



GOV. MSG. NO. 1342

EXECUTIVE CHAMBERS
HONOLULU

NEIL ABERCROMBIE
GOVERNOR

July 06, 2012

The Honorable Shan Tsutsui, President
and Members of the Senate
Twenty-Sixth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

The Honorable Calvin Say, Speaker
and Members of the House
Twenty-Sixth State Legislature
State Capitol, Room 431
Honolulu, Hawaii 96813

Dear President Tsutsui, Speaker Say and Members of the Legislature:

This is to inform you that on July 06, 2012, the following bill was signed into law:

SB2335 HD2 CD1

RELATING TO SPECIAL MANAGEMENT AREAS.
Act 239 (12)

Sincerely,


NEIL ABERCROMBIE
Governor, State of Hawaii

RECEIVED
SENATE
OFFICE OF THE PRESIDENT

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Approved by the Governor

on JUL 6 2012

THE SENATE
TWENTY-SIXTH LEGISLATURE, 2012
STATE OF HAWAII

ACT 239

S.B. NO. 2335
H.D. 2
C.D. 1

A BILL FOR AN ACT

RELATING TO SPECIAL MANAGEMENT AREAS.

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

1 SECTION 1. The purpose of this Act is to clarify an
2 amendment to section 205A-22, Hawaii Revised Statutes, made by
3 Act 153, Session Laws of Hawaii 2011, to require the counties to
4 concurrently process subdivision and special management area use
5 permits to ensure that a special management area use permit is
6 processed before final subdivision approval.

7 SECTION 2. Section 205A-22, Hawaii Revised Statutes, is
8 amended by amending the definition of "development" to read as
9 follows:

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

- 13 (1) Placement or erection of any solid material or any
14 gaseous, liquid, solid, or thermal waste;
- 15 (2) Grading, removing, dredging, mining, or extraction of
16 any materials;



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

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

6 (5) Construction, reconstruction, demolition, or
7 alteration of the size of any structure.

8 "Development" does not include the following:

9 (1) Construction or reconstruction of a single-family
10 residence that is less than seven thousand five
11 hundred square feet of floor area and is not part of a
12 larger development;

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

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

17 (4) Repair and maintenance of underground utility lines,
18 including but not limited to water, sewer, power, and
19 telephone and minor appurtenant structures such as pad
20 mounted transformers and sewer pump stations;

21 (5) Zoning variances, except for height, density, parking,
22 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) Final subdivision approval; provided that in counties
- 16 that may automatically approve tentative subdivision
- 17 applications as a ministerial act within a fixed time
- 18 of the submission of a preliminary plat map, unless
- 19 the director takes specific action, a special
- 20 management area use permit if required, shall be
- 21 processed concurrently with an application for
- 22 tentative subdivision approval or after tentative



- 1 subdivision approval and before final subdivision
2 approval;
- 3 (12) Subdivision of land into lots greater than twenty
4 acres in size;
- 5 (13) Subdivision of a parcel of land into four or fewer
6 parcels when no associated construction activities are
7 proposed; provided that any land [~~which~~] that is so
8 subdivided shall not thereafter qualify for this
9 exception with respect to any subsequent subdivision
10 of any of the resulting parcels;
- 11 (14) Installation of underground utility lines and
12 appurtenant aboveground fixtures less than four feet
13 in height along existing corridors;
- 14 (15) Structural and nonstructural improvements to existing
15 single-family residences, where otherwise permissible;
- 16 (16) Nonstructural improvements to existing commercial
17 structures; and
- 18 (17) Construction, installation, maintenance, repair, and
19 replacement of civil defense warning or signal devices
20 and sirens;
- 21 provided that whenever the authority finds that any excluded
22 use, activity, or operation may have a cumulative impact, or a

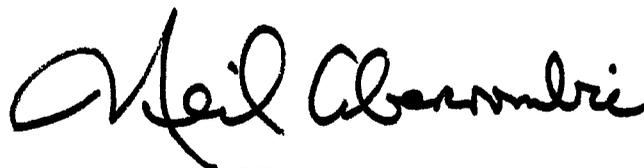


1 significant environmental or ecological effect on a special
2 management area, that use, activity, or operation shall be
3 defined as "development" for the purpose of this part."

4 SECTION 3. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

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

APPROVED this 6 day of JUL, 2012



GOVERNOR OF THE STATE OF HAWAII