

JAN 17 2020

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# A BILL FOR AN ACT

RELATING TO SHORELINE SETBACKS.

**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 and  
3 flooding from tsunamis, storms, and high waves. These hazards  
4 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. Since oceanfront properties experience landward  
13 retreat, building setbacks need to be adjusted to respond to  
14 this new geographic landscape.

15           Accordingly, the purpose of this Act is to establish  
16 greater shoreline setback requirements, in order to accurately



1 reflect the areas that are no longer suitable for long-term  
2 structures.

3 SECTION 2. Section 205A-43, Hawaii Revised Statutes, is  
4 amended by amending subsection (a) to read as follows:

5 "(a) Setbacks along shorelines are established of not less  
6 than [~~twenty feet and not more than~~] forty feet inland from the  
7 shoreline~~[-]~~, and an altitude of at least two meters above sea  
8 level. The department shall adopt rules pursuant to chapter 91,  
9 and shall enforce the shoreline setbacks and rules pertaining  
10 thereto."

11 SECTION 3. Section 205A-44, Hawaii Revised Statutes, is  
12 amended by amending subsection (b) to read as follows:

13 "(b) Except as provided in this section, structures are  
14 prohibited in the shoreline area without a variance pursuant to  
15 this part. Structures in the shoreline area shall not need a  
16 variance if:

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

18 (2) They received either a building permit, board

19 approval, or shoreline setback variance prior to

20 [~~June 16, 1989;~~] January 1, 2020;



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

19          SECTION 4. This Act does not affect rights and duties that  
20          matured, penalties that were incurred, and proceedings that were  
21          begun before its effective date.



# S.B. NO. 2381

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

3 SECTION 6. This Act shall take effect on April 22, 2021.

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INTRODUCED BY:

*Karl Rhoads*

*[Signature]*

*[Signature]*

*[Signature]*

*[Signature]*



# S.B. NO. 2381

**Report Title:**

Shoreline Setbacks

**Description:**

Adjusts shoreline setback requirements by taking into consideration rising sea levels.

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

