
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 205A-43.5, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

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

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

13 (2) Protection of a legal structure costing more than
14 \$20,000; provided that the structure is at risk of
15 immediate damage from shoreline erosion;

16 (3) Other structures or activities; provided that no
17 person or agency has requested a public hearing within



1 twenty-five calendar days after public notice of the
2 application; or

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

8 provided that a public hearing shall not be waived for action on
9 a variance application for a shoreline hardening structure that
10 will artificially fix the shoreline, including a seawall,
11 revetment, or groin, subject to section 205A-46(d)."

12 SECTION 2. Section 205A-44, Hawaii Revised Statutes, is
13 amended by amending subsection (b) to read as follows:

14 "(b) Except as provided in this section, structures are
15 prohibited in the shoreline area without a variance pursuant to
16 this part. [~~Structures~~] Except as provided in section
17 205A-46(d), structures in the shoreline area shall not need a
18 variance if:

19 (1) They were completed prior to June 22, 1970;



- 1 (2) They received either a building permit, board
2 approval, or shoreline setback variance prior to
3 June 16, 1989;
- 4 (3) They are outside the shoreline area when they receive
5 either a building permit or board approval;
- 6 (4) They are necessary for or ancillary to continuation of
7 existing agriculture or aquaculture in the shoreline
8 area on June 16, 1989;
- 9 (5) They are minor structures permitted under rules
10 adopted by the department [~~which~~] that do not affect
11 beach processes or artificially fix the shoreline and
12 do not interfere with public access or public views to
13 and along the shoreline; or
- 14 (6) Work being done consists of maintenance, repair,
15 reconstruction, and minor additions or alterations of
16 legal boating, maritime, or watersports recreational
17 facilities [~~, which~~] that are publicly owned, and
18 [~~which~~] result in little or no interference with
19 natural shoreline processes;
- 20 provided that permitted structures may be repaired, but shall
21 not be enlarged within the shoreline area without a variance."



1 SECTION 3. Section 205A-46, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§205A-46 Variances. (a) [A] Except as provided in
4 subsection (d), a variance may be granted for a structure or
5 activity otherwise prohibited in this part if the authority
6 finds in writing, based on the record presented, that the
7 proposed structure or activity is necessary for or ancillary to:

- 8 (1) Cultivation of crops;
- 9 (2) Aquaculture;
- 10 (3) Landscaping; provided that the authority finds that
11 the proposed structure or activity will not adversely
12 affect beach processes and will not artificially fix
13 the shoreline;
- 14 (4) Drainage;
- 15 (5) Boating, maritime, or watersports recreational
16 facilities;
- 17 (6) Facilities or improvements by public agencies or
18 public utilities regulated under chapter 269;
- 19 (7) Private facilities or improvements that are clearly in
20 the public interest;



1 (8) Private facilities or improvements which will neither
2 adversely affect beach processes nor artificially fix
3 the shoreline; provided that the authority also finds
4 that hardship will result to the applicant if the
5 facilities or improvements are not allowed within the
6 shoreline area;

7 (9) Private facilities or improvements that may
8 artificially fix the shoreline; provided that the
9 authority also finds that shoreline erosion is likely
10 to cause hardship to the applicant if the facilities
11 or improvements are not allowed within the shoreline
12 area, and the authority imposes conditions to prohibit
13 any structure seaward of the existing shoreline unless
14 it is clearly in the public interest; or

15 (10) Moving of sand from one location seaward of the
16 shoreline to another location seaward of the
17 shoreline; provided that the authority also finds that
18 moving of sand will not adversely affect beach
19 processes, will not diminish the size of a public
20 beach, and will be necessary to stabilize an eroding
21 shoreline.



1 (b) Hardship shall be defined in rules adopted by the
2 authority under chapter 91. Hardship shall not be determined as
3 a result of county zoning changes, planned development permits,
4 cluster permits, or subdivision approvals after June 16, 1989,
5 or as a result of any other permit or approval listed in rules
6 adopted by the authority.

7 (c) No variance shall be granted unless appropriate
8 conditions are imposed:

- 9 (1) To maintain safe lateral access to and along the
10 shoreline or adequately compensate for its loss;
- 11 (2) To minimize risk of adverse impacts on beach
12 processes;
- 13 (3) To minimize risk of structures failing and becoming
14 loose rocks or rubble on public property; and
- 15 (4) To minimize adverse impacts on public views to, from,
16 and along the shoreline.

17 (d) In determining whether a variance may be granted for a
18 shoreline hardening structure that will artificially fix the
19 shoreline, the authority shall impose the conditions as provided
20 in subsection (c), and find in writing, based on the record
21 presented, the following:



1 (1) The feasibility and cost of relocating the relevant
2 structures or activities outside of the shoreline
3 area;

4 (2) The likelihood and severity of damage that will occur
5 if the shoreline hardening structure is not
6 constructed;

7 (3) The feasibility and cost of alternative means to
8 shoreline hardening to protect the relevant structures
9 or activities; and

10 (4) Whether the shoreline hardening structure is the
11 reasonable and practical alternative that best
12 conforms to the purpose of this chapter."

13 SECTION 4. This Act does not affect rights and duties that
14 matured, penalties that were incurred, and proceedings that were
15 begun before its effective date.

16 SECTION 5. Statutory material to be repealed is bracketed
17 and stricken. New statutory material is underscored.

18 SECTION 6. This Act shall take effect on July 1, 2050.

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Report Title:

Shoreline Area; Coastal Zone Management; Seawall; Shoreline
Hardening Structure; Variances

Description:

Prohibits a waiver of a public hearing for action on a variance application for a shoreline hardening structure that will artificially fix the shoreline, including a seawall, revetment, or groin. Establishes findings the authority must make in determining whether a variance may be granted for a shoreline hardening structure that will artificially fix the shoreline. Takes effect on 7/1/2050. (SD2)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

