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# A BILL FOR AN ACT

RELATING TO COASTAL ZONE MANAGEMENT.

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

1       SECTION 1. Section 46-6.5, Hawaii Revised Statutes, is  
2 amended by amending subsection (a) to read as follows:

3       "(a) Each county shall adopt ordinances which shall  
4 require a [~~subdivider~~] landowner or developer, as a condition  
5 precedent to final approval of a subdivision, in cases where  
6 public access is not already provided, to [~~dedicate~~]:

7       (1) Dedicate land for public access by right-of-way or  
8 easement for pedestrian travel from a public highway  
9 or public streets to the land below the [~~high-water~~  
10 ~~mark~~] shoreline, as defined in section 205A-1 on any  
11 coastal shoreline[, ~~and to dedicate~~]; and

12       (2) Dedicate land for public access by right of way from a  
13 public highway to areas in the mountains where there  
14 are existing facilities for hiking, hunting, fruit-  
15 picking, ti-leaf sliding, and other recreational  
16 purposes, and where there are existing mountain  
17 trails.



1 The county shall ensure that there is reasonable street parking  
2 near public access areas in the special management areas under  
3 chapter 205A."

4 SECTION 2. Section 205A-1, Hawaii Revised Statutes, is  
5 amended by amending the definition of "agency" to read:

6 "Agency" means any agency, board, commission, department,  
7 or officer of a county government or the state government,  
8 including the authority as defined in [~~part~~] parts II[~~+~~] and  
9 III;"

10 SECTION 3. Section 205A-2, Hawaii Revised Statutes, is  
11 amended by amending subsections (b) and (c) to read as follows:

12 "(b) Objectives.

13 (1) Recreational resources;

14 (A) Provide coastal recreational opportunities  
15 accessible to the public.

16 (2) Historic resources;

17 (A) Protect, preserve, and, where desirable, restore  
18 those natural and manmade historic and  
19 prehistoric resources in the coastal zone  
20 management area that are significant in Hawaiian  
21 and American history and culture.

22 (3) Scenic and open space resources;



1 (A) Protect, preserve, and, where desirable, restore  
2 or improve the quality of coastal scenic and open  
3 space resources.

4 (4) Coastal ecosystems;

5 (A) Protect valuable coastal ecosystems, including  
6 beaches, reefs, and dunes from disruption and  
7 minimize significant adverse environmental or  
8 ecological impacts on all coastal ecosystems.

9 (5) Economic uses;

10 (A) Provide public or private facilities and  
11 improvements important to the State's economy in  
12 suitable locations.

13 (6) Coastal hazards;

14 (A) Reduce hazard to life and property from coastal  
15 hazards, including tsunami, [~~storm~~] hurricanes,  
16 wind, waves, [~~stream~~] flooding, erosion, sea-  
17 level rise, subsidence, and point and nonpoint  
18 source pollution.

19 (7) Managing development;

20 (A) Improve the development review process,  
21 communication, and public participation in the



management of and planning for the development of  
coastal resources and hazards[-] mitigation.

(8) Public participation;

(A) Stimulate public awareness, education, and  
participation in coastal management.

(9) Beach protection;

(A) Protect beaches and coastal dunes for public use  
and recreation[-] against coastal hazards.

(10) Marine resources;

(A) Promote the protection, use, and development of  
marine and coastal resources to assure their  
sustainability.

(c) Policies.

(1) Recreational resources;

(A) Improve coordination and funding of coastal  
recreational planning and management; and

(B) Provide adequate, accessible, and diverse  
recreational opportunities in the coastal zone  
management area for the general public by:

(i) Protecting coastal resources uniquely suited  
for recreational activities that cannot be  
provided in other areas;





1           (ii)   Requiring repair, restoration, or  
2                   replacement of coastal resources having  
3                   significant recreational value including[~~7~~  
4                   ~~but not limited to~~] coral reefs, surfing  
5                   sites, fishponds, coastal dunes, and [~~sand~~]  
6                   beaches, when [~~such~~] the resources will be  
7                   unavoidably damaged by development; or  
8                   requiring reasonable monetary compensation  
9                   to the State for recreation when repair,  
10                  restoration, or replacement is not feasible  
11                  or desirable;

12           (iii)   Providing and managing adequate public  
13                   access, consistent with conservation of  
14                   natural resources, to and along all  
15                   shorelines with recreational value;

16           (iv)   Providing an adequate supply of shoreline  
17                   parks and other recreational facilities  
18                   suitable for public recreation;

19           (v)   Ensuring public recreational uses of county,  
20                   state, and federally owned or controlled  
21                   shoreline lands and waters having  
22                   recreational value consistent with public



1 safety standards and conservation of natural  
2 resources;

3 (vi) Adopting water quality standards and  
4 regulating point and nonpoint sources of  
5 pollution to protect, and where feasible,  
6 restore the recreational value of coastal  
7 waters;

8 (vii) Developing new shoreline recreational  
9 opportunities, where appropriate, such as  
10 artificial lagoons, artificial beaches, and  
11 artificial reefs for surfing and fishing;  
12 and

13 (viii) Encouraging reasonable dedication of  
14 shoreline areas with recreational value for  
15 public use as part of discretionary  
16 approvals or permits by the land use  
17 commission, board of land and natural  
18 resources, and county authorities; and  
19 crediting such dedication against the  
20 requirements of section 46-6.

21 (2) Historic resources;



- 1 (A) Identify and analyze significant archaeological  
2 resources;
- 3 (B) Maximize information retention through  
4 preservation of remains and artifacts or salvage  
5 operations; and
- 6 (C) Support state goals for protection, restoration,  
7 interpretation, and display of historic  
8 resources.
- 9 (3) Scenic and open space resources;
- 10 (A) Identify valued scenic resources in the coastal  
11 zone management area;
- 12 (B) Ensure that new developments are compatible with  
13 their visual environment by designing and  
14 locating such developments to minimize the  
15 alteration of natural landforms and existing  
16 public views to and along the shoreline;
- 17 (C) Preserve, maintain, and, where desirable, improve  
18 and restore shoreline open space and scenic  
19 resources[+], and public access to those  
20 resources; and
- 21 (D) Encourage those developments that are not coastal  
22 dependent to locate in inland areas.



- 1 (4) Coastal ecosystems;
- 2 (A) Exercise an overall conservation ethic, and
- 3 practice stewardship in the protection, use, and
- 4 development of marine and coastal resources;
- 5 (B) Improve the technical basis for natural resource
- 6 management;
- 7 (C) Preserve [~~valuable~~] coastal ecosystems, including
- 8 beaches, reefs, [of significant biological or
- 9 economic importance,] and dunes;
- 10 (D) Minimize disruption or degradation of coastal
- 11 water ecosystems by effective regulation of
- 12 stream diversions, channelization, and similar
- 13 land and water uses, recognizing competing water
- 14 needs; [and]
- 15 (E) Promote water quantity and quality planning and
- 16 management practices that reflect the tolerance
- 17 of fresh water and marine ecosystems and maintain
- 18 and enhance water quality through the development
- 19 and implementation of point and nonpoint source
- 20 water pollution control measures[-]; and
- 21 (F) Prevent the grading or destruction of any primary
- 22 coastal dune.



1 (5) Economic uses;

2 (A) Concentrate coastal dependent development in  
3 appropriate areas;

4 (B) Ensure that coastal dependent development such as  
5 harbors and ports, and coastal related  
6 development such as visitor industry facilities  
7 and energy generating facilities, are located,  
8 designed, and constructed to minimize adverse  
9 social, visual, and environmental impacts in the  
10 coastal zone management area; and

11 (C) Direct the location and expansion of coastal  
12 dependent developments to areas presently  
13 designated and used for such developments and  
14 permit reasonable long-term growth at such  
15 areas~~[7]~~ with consideration of sea-level rise,  
16 and permit coastal dependent development outside  
17 of presently designated areas when:

18 (i) Use of presently designated locations is not  
19 feasible;

20 (ii) Adverse environmental effects and exposure  
21 to negative impacts related to sea-level  
22 rise are minimized; and



(iii) The development is important to the State's  
economy~~[-]~~, infrastructure, and utilities.

(6) Coastal hazards;

(A) Develop and communicate adequate information  
about ~~[storm-wave,]~~ tsunami, ~~[flood,]~~ hurricanes,  
wind, waves, flooding, erosion, sea-level rise,  
subsidence, and point and nonpoint source  
pollution hazards;

(B) ~~[Control]~~ Engage in early planning and control  
development in areas subject to ~~[storm-wave,]~~  
tsunami, ~~[flood,]~~ hurricanes, wind, waves,  
flooding, erosion, [hurricane, wind,] sea-level  
rise, subsidence, and point and nonpoint source  
pollution hazards;

(C) Ensure that developments comply with requirements  
of the ~~[Federal]~~ National Flood Insurance  
Program; and

(D) Prevent coastal flooding from inland projects.

(7) Managing development;

(A) Use, implement, and enforce existing law  
effectively to the maximum extent possible in



1 managing present and future coastal zone

2 development;

3 (B) Facilitate timely processing of applications for  
4 development permits and resolve overlapping or  
5 conflicting permit requirements; and

6 (C) Communicate the potential [~~short~~] short- and  
7 long-term impacts of proposed significant coastal  
8 developments early in [~~their life cycle~~] the  
9 development stage and in terms understandable to  
10 the public to facilitate public participation in  
11 the planning and review process.

12 (8) Public participation;

13 (A) Promote public involvement in coastal zone  
14 management processes;

15 (B) Disseminate information on coastal management  
16 issues by means of educational materials,  
17 published reports, staff contact, and public  
18 workshops for persons and organizations concerned  
19 with coastal issues, developments, and government  
20 activities; and



1 (C) Organize workshops, policy dialogues, and site-  
2 specific mediations to respond to coastal issues  
3 and conflicts.

4 (9) Beach protection;

5 (A) Locate new structures inland from the shoreline  
6 setback to conserve open space, minimize  
7 interference with natural shoreline processes,  
8 minimize negative impacts to coastal  
9 environments, and minimize loss of improvements  
10 due to coastal hazards including erosion;

11 (B) Prohibit construction of private erosion-  
12 protection structures seaward of the shoreline,  
13 except when they [~~result~~]:

14 (i) Result in improved public access, safety,  
15 aesthetic, environmental, and engineering  
16 solutions to coastal hazards including  
17 erosion at the sites;

18 (ii) Enhance beach conservation; and [~~do~~]

19 (iii) Do not significantly interfere with existing  
20 recreational and waterline activities [~~+~~  
21 and];

22 and





1 (C) Minimize the construction of public [~~erosion-~~  
2 ~~protection~~] coastal hazard-protection structures  
3 seaward of the shoreline[-] , except when they  
4 result in improved public access, safety,  
5 aesthetic, environmental, and engineering  
6 solutions to coastal hazards.

7 (10) Marine resources;

8 (A) Ensure that the use and development of marine and  
9 coastal resources are ecologically and  
10 environmentally sound and economically  
11 beneficial;

12 (B) Coordinate the management of marine and coastal  
13 resources and activities to improve effectiveness  
14 and efficiency;

15 (C) Assert and articulate the interests of the State  
16 as a partner with federal agencies in the sound  
17 management of ocean resources within the United  
18 States exclusive economic zone;

19 (D) Promote research, study, and understanding of  
20 ocean processes, marine life, and other ocean  
21 resources [~~in order~~] to acquire and inventory  
22 information necessary to understand how ocean



1 development activities relate to and impact upon  
2 ocean and coastal resources; and

3 (E) Encourage research and development of new,  
4 innovative technologies for exploring, using, or  
5 protecting marine and coastal resources."

6 SECTION 4. Section 205A-22, Hawaii Revised Statutes, is  
7 amended by amending the definitions of "department",  
8 "development", "special management area emergency permit", and  
9 "structure" to read as follows:

10 "Department" means the planning department in the counties  
11 of Kauai, Maui, and Hawaii, and the department of [~~land~~  
12 ~~utilization~~] planning and permitting in the city and county of  
13 Honolulu, or other appropriate agency as designated by the  
14 county councils.

15 "Development" means any of the uses, activities, or  
16 operations on land or in or under water within a special  
17 management area that are included below:

- 18 (1) Placement or erection of any solid material or any  
19 gaseous, liquid, solid, or thermal waste;  
20 (2) Grading, removing, dredging, mining, or extraction of  
21 any materials;



(3) Change in the density or intensity of use of land,  
including ~~[but not limited to]~~ the division or  
subdivision of land;

(4) Change in the intensity of use of water, ecology  
related thereto, or of access thereto; and

(5) Construction, reconstruction, demolition, or  
alteration of the size, shape, footprint, or area of  
any structure.

"Development" does not include the following:

(1) Construction of a single-family residence that is not  
part of a larger development;

(2) Repair or maintenance of roads and highways within  
existing rights-of-way;

(3) Routine maintenance dredging of existing streams,  
channels, and drainage ways;

(4) 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;

(5) Zoning variances, except for height, density, parking,  
and shoreline setback;



- 1 (6) Repair, maintenance, or interior alterations to
- 2 existing structures;
- 3 (7) Demolition or removal of structures, except those
- 4 structures located on any historic site as designated
- 5 in national or state registers;
- 6 (8) Use of any land for the purpose of cultivating,
- 7 planting, growing, and harvesting plants, crops,
- 8 trees, and other agricultural, horticultural, or
- 9 forestry products or animal husbandry, or aquaculture
- 10 or mariculture of plants or animals, or other
- 11 agricultural purposes;
- 12 (9) Transfer of title to land;
- 13 (10) Creation or termination of easements, covenants, or
- 14 other rights in structures or land;
- 15 (11) Subdivision of land into lots greater than twenty
- 16 acres in size;
- 17 (12) Subdivision of a parcel of land into four or fewer
- 18 parcels when no associated construction activities are
- 19 proposed; provided that any land which is so
- 20 subdivided shall not thereafter qualify for this
- 21 exception with respect to any subsequent subdivision
- 22 of any of the resulting parcels;



(13) Installation of underground utility lines and appurtenant aboveground fixtures less than four feet in height along existing corridors;

(14) Structural and nonstructural improvements to existing single-family residences, where otherwise permissible;

(15) Nonstructural improvements to existing commercial structures; and

(16) Construction, installation, maintenance, repair, and replacement of civil defense warning or signal devices and sirens;

provided that whenever the authority finds that any excluded use, activity, or operation may have a cumulative impact, or a significant environmental or ecological effect on a special management area, that use, activity, or operation shall be defined as "development" for the purpose of this part.

"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 legal



1 and in compliance with requirements of the ~~[Federal]~~ National  
2 Flood Insurance Program.

3 "Structure" includes ~~[but is not limited to]~~ any building,  
4 road, pipe, flume, conduit, siphon, aqueduct, telephone line,  
5 ~~[and]~~ electrical power transmission and distribution line~~[-]~~,  
6 wall, revetment, and groin."

7 SECTION 5. Section 205A-26, Hawaii Revised Statutes, is  
8 amended to read as follows:

9 "**§205A-26 Special management area guidelines.** In  
10 implementing this part, the authority shall adopt the following  
11 guidelines for the review of developments proposed in the  
12 special management area:

13 (1) All development in the special management area shall  
14 be subject to reasonable terms and conditions relative  
15 to the objectives, policies, and guidelines of this  
16 chapter set by the authority ~~[in order]~~ to ensure:

17 (A) Adequate public access, by dedication or other  
18 means, to and along the publicly owned or used  
19 beaches, recreation areas, and natural reserves  
20 is provided to the extent consistent with sound  
21 conservation principles;



1 (B) Adequate and properly located public recreation  
2 areas and wildlife preserves are reserved;

3 (C) Provisions are made for solid and liquid waste  
4 treatment, [~~disposition~~], disposal, and management  
5 which will minimize adverse effects upon special  
6 management area resources; and

7 (D) Alterations to existing land forms and  
8 vegetation, except crops, and construction of  
9 structures shall cause minimum adverse effect to  
10 water resources and scenic and recreational  
11 amenities and minimum danger of floods, wind  
12 damage, wave damage, storm surge, landslides,  
13 erosion, sea-level rise, siltation, or failure in  
14 the event of earthquake[-];

15 (2) No development shall be approved unless the authority  
16 has first found:

17 (A) That the development will not have any  
18 [~~substantial~~] significant adverse environmental  
19 or ecological effect, except as such adverse  
20 effect is minimized to the extent practicable and  
21 clearly outweighed by public health, safety, or  
22 compelling public interests. Such adverse



1 effects shall include [~~but not be limited to,~~]  
2 the potential cumulative impact of individual  
3 developments, each one of which taken in itself  
4 might not have a [~~substantial~~] significant  
5 adverse effect, and the elimination of planning  
6 options;

7 (B) That the development is consistent with the  
8 objectives, policies, and special management area  
9 guidelines of this chapter and any guidelines  
10 enacted by the legislature; [~~and~~]

11 (C) That the development is consistent with the  
12 county general plan and zoning. Such a finding  
13 of consistency does not preclude concurrent  
14 processing where a general plan or zoning  
15 amendment may also be required[~~-~~];

16 (D) That the development has been adequately planned  
17 to minimize the risk from coastal hazards such as  
18 tsunami, hurricanes, wind, waves, flooding,  
19 erosion, sea-level rise, subsidence, and point  
20 and nonpoint source pollution; and





1           (E) That the development does not impede reasonable  
2           and adequate public access to or along the  
3           shoreline or beach area;

4           and

5           (3) The authority shall seek to minimize, where  
6           reasonable:

7           (A) Dredging, filling, or otherwise altering any bay,  
8           estuary, salt marsh, river mouth, slough, or  
9           lagoon;

10          (B) Any development which would directly reduce the  
11          size of any beach or other area usable for public  
12          recreation;

13          (C) Any development which would reduce or impose  
14          restrictions upon public access to tidal and  
15          submerged lands, beaches, portions of rivers and  
16          streams within the special management areas, and  
17          the mean high tide line where there is no beach;

18          (D) Any development which would substantially  
19          interfere with or detract from the line of sight  
20          toward the sea from the state highway nearest the  
21          coast; and



1 (E) Any development which would adversely affect  
2 water quality, existing areas of open water free  
3 of visible structures, existing and potential  
4 fisheries and fishing grounds, wildlife habitats,  
5 or potential or existing agricultural uses of  
6 land."

7 SECTION 6. Section 205A-41, Hawaii Revised Statutes, is  
8 amended by adding two new definitions to be appropriately  
9 inserted and to read as follows:

10 "Authority" means the county planning commission, except  
11 in counties where the county planning commission is advisory  
12 only, in which case "authority" means the county council or such  
13 body as the council may by ordinance designate.

14 "Department" means the planning departments of the counties  
15 of Kauai, Maui, and Hawaii, and the department of planning and  
16 permitting of the city and county of Honolulu, as appropriate."

17 SECTION 7. Section 205A-43, Hawaii Revised Statutes, is  
18 amended to read as follows:

19 **"§205A-43 Establishment of shoreline setbacks and duties**  
20 **and powers of the department. (a) Setbacks along shorelines**  
21 **are established of not less than twenty feet and not more than**  
22 **forty feet inland from the shoreline. The department shall**



1 adopt rules pursuant to chapter 91, prescribing procedures for  
2 determining the shoreline setback line, and shall enforce the  
3 shoreline setbacks and rules pertaining thereto.

4 (b) The powers and duties of the department shall  
5 include[, ~~but not be limited to:~~

6 ~~(1) The department shall adopt rules under chapter 91~~  
7 ~~prescribing procedures for determining the shoreline~~  
8 ~~setback line; and~~

9 ~~(2) The department shall review]~~ reviewing the plans of  
10 all applicants who propose any structure, activity, or facility  
11 that would be prohibited without a variance pursuant to this  
12 part. The department may require that the plans be supplemented  
13 by accurately mapped data and photographs showing natural  
14 conditions and topography relating to all existing and proposed  
15 structures and activities.

16 (c) The shoreline setback established in this section  
17 shall not apply to:

18 (1) Any structure on Waikiki beach built as of the  
19 effective date of this Act; and

20 (2) Properties subject to the Waikiki Beach Reclamation  
21 Agreement dated October 19, 1928, between the  
22 Territory of Hawaii and beachfront property owners in



1           Waikiki to the extent the duties, restrictions, and  
2           obligations under the agreement conflict with the  
3           shoreline setback established under this section."

4           SECTION 8. Section 205A-43.5, Hawaii Revised Statutes, is  
5 amended by amending subsection (a) to read as follows:

6           "(a) Prior to action on a variance application, the  
7 authority shall hold a public hearing under chapter 91. By  
8 adoption of rules under chapter 91, the authority may delegate  
9 responsibility to the department. Public and private notice,  
10 including reasonable notice to abutting property owners and  
11 persons who have requested this notice, shall be provided, but a  
12 public hearing may be waived prior to action on a variance  
13 application for:

14           (1) Stabilization of shoreline erosion by the moving of  
15 sand entirely on public lands;

16           ~~[(2) Protection of a legal structure costing more than~~  
17           ~~\$20,000; provided the structure is at risk of~~  
18           ~~immediate damage from shoreline erosion;~~

19           ~~-(3) Other structures or activities; provided that no~~  
20           ~~person or agency has requested a public hearing within~~  
21           ~~twenty five calendar days after public notice of the~~  
22           ~~application; or~~



1       ~~(4)~~] (2) Temporary emergency protection of a legal  
2               inhabited dwelling or major infrastructure; provided  
3               the structure is at risk of immediate damage from  
4               shoreline erosion or other coastal hazard; or

5       ~~(4)~~] (3) Maintenance, repair, reconstruction, and minor  
6               additions or alterations of legal boating, maritime,  
7               or watersports recreational facilities, which result  
8               in little or no interference with natural shoreline  
9               processes."

10       SECTION 9. Section 205A-45, Hawaii Revised Statutes, is  
11       amended to read as follows:

12       **"§205A-45 Shoreline setback lines established by county.**

13       (a) The ~~several~~] counties through rules adopted pursuant to  
14       chapter 91 or ordinance may require that shoreline setback lines  
15       be established at distances greater than established in this  
16       part. The shoreline setback shall use a method including the  
17       average annual shoreline erosion rate, where appropriate, in  
18       addition to the minimum distance established in section 205A-43.

19       (b) The ~~several~~] counties through rules adopted pursuant  
20       to chapter 91 or ordinance may expand the shoreline area to  
21       include the area between mean sea level and the shoreline.



1        (c) The counties, through rules adopted under chapter 91  
2 or ordinance, or under existing authority, shall:

3        (1) Use the shoreline setback as a tool to minimize the  
4 damage from coastal hazards, including tsunami,  
5 hurricanes, wind, waves, flooding, erosion, sea-level  
6 rise, subsidence, and point and nonpoint source  
7 pollution. Measures such as early planning, variances  
8 for innovative design, and minimum buildable areas  
9 shall be considered; and

10       (2) Ensure that:

11       (A) Any parcels created after the subdivision of an  
12 original parcel are sufficiently large to  
13 accommodate a shoreline setback based on average  
14 annual erosion rate or other means to mitigate  
15 environmental damage and hazard exposure; and

16       (B) Public safety, public access, and public  
17 shoreline areas are protected.

18       (d) Any shoreline setback adopted by a county pursuant to  
19 this section shall not apply to:

20       (1) Any structure on Waikiki beach built as of the  
21 effective date of this Act; and



1       (2) Properties subject to the Waikiki Beach Reclamation  
2       Agreement dated October 19, 1928, between the  
3       Territory of Hawaii and beachfront property owners in  
4       Waikiki to the extent the duties, restrictions, and  
5       obligations under the agreement conflict with the  
6       shoreline setback established under this section."

7       SECTION 10. Section 205A-46, Hawaii Revised Statutes, is  
8       amended by amending subsection (a) to read as follows:

9       "(a) A variance may be granted for a structure or activity  
10      otherwise prohibited in this part if the authority finds in  
11      writing, based on the record presented, that the proposed  
12      structure or activity is necessary for or ancillary to:

13      (1) Cultivation of crops;

14      (2) Aquaculture;

15      (3) Landscaping; provided that the authority finds that  
16      the proposed structure or activity will not adversely  
17      affect beach processes or adequate public access and  
18      will not artificially fix the shoreline;

19      (4) Drainage;

20      (5) Boating, maritime, or watersports recreational  
21      facilities;



- 1 (6) Facilities or improvements by public agencies or  
2 public utilities regulated under chapter 269;
- 3 (7) Private facilities or improvements that are clearly in  
4 the public interest;
- 5 (8) Private facilities or improvements which will neither  
6 adversely affect beach processes nor artificially fix  
7 the shoreline; provided that the authority also finds  
8 that hardship will result to the applicant if the  
9 facilities or improvements are not allowed within the  
10 shoreline area;
- 11 (9) Private facilities or improvements that may  
12 [~~artificially fix~~] harden the shoreline; provided that  
13 the authority [~~also finds~~]:
- 14 (A) Finds that shoreline erosion is likely to cause  
15 significant hardship to the applicant if the  
16 facilities or improvements are not allowed within  
17 the shoreline area[, ~~and the authority imposes~~];
- 18 (B) Considers whether the activity will alter beach-  
19 quality sediment availability;
- 20 (C) Finds that the facilities or improvements do not  
21 limit or severely reduce adequate public access  
22 or public shoreline use; and





1           (D) Imposes conditions to prohibit any structure  
2                   seaward of the existing shoreline unless it is  
3                   clearly in the public interest; or

4       (10) Moving of sand from one location seaward of the  
5           shoreline to another location seaward of the  
6           shoreline[+] within the same littoral system; provided  
7           that the authority also finds that moving of sand  
8           ~~[will not adversely affect beach processes,]~~ will not  
9           diminish the size of a public beach and will be  
10          necessary to stabilize an eroding shoreline[-] or for  
11          stream mouth maintenance."

12       SECTION 11. Section 205A-71, Hawaii Revised Statutes, is  
13       amended by amending subsection (c) to read as follows:

14       "(c) The authority shall adopt rules under chapter 91  
15       setting forth procedures for implementing this section.

16       As used in this section, "authority" means the county  
17       planning commission, except in counties where the county  
18       planning commission is advisory only, in which case "authority"  
19       means the county council or such body as the council may by  
20       ordinance designate."



1       SECTION 12. This Act does not affect rights and duties  
2 that matured, penalties that were incurred, and proceedings that  
3 were begun, before its effective date.

4       SECTION 13. Statutory material to be repealed is bracketed  
5 and stricken. New statutory material is underscored.

6       SECTION 14. This Act shall take effect upon its approval.



**Report Title:**

Shoreline Setback

**Description:**

Requires certain agencies to account for sea-level rise and minimize risk from coastal hazards such as erosion, storm inundation, hurricanes, and tsunamis. Also preserves public shoreline access and authorizes the counties to account for annual shoreline erosion rates. Creates exception from shoreline setback rules for existing Waikiki beach structures and properties subject to Waikiki Beach Reclamation Agreement, to extent agreement conflicts with setback rules. (SB468 HD1)

