

---

---

# A BILL FOR AN ACT

RELATING TO REAL ESTATE DISCLOSURE.

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

1           SECTION 1. The legislature finds that real property in the  
2 State is often vulnerable to hazards, such as coastal erosion  
3 and flooding from tsunamis, storms, and high waves. These  
4 hazards can be exacerbated by sea level rise and human-caused  
5 interruptions to natural sand supply. In Hawai'i, all beaches  
6 are prone to seasonal or episodic erosion from high waves and  
7 storms. In addition, chronic erosion affects seventy per cent  
8 of the beaches on O'ahu, Maui, and Kaua'i.

9           The legislature further finds that numerous court decisions  
10 have affirmed that privately owned oceanfront land is lost when  
11 shorelines undergo landward retreat and oceanfront properties  
12 become smaller. When oceanfront property experiences landward  
13 retreat, building setbacks, property values, and insurance  
14 availability can be adversely impacted. Another challenge  
15 property owners face in Hawai'i is the stringent permit  
16 requirements imposed by the counties and State for shoreline  
17 protection. When shoreline retreat occurs, obtaining a permit



1 to repair or install shoreline protection structures, such as  
2 seawalls, revetments, geotextile sandbags, or groins, can be  
3 challenging due to Hawai'i's coastal zone management policies,  
4 which protect coastal natural resources and shoreline public  
5 access. Furthermore, the legislature recognizes sea level rise  
6 and shoreline retreat as concerns for all property owners, not  
7 just oceanfront property owners.

8 Accordingly, the purpose of this Act is to require a sea  
9 level rise hazard exposure statement with the sale or transfer  
10 of vulnerable coastal property to ensure that new property  
11 owners and transferees understand the special hazards,  
12 permitting requirements, and limitations that may affect the  
13 property.

14 SECTION 2. Chapter 508D, Hawaii Revised Statutes, is  
15 amended by adding a new section to be appropriately designated  
16 and to read as follows:

17 "§508D- Sea level rise hazard exposure statement. (a)  
18 Beginning November 1, 2019, every sale or transfer of vulnerable  
19 coastal property shall include a sea level rise hazard exposure  
20 statement executed by the purchaser or transferee.



- 1        (b) Every sea level rise hazard exposure statement shall  
2 include acknowledgment by the purchaser or transferee that:
- 3        (1) The coastal property is at risk of losing area if the  
4 shoreline retreats inland due to erosion, sea level  
5 rise, or permitting requirements;
- 6        (2) Maps showing historic coastal erosion, flood insurance  
7 zones, and sea level rise exposure areas exist to  
8 inform the public of risks;
- 9        (3) Shoreline certifications and setbacks are determined  
10 pursuant to chapter 205A, and the location of the  
11 certified shoreline and setback may be affected by  
12 inland migration of the upper reach of the wash of the  
13 waves;
- 14        (4) Obtaining permits to repair or install shoreline  
15 protection structures may be difficult due to state  
16 and federal coastal zone management policies  
17 discouraging coastal hardening;
- 18        (5) Beaches are public trust resources that governmental  
19 agencies have a responsibility to protect;
- 20        (6) The public enjoys a right of access to Hawaii's  
21 shorelines, including the right of transit along the



1 shorelines, pursuant to section 115-4, and this right  
2 of transit can be threatened by shoreline protection  
3 structures that reduce the width of beaches as sea  
4 level rise occurs; and

5 (7) The department of land and natural resources may  
6 require a landowner to remove encroaching vegetation  
7 if a landowner's human-induced, enhanced, or  
8 unmaintained vegetation interferes with or encroaches  
9 on a beach transit corridor pursuant to section  
10 115-10.

11 (c) All vulnerable coastal property purchaser statements  
12 shall be notarized and recorded in the bureau of conveyances.

13 (d) For purposes of this section, "vulnerable coastal  
14 property" means real property within a two-foot sea level rise  
15 exposure area as officially designated by the Hawaii climate  
16 change mitigation and adaptation commission."

17 SECTION 3. Section 508D-15, Hawaii Revised Statutes, is  
18 amended by amending subsection (a) to read as follows:

19 "(a) When residential real property lies:

20 (1) Within the boundaries of a special flood hazard area  
21 as officially designated on Flood Insurance



- 1 Administration maps promulgated by the United States  
2 Department of Housing and Urban Development for the  
3 purposes of determining eligibility for emergency  
4 flood insurance programs;
- 5 (2) Within the boundaries of the noise exposure area shown  
6 on maps prepared by the department of transportation  
7 in accordance with Federal Aviation Regulation part  
8 150, Airport Noise Compatibility Planning (14 C.F.R.  
9 part 150), for any public airport;
- 10 (3) Within the boundaries of the Air Installation  
11 Compatible Use Zone of any Air Force, Army, Navy, or  
12 Marine Corps airport as officially designated by  
13 military authorities; [~~or~~]
- 14 (4) Within the anticipated inundation areas designated on  
15 the department of defense's emergency management  
16 tsunami inundation maps [~~7~~]; or
- 17 (5) Within a sea level rise exposure area as officially  
18 designated by the Hawaii climate change mitigation and  
19 adaptation commission;
- 20 subject to the availability of maps that designate the [~~four~~]  
21 five areas by tax map key (zone, section, parcel), the seller



1 shall include the material fact information in the disclosure  
2 statement provided to the buyer subject to this chapter. Each  
3 county shall provide, where available, maps of its jurisdiction  
4 detailing the [~~four~~] five designated areas specified in this  
5 subsection. The maps shall identify the properties situated  
6 within the [~~four~~] five designated areas by tax map key number  
7 (zone, section, parcel) and shall be of a size sufficient to  
8 provide information necessary to serve the purposes of this  
9 section. Each county shall provide legible copies of the maps  
10 and may charge a reasonable copying fee."

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

13 SECTION 5. This Act shall take effect on December 31,  
14 2050.



**Report Title:**

Real Estate Disclosure; Sea Level Rise; Hazard Exposure Statement; Vulnerable Coastal Property

**Description:**

Beginning on November 1, 2019, requires all vulnerable coastal property sales or transfers to include a sea level rise hazard exposure statement to ensure that new property owners and transferees understand the special hazards, requirements, and limitations that may affect the property. Requires sellers to include whether property is within a sea level rise exposure area in the disclosure statement provided to the buyer. Takes effect 12/31/2050. (SD1)

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

