
A BILL FOR AN ACT

RELATING TO COASTAL ZONE MANAGEMENT.

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

1 PART I

2 SECTION 1. The legislature finds that beaches in the State
3 are critically important to the local economy, ecosystems, and
4 way of life. The coastal zone management program, established
5 pursuant to Act 188, Session Laws of Hawaii 1977, declared that
6 it is state policy to:

7 (1) Protect, preserve, and where desirable, restore or
8 improve the quality of coastal scenic and open space
9 resources;

10 (2) Protect valuable coastal ecosystems from disruption
11 and minimize adverse impacts on all coastal
12 ecosystems;

13 (3) Reduce hazards to life and property from tsunami,
14 storm waves, stream flooding, erosion, and subsidence;
15 and



1 (4) Improve the development review process, communication,
2 and public participation in the management of coastal
3 resources and hazards.

4 The legislature also finds that sea level rise and
5 shoreline erosion have accelerated in recent decades,
6 threatening private property, public infrastructure, cultural
7 practices, and public trust resources such as beaches and
8 wetlands. As coastlines erode and the mean high water line
9 moves mauka, formerly dry lands, if unimpeded, will naturally
10 pass into the public trust. Article XI, section 1 of the state
11 constitution clearly states that "[a]ll public natural resources
12 are held in trust by the State for the benefit of the people";
13 this includes marine resources.

14 Facing loss of their property, however, owners of land that
15 abuts the shoreline have responded to coastal erosion by
16 erecting shoreline hardening structures, including seawalls and
17 revetments, which accelerate coastal erosion in adjacent areas,
18 restrict the natural landward movement of the shoreline, stem
19 the natural increase of public trust land, impede the State's
20 ability to protect the coastal zone, and deprive residents of
21 Hawaii of the benefits of increased public trust lands.



1 The legislature further finds that the Hawaii Sea Level
2 Rise Vulnerability and Adaptation Report predicts that 3.2 feet
3 of sea level rise will compromise or destroy six thousand five
4 hundred structures across the State, leaving twenty thousand
5 displaced residents in need of new homes. The legislature also
6 finds that the State must acquire private, shoreline-adjacent
7 lands to ensure that space exists for the survival of the
8 beaches and dune systems in the State. Further, the acquisition
9 of shoreline-adjacent land will enable the State to allow
10 continued public access to Hawaii's beaches, a right protected
11 under the state constitution. Acquiring shoreline-adjacent
12 property will also create a buffer between the shoreline and
13 developed areas, protecting the State from any potential future
14 natural disasters. Doing this before permanent inundation or
15 chronic flooding will be easier and cheaper for the State.

16 The purpose of this Act is to ensure the preservation of
17 Hawaii's beaches for future generations by:

- 18 (1) Establishing the Hawaii beach preservation revolving
19 fund within the state treasury;
- 20 (2) Creating a low-interest contingent mortgage financing
21 pilot program to encourage certain shoreline property



- 1 owners to relocate mauka of expected sea level rise
2 and erosion hazard zones;
- 3 (3) Appropriating moneys for the Hawaii beach preservation
4 revolving fund, to be used for the contingent mortgage
5 financing pilot program;
- 6 (4) Increasing the conveyance tax rate for oceanfront
7 properties having a value of \$10,000,000 or higher and
8 for which the purchaser is ineligible for a county
9 homeowner's exemption on property tax, and further
10 allocating one hundred per cent of taxes collected on
11 those properties for deposit into the Hawaii beach
12 preservation revolving fund; and
- 13 (5) Prohibiting, without exception, the construction or
14 repair of any shoreline hardening structures,
15 including seawalls and revetments, that would impede
16 the natural landward movement of public trust lands.

17 PART II

18 SECTION 2. Chapter 171, Hawaii Revised Statutes, is
19 amended by adding two new sections to be appropriately
20 designated and to read as follows:



1 "§171-A Hawaii beach preservation revolving fund;
2 established; uses. (a) There is established within the state
3 treasury the Hawaii beach preservation revolving fund, to be
4 administered by the department, into which shall be deposited:

- 5 (1) Legislative appropriations to the fund;
- 6 (2) Moneys received as repayment of loan and interest
7 payments;
- 8 (3) Fees collected by the department pursuant to this
9 section or section 171-B;
- 10 (4) Gifts, donations, and grants from any public or
11 private entities;
- 12 (5) All interest earned or accrued on moneys deposited
13 into the fund; and
- 14 (6) Moneys paid to or allotted to the fund from other
15 sources.

16 (b) Moneys from the fund shall be expended by the
17 department to provide a low-interest mortgage loan to any owner
18 of a qualifying private residential shoreline property in an
19 expected sea level rise hazard zone or erosion hazard zone who:

- 20 (1) Relinquishes the shoreline property to the State; and



1 (2) Uses the mortgage loan offered pursuant to section
2 171-B to acquire or build a residential property mauka
3 of expected sea level rise and erosion hazard zones;
4 provided that any mortgage loan offered shall be equal to the
5 property's current value as appraised in accordance with rules
6 adopted by the department pursuant to chapter 91.

7 **§171-B Contingent mortgage financing pilot program;**

8 **established.** (a) There is established the contingent mortgage
9 financing pilot program, to be administered by the department,
10 to provide a low-interest mortgage loan to any owner of a
11 qualifying private residential shoreline property in an expected
12 sea level rise hazard zone or erosion hazard zone who:

13 (1) Relinquishes the shoreline property to the State; and

14 (2) Uses the mortgage loan offered to acquire or build a
15 residential property mauka of expected sea level rise
16 and erosion hazard zones.

17 (b) Mortgage loans offered pursuant to this section shall
18 be offered:

19 (1) To any owner of a private single-family residence;
20 provided that the private single-family residence is a
21 qualifying private residential shoreline property in



1 an expected sea level rise hazard zone or erosion
2 hazard zone in accordance with rules adopted by the
3 department pursuant to chapter 91; provided further
4 that the contingent mortgage financing pilot program
5 shall be available for up to one hundred qualified
6 single-family residences;

7 (2) To any owner of a private condominium property regime
8 established pursuant to chapter 514B; provided that
9 the private condominium property regime is a
10 qualifying private residential shoreline property in
11 an expected sea level rise hazard zone or erosion
12 hazard zone in accordance with rules adopted by the
13 department pursuant to chapter 91; provided further
14 that the contingent mortgage financing pilot program
15 shall be available for up to ten qualified condominium
16 property regimes; and

17 (3) Using funds from the Hawaii beach preservation
18 revolving fund.

19 (c) The department, or another agency as determined by the
20 governor, shall manage all lands and property acquired pursuant
21 to this section. Lands acquired pursuant to this section shall



1 remain public in perpetuity or until natural processes transform
2 the land into public trust lands.

3 (d) The department shall submit an annual report to the
4 legislature regarding the contingent mortgage financing pilot
5 program, including the number of mortgage loans issued pursuant
6 to the program, recommendations, and any proposed legislation,
7 no later than twenty days prior to the convening of the regular
8 session of 2023 and each regular session thereafter.

9 (e) The department shall adopt rules pursuant to chapter
10 91 to effectuate the purposes of this section; provided that the
11 rules required by this subsection shall be adopted no later than
12 December 31, 2021."

13 SECTION 3. There is appropriated out of the general
14 revenues of the State of Hawaii the sum of \$ or so much
15 thereof as may be necessary for fiscal year 2021-2022 and the
16 same sum or so much thereof as may be necessary for fiscal year
17 2022-2023 to be deposited into the Hawaii beach preservation
18 revolving fund and expended for the contingent mortgage
19 financing pilot program.

20 The sums appropriated shall be expended by the department
21 of land and natural resources for the purposes of this Act.



1 PART III

2 SECTION 4. Section 247-2, Hawaii Revised Statutes, is
3 amended to read as follows:

4 "**§247-2 Basis and rate of tax.** The tax imposed by section
5 247-1 shall be based on the actual and full consideration [~~+~~],
6 whether cash or otherwise, including any promise, act,
7 forbearance, property interest, value, gain, advantage, benefit,
8 or profit[~~+~~], paid or to be paid for all transfers or conveyance
9 of realty or any interest therein, that shall include any liens
10 or encumbrances thereon at the time of sale, lease, sublease,
11 assignment, transfer, or conveyance, and shall be at the
12 following rates:

- 13 (1) Except as provided in paragraph (2):
 - 14 (A) Ten cents per \$100 for properties with a value of
 - 15 less than \$600,000;
 - 16 (B) Twenty cents per \$100 for properties with a value
 - 17 of at least \$600,000, but less than \$1,000,000;
 - 18 (C) Thirty cents per \$100 for properties with a value
 - 19 of at least \$1,000,000, but less than \$2,000,000;
 - 20 (D) Fifty cents per \$100 for properties with a value
 - 21 of at least \$2,000,000, but less than \$4,000,000;



- 1 (E) Seventy cents per \$100 for properties with a
- 2 value of at least \$4,000,000, but less than
- 3 \$6,000,000;
- 4 (F) Ninety cents per \$100 for properties with a value
- 5 of at least \$6,000,000, but less than
- 6 \$10,000,000; and
- 7 (G) One dollar per \$100 for properties with a value
- 8 of \$10,000,000 or greater; and
- 9 (2) For the sale of a condominium or single family
- 10 residence for which the purchaser is ineligible for a
- 11 county homeowner's exemption on property tax:
- 12 (A) Fifteen cents per \$100 for properties with a
- 13 value of less than \$600,000;
- 14 (B) Twenty-five cents per \$100 for properties with a
- 15 value of at least \$600,000, but less than
- 16 \$1,000,000;
- 17 (C) Forty cents per \$100 for properties with a value
- 18 of at least \$1,000,000, but less than \$2,000,000;
- 19 (D) Sixty cents per \$100 for properties with a value
- 20 of at least \$2,000,000, but less than \$4,000,000;



1 (E) Eighty-five cents per \$100 for properties with a
2 value of at least \$4,000,000, but less than
3 \$6,000,000;

4 (F) One dollar and ten cents per \$100 for properties
5 with a value of at least \$6,000,000, but less
6 than \$10,000,000; and

7 (G) One dollar and twenty-five cents per \$100 for
8 properties with a value of \$10,000,000 or
9 greater[~~7~~]; provided that for oceanfront
10 properties under this subsection with a value of
11 \$10,000,000 or more, the rate shall be one dollar
12 and fifty cents per \$100,

13 of [~~such~~] the actual and full consideration; provided that in
14 the case of a lease or sublease, this chapter shall apply only
15 to a lease or sublease whose full unexpired term is for a period
16 of five years or more, and in those cases, including [~~+~~], where
17 appropriate[~~+~~], those cases where the lease has been extended or
18 amended, the tax in this chapter shall be based on the cash
19 value of the lease rentals discounted to present day value and
20 capitalized at the rate of six per cent, plus the actual and
21 full consideration paid or to be paid for any and all



1 improvements, if any, that shall include on-site as well as off-
2 site improvements, applicable to the leased premises; and
3 provided further that the tax imposed for each transaction shall
4 be not less than \$1."

5 SECTION 5. Section 247-7, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "**§247-7 Disposition of taxes.** All taxes collected under
8 this chapter shall be paid into the state treasury to the credit
9 of the general fund of the State, to be used and expended for
10 the purposes for which the general fund was created and exists
11 by law; provided that of the taxes collected each fiscal year:

12 (1) Ten per cent or \$5,100,000, whichever is less, shall
13 be paid into the land conservation fund established
14 pursuant to section 173A-5; [~~and~~]

15 (2) Fifty per cent or \$38,000,000, whichever is less,
16 shall be paid into the rental housing revolving fund
17 established by section 201H-202[~~-~~]; and

18 (3) One hundred per cent of the taxes collected on the
19 sale of oceanfront property pursuant to section
20 247-2(2)(G) shall be paid into the Hawaii beach



1 the structure or public facility is at risk of
 2 immediate damage from shoreline erosion, the proposed
 3 construction shall not artificially fix the shoreline,
 4 and the authorization does not exceed three years;

5 (3) Other structures or activities; provided that no
 6 person or agency has requested a public hearing within
 7 twenty-five calendar days after public notice of the
 8 application; or

9 (4) Maintenance, repair, reconstruction, and minor
 10 additions or alterations of legal boating, maritime,
 11 or watersports recreational facilities, that result in
 12 little or no interference with natural shoreline
 13 processes."

14 SECTION 7. Section 205A-44, Hawaii Revised Statutes, is
 15 amended to read as follows:

16 "**§205A-44 Prohibitions.** (a) The mining or taking of
 17 sand, dead coral or coral rubble, rocks, soil, or other beach or
 18 marine deposits from the shoreline area is prohibited with the
 19 following exceptions:

20 (1) ~~[The inadvertent taking from the shoreline area of the~~
 21 ~~materials, such as those inadvertently carried away on~~

1 ~~the body, and on clothes, toys, recreational~~
2 ~~equipment, and bags,~~
3 ~~(2)]~~ Where the mining or taking is authorized by a variance
4 pursuant to this part;
5 ~~(3)]~~ (2) The clearing of these materials from existing
6 drainage pipes and canals and from the mouths of
7 streams including clearing for the purposes under
8 section 46-11.5; provided that the sand removed shall
9 be placed on adjacent areas unless the placement would
10 result in significant turbidity;
11 ~~(4)]~~ (3) The cleaning of the shoreline area for state or
12 county maintenance purposes, including the clearing
13 for purposes under section 46-12; provided that the
14 sand removed shall be placed on adjacent areas unless
15 the placement would result in significant turbidity;
16 ~~(5)]~~ (4) The taking of driftwood, shells, beach glass,
17 glass floats, or seaweed;
18 ~~(6)]~~ (5) The exercise of traditional cultural practices as
19 authorized by law or as permitted by the department
20 pursuant to article XII, section 7, of the Hawaii
21 State Constitution; or



1 (6) Work being done consists of maintenance, repair, and
2 minor additions or alterations of legal boating,
3 maritime, or watersports recreational facilities,
4 ~~[which]~~ that are publicly owned, and ~~[which]~~ that
5 result in little or no interference with natural
6 shoreline processes;

7 provided that permitted structures may be repaired, but shall
8 not be enlarged, rebuilt, or replaced within the shoreline area
9 without a variance.

10 (c) The construction of shoreline hardening structures
11 within the shoreline setback area, including seawalls, groins,
12 revetments, and geotextile shore protection projects, shall be
13 prohibited; provided that when public infrastructure is
14 imminently threatened by coastal erosion:

15 (1) Temporary non-structural erosion prevention measures
16 shall be utilized;

17 (2) Shoreline hardening methods shall not be utilized; and

18 (3) Any public infrastructure temporarily protected
19 pursuant to this subsection shall be moved mauka as
20 soon as possible, after which all temporary non-



1 structural erosion prevention measures shall be
2 immediately removed.

3 (d) No existing shoreline hardening structure shall be
4 altered, repaired, or replaced."

5 SECTION 8. Section 205A-46, Hawaii Revised Statutes, is
6 amended by amending subsections (a) and (b) to read as follows:

7 "(a) [A] Except as provided in subsection 205A-44(d),
8 variance may be granted for a structure or activity otherwise
9 prohibited in this part if the authority finds in writing, based
10 on the record presented, that the proposed structure or activity
11 is necessary for or ancillary to:

- 12 (1) Cultivation of crops;
- 13 (2) Aquaculture;
- 14 (3) Landscaping; provided that the authority finds that
15 the proposed structure or activity will not adversely
16 affect beach processes and will not artificially fix
17 the shoreline;
- 18 (4) Drainage;
- 19 (5) Boating, maritime, or watersports recreational
20 facilities;



- 1 (6) Facilities or improvements by public agencies or
- 2 public utilities regulated under chapter 269;
- 3 (7) Private facilities or improvements that are clearly in
- 4 the public interest;
- 5 (8) Private facilities or improvements that will not
- 6 adversely affect beach processes, result in flanking
- 7 shoreline erosion, or [~~artificially fix the~~
- 8 ~~shoreline,~~] curtail public access; provided that the
- 9 authority may consider any hardship that will result
- 10 to the applicant if the facilities or improvements are
- 11 not allowed within the shoreline area;
- 12 (9) Private facilities or improvements that may
- 13 artificially fix the shoreline; provided that the
- 14 authority may consider hardship to the applicant if
- 15 the facilities or improvements are not allowed within
- 16 the shoreline area; provided further that a variance
- 17 to artificially fix the shoreline shall not be granted
- 18 in areas with sand beaches or where artificially
- 19 fixing the shoreline may interfere with existing
- 20 recreational and waterline activities and other beach
- 21 processes, result in flanking shoreline erosion, or

1 curtail public access, unless the granting of the
2 variance is clearly demonstrated to be in the interest
3 of the general public[+], for example, in the case of
4 an imminent threat of a road or highway failure, or to
5 other critical public infrastructure; or

6 (10) Moving of sand from one location seaward of the
7 shoreline to another location seaward of the
8 shoreline; provided that the authority also finds that
9 moving of sand will not adversely affect beach
10 processes, will not diminish the size of a public
11 beach, and will be necessary to stabilize an eroding
12 shoreline.

13 (b) Hardship shall be defined in rules adopted by the
14 authority under chapter 91. Hardship shall not be determined as
15 a result of county zoning changes, planned development permits,
16 cluster permits, or subdivision approvals after June 16, 1989,
17 or as a result of any other permit or approval listed in rules
18 adopted by the authority[+], or as a result of sea level rise."



1 PART V

2 SECTION 9. This Act does not affect rights and duties that
3 matured, penalties that were incurred, and proceedings that were
4 begun before its effective date.

5 SECTION 10. In codifying the new sections added by section
6 2 of this Act, the revisor of statutes shall substitute
7 appropriate section numbers for the letters used in designating
8 the new sections in this Act.

9 SECTION 11. Statutory material to be repealed is bracketed
10 and stricken. New statutory material is underscored.

11 SECTION 12. This Act shall take effect on July 1, 2021;
12 provided that section 2 of this Act shall be repealed on
13 June 30, 2026, and all unencumbered balances remaining in the
14 Hawaii beach preservation revolving fund on that date shall
15 lapse to the credit of the general fund.

16

INTRODUCED BY: 
JAN 27 2021



H.B. NO. 1373

Report Title:

Coastal Zone Management; Sea Level Rise; Managed Retreat;
Revolving Fund; Appropriation

Description:

Establishes the Hawaii beach preservation revolving fund within the state treasury. Establishes a low-interest contingent mortgage financing pilot program to encourage certain shoreline property owners to relocate mauka of expected sea level rise and erosion hazard zones. Amends coastal zone management laws to further protect against impacts of sea level rise and coastal erosion. Appropriates moneys.

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

