the State of Hawaii the sum of \$ or so
11 much thereof as may be necessary for fiscal year 2023-2024 to be
12 deposited into the sea level rise relocation special fund.

13 SECTION 8. There is appropriated out of the sea level rise
14 relocation special fund the sum of \$ or so much
15 thereof as may be necessary for fiscal year 2023-2024 for the
16 department of land and natural resources to:

17 (1) Prepare and implement the sea level rise relocation
18 plan and program pursuant to section 171-C, Hawaii
19 Revised Statutes; and

20 (2) Plan and implement a sea level rise relocation pilot
21 project for voluntary relocation of critically



S.B. NO. 1032

1 threatened beach front development on the North Shore
2 of Oahu, through mechanisms including but not limited
3 to transfer of development rights and land exchanges.

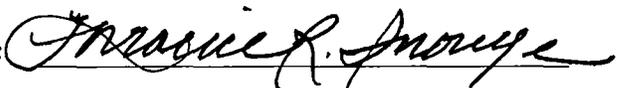
4 The sum appropriated shall be expended by the department of
5 land and natural resources for the purposes of this Act.

6 SECTION 9. In codifying the new sections added by sections
7 2 and 3 of this Act, the revisor of statutes shall substitute
8 appropriate section numbers for the letters used in designating
9 the new sections in this Act.

10 SECTION 10. Statutory material to be repealed is bracketed
11 and stricken. New statutory material is underscored.

12 SECTION 11. This Act shall take effect on July 1, 2023.

13

INTRODUCED BY: 



S.B. NO. 1032

Report Title:

Sea Level Rise; Land Exchange; DLNR; Public Lands; Inventory;
Transfer of Development Rights; Sea Level Rise Relocation;
Appropriation

Description:

Requires the department of land and natural resources to prepare plans and a program to facilitate voluntary relocation of Presidential development away from areas at risk of sea level rise. Establishes the sea level rise relocation special fund. Requires the department of land and natural resources to complete and maintain a current inventory of all public lands that are located outside the sea level rise exposure and special flood hazard areas. Allows the exchange of public land for private lands for the transfer of development rights or land exchanges to relocate private development away from high risk areas. Expands the climate change adaptation priority guidelines. Appropriates funds.

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