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# 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 legislature finds that the special  
2 management areas law was established as part of the Shoreline  
3 Protection Act under Act 176, Session Laws of Hawaii 1975. The  
4 Act declared that it is state policy to preserve, protect, and  
5 where possible, restore the natural resources of the coastal  
6 zone of Hawaii.

7           The legislature further finds that due to a general sea  
8 level rise, coastal erosion has created the need to ensure that  
9 developments proposed within special management areas are  
10 appropriately reviewed and approved by counties, including minor  
11 residential developments. Special controls on development  
12 within areas along the shoreline are necessary in order to avoid  
13 permanent loss of valuable resources and to ensure sufficient  
14 access to public beaches, recreation areas, and natural  
15 reserves.

16           The purpose of this Act is to better manage development  
17 within special management areas by:



- 1           (1) Reducing the square footage threshold, and authorizing
- 2                   county planning authorities to further reduce the
- 3                   threshold, for a single-family residence that is not
- 4                   part of a larger development to be excluded from the
- 5                   special management areas law; and
- 6           (2) Requiring the county authorities to consider sea level
- 7                   rise when reviewing and approving all developments.

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

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

- 14           (1) Placement or erection of any solid material or any
- 15                   gaseous, liquid, solid, or thermal waste;
- 16           (2) Grading, removing, dredging, mining, or extraction of
- 17                   any materials;
- 18           (3) Change in the density or intensity of use of land,
- 19                   including but not limited to the division or
- 20                   subdivision of land;



- 1 (4) Change in the intensity of use of water, ecology  
2 related thereto, or of access thereto; and  
3 (5) Construction, reconstruction, demolition, or  
4 alteration of the size of any structure.

5 "Development" does not include the following:

- 6 (1) Construction or reconstruction of a single-family  
7 residence that is less than [~~seven thousand five~~  
8 ~~hundred~~] two thousand square feet of floor area and is  
9 not part of a larger development; provided that for  
10 purposes of this paragraph, the authority may  
11 establish a maximum floor area square footage  
12 requirement that is less than two thousand square  
13 feet;  
14 (2) Repair or maintenance of roads and highways within  
15 existing rights-of-way;  
16 (3) Routine maintenance dredging of existing streams,  
17 channels, and drainage ways;  
18 (4) Repair and maintenance of underground utility lines,  
19 including but not limited to water, sewer, power, and  
20 telephone and minor appurtenant structures, such as  
21 pad mounted transformers and sewer pump stations;



- 1           (5)   Zoning variances, except for height, density, parking,  
2                   and shoreline setback;
- 3           (6)   Repair, maintenance, or interior alterations to  
4                   existing structures;
- 5           (7)   Demolition or removal of structures, except those  
6                   structures located on any historic site as designated  
7                   in national or state registers;
- 8           (8)   Use of any land for the purpose of cultivating,  
9                   planting, growing, and harvesting plants, crops,  
10                  trees, and other agricultural, horticultural, or  
11                  forestry products or animal husbandry, or aquaculture  
12                  or mariculture of plants or animals, or other  
13                  agricultural purposes;
- 14          (9)   Transfer of title to land;
- 15          (10)  Creation or termination of easements, covenants, or  
16                  other rights in structures or land;
- 17          (11)  Final subdivision approval; provided that in counties  
18                  that may automatically approve tentative subdivision  
19                  applications as a ministerial act within a fixed time  
20                  of the submission of a preliminary plat map, unless  
21                  the director takes specific action, a special



- 1 management area use permit if required, shall be  
2 processed concurrently with an application for  
3 tentative subdivision approval or after tentative  
4 subdivision approval and before final subdivision  
5 approval;
- 6 (12) Subdivision of land into lots greater than twenty  
7 acres in size;
- 8 (13) Subdivision of a parcel of land into four or fewer  
9 parcels when no associated construction activities are  
10 proposed; provided that any land that is so subdivided  
11 shall not thereafter qualify for this exception with  
12 respect to any subsequent subdivision of any of the  
13 resulting parcels;
- 14 (14) Installation of underground utility lines and  
15 appurtenant aboveground fixtures less than four feet  
16 in height along existing corridors;
- 17 (15) Structural and nonstructural improvements to existing  
18 single-family residences, where otherwise permissible;
- 19 (16) Nonstructural improvements to existing commercial  
20 structures; and



1 (17) Construction, installation, maintenance, repair, and  
2 replacement of emergency management warning or signal  
3 devices and sirens;

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

9 SECTION 3. Section 205A-26, Hawaii Revised Statutes, is  
10 amended to read as follows:

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

15 (1) All development in the special management area shall  
16 be subject to reasonable terms and conditions set by  
17 the authority in order to ensure:

18 (A) Adequate access, by dedication or other means, to  
19 publicly owned or used beaches, recreation areas,  
20 and natural reserves is provided to the extent  
21 consistent with sound 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, and management [~~which~~  
5 that 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, storm surge, landslides, erosion,  
13 siltation, or failure in the event of  
14 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 adverse environmental or ecological  
19 effect, except as such adverse effect is  
20 minimized to the extent practicable and clearly  
21 outweighed by public health, safety, or



1           compelling public interests. Such adverse  
 2           effects shall include[7] but not be limited to[7]  
 3           the potential cumulative impact of individual  
 4           developments, each one of which taken in itself  
 5           might not have a substantial adverse effect, and  
 6           the elimination of planning 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 applicant has considered the risk of sea  
 17          level rise on the area of the development; and

18          (E) That the effect of sea level rise on the  
 19          development during its normal useful life will be  
 20          minimal; and



- 1           (3) The authority shall seek to minimize, where  
2           reasonable:
- 3           (A) Dredging, filling or otherwise altering any bay,  
4           estuary, salt marsh, river mouth, slough or  
5           lagoon;
- 6           (B) Any development [~~which~~] that would reduce the  
7           size of any beach or other area usable for public  
8           recreation;
- 9           (C) Any development [~~which~~] that would reduce or  
10          impose restrictions upon public access to tidal  
11          and submerged lands, beaches, portions of rivers  
12          and streams within the special management areas  
13          and the mean high tide line where there is no  
14          beach;
- 15          (D) Any development [~~which~~] that would substantially  
16          interfere with or detract from the line of sight  
17          toward the sea from the state highway nearest the  
18          coast; and
- 19          (E) Any development [~~which~~] that would adversely  
20          affect water quality, existing areas of open  
21          water free of visible structures, existing and



1 potential fisheries and fishing grounds, wildlife  
2 habitats, or potential or existing agricultural  
3 uses of land."

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

6 SECTION 5. This Act shall take effect on July 1, 2050.



**Report Title:**

Special Management Areas; Development; Single-family Residences;  
Sea Level Rise; Authorities

**Description:**

Reduces the size threshold, and authorizes the county planning authority to further reduce the threshold, for a single-family residence that is not part of a larger development to be excluded from the definition of "development" for purposes of the special management areas law. Requires the county authorities to consider sea level rise when reviewing and approving all developments. 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.*

