
A BILL FOR AN ACT

RELATING TO DEVELOPMENT RIGHTS.

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

1 SECTION 1. The legislature finds that climate change is
2 real. Rising sea levels throughout the State will erode
3 beaches, damage habitats, and disrupt ecological processes and
4 cause saline intrusion into freshwater ecosystems and
5 groundwater, flooding or inundation of low-lying areas, and
6 damage to private and public property and infrastructure.

7 The purpose of this Act is to expand the authority of the
8 counties to regulate the transfer of development rights to help
9 protect areas vulnerable to sea level rise, coastal erosion,
10 storm surge, and flooding, thereby facilitating the potential
11 movement of development away from at-risk areas to locations
12 more appropriate for development.

13 SECTION 2. Section 46-161, Hawaii Revised Statutes, is
14 amended to read as follows:

15 " ~~[f]~~§46-161~~[f]~~ Findings and purpose. The legislature
16 finds that there is a need to clarify the authority of the



1 counties to exercise the power to transfer development rights
2 within a comprehensive planning program to:

3 (1) Protect the natural, scenic, recreational, and
4 agricultural qualities of open lands including
5 critical resource areas; ~~and~~

6 (2) Enhance sites and areas of special character or
7 special historical, cultural, aesthetic, or economic
8 interest or value[-]; and

9 (3) Protect from development lands that are vulnerable to
10 impacts and hazards caused by climate change,
11 associated with sea level rise, coastal erosion, storm
12 surge, and flooding.

13 The legislature finds that transfer of development rights
14 programs can help to ensure proper growth, while protecting open
15 and distinctive areas and spaces of varied size and character,
16 including many areas that have significant agricultural,
17 ecological, scenic, historical, aesthetic, or economic value.
18 These areas, if preserved and maintained in their present state,
19 would constitute important physical, social, aesthetic, or
20 economic assets to existing or impending urban and metropolitan
21 development. The legislature further finds that the transfer of



1 development rights from lands vulnerable to or adversely
2 affected by sea level rise, coast erosion, storm surge, or
3 flooding to lands that are not at risk from these hazards would
4 reduce property losses and result in long-term economic and
5 fiscal benefits to communities and government. The legislature
6 [~~further~~] also finds that transferring development rights is a
7 useful technique to achieve community objectives. Properly
8 utilized, the concept can be fully consistent with comprehensive
9 planning requirements. The legislature further finds and
10 declares that the concept, utilizing the normal market in land,
11 can provide a mechanism of just compensation to owners of
12 property to be protected or preserved."

13 SECTION 3. Section 46-163, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "[~~4~~]**§46-163**[~~4~~] **Conditions for the transfer of development**
16 **rights.** In addition to any existing power, duty, and authority
17 of the counties to regulate land uses by planning or zoning, the
18 counties are hereby authorized to transfer and regulate the
19 transfer of development rights, subject to the conditions set
20 forth under this part, as well as planning laws, zoning laws,
21 and any other conditions as the legislative body of each county



1 deems necessary and appropriate. The purpose of providing for
2 transfer of development rights shall be to:

3 (1) Protect the natural, scenic, and agricultural
4 qualities of open lands;

5 (2) Enhance sites and areas of special character or
6 special historical, cultural, aesthetic, or economic
7 interest or value; [and]

8 (3) Protect lands at risk from sea level rise, coastal
9 erosion, storm surge, or flooding; and

10 [~~3~~] (4) Enable and encourage flexibility of design and
11 careful management of land in recognition of land as a
12 basic and valuable natural resource."

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

15 SECTION 5. This Act shall take effect on July 1, 2022.



Report Title:

City and County of Honolulu Mayor's Package; Development Rights;
Sea Level Rise

Description:

Expands the authority of the counties to transfer development rights to address areas at risk of sea level rise, coastal erosion, storm surge, or flooding. Effective 7/1/2022. (SD1)

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