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## A BILL FOR AN ACT

RELATING TO COASTAL PROTECTION.

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

1           SECTION 1. Chapter 171, Hawaii Revised Statutes, is  
2 amended by adding two new sections to be appropriately  
3 designated and to read as follows:

4           "§171-       Private seawalls. (a) Notwithstanding any  
5 limitations to the contrary, the board may lease, by direct  
6 negotiation and without recourse to public auction, state  
7 submerged lands for private seawalls on such terms and  
8 conditions as may be prescribed by the board; provided that:

9           (1) In addition to any payment of fair market value or  
10           fair market rental of reclaimed land determined  
11           pursuant to section 171-53, an abutting land owner  
12           shall pay an annual lease rent as determined by  
13           paragraph (2); and

14           (2) In calculating lease rents for state submerged lands  
15           for private seawalls, the amount of the lease rent  
16           shall be ten per cent of the real property tax



1 assessment, as determined by the applicable county,  
2 for the property at which the seawall is located.

3 (b) All amounts collected pursuant to this section shall  
4 be deposited into the beach restoration special fund established  
5 by section 171-156.

6 §171- Temporary structures; emergency permits for  
7 shoreline protection and stabilization of shoreline erosion;  
8 rules. The board shall adopt rules pursuant to chapter 91 to  
9 limit temporary structures approved under emergency permits for  
10 shoreline protection and the stabilization of shoreline erosion  
11 to a maximum of three years, after which the temporary structure  
12 shall be removed, unless the board approves the structure as a  
13 permanent structure. These rules shall also provide for fines  
14 against the permit holder for noncompliance."

15 SECTION 2. Section 171-28, Hawaii Revised Statutes, is  
16 amended by amending subsection (b) to read as follows:

17 "(b) The board may lease government-owned Hawaiian  
18 fishponds with legislative authorization as provided under  
19 section [~~171-53(e);~~] 171-53(d) provided that in lieu of  
20 legislative authorization, the board may lease such fishponds  
21 if:



- 1 (1) A public hearing is conducted on the proposed lease on  
2 the island where the fishpond is located;
- 3 (2) The board finds that the proposed lease does not cause  
4 a substantial adverse environmental or ecological  
5 impact on the fishpond or surrounding area; and
- 6 (3) The proposed lease is not in violation of applicable  
7 federal, state, or county laws."

8 SECTION 3. Section 171-53, Hawaii Revised Statutes, is  
9 amended to read as follows:

10 **"§171-53 Reclamation and disposition of submerged or**  
11 **reclaimed public land.** (a) Any submerged public land or land  
12 beneath tidal waters shall not hereafter be reclaimed by private  
13 abutting owners, except as hereinafter provided.

14 (b) As to presently reclaimed land, the board of land and  
15 natural resources, after finding that its disposition is not  
16 prejudicial to the best interest of the State, community, or  
17 area in which such reclaimed land is located and after giving  
18 public notice in accordance with section 171-16(d) of its  
19 intention to dispose, may dispose of it, without recourse to  
20 public auction, to the abutting owner, by sale or lease;  
21 provided that if the reclaimed land has been filled in or made



1 with the prior approval of government authorities, and not  
2 otherwise filled in or made contrary to the public interest, it  
3 may be disposed of at fair market value or fair market rental of  
4 the submerged public land, but if the reclaimed land has been  
5 filled or made otherwise, it shall be disposed of at the fair  
6 market value or fair market rental of the reclaimed land[-];  
7 provided further that any lease or easement shall not exceed  
8 sixty-five years.

9 (c) In making its finding under subsection (b) that the  
10 disposition of presently reclaimed land is not prejudicial to  
11 the best interest of the State, community, or area in which such  
12 reclaimed land is located, the board shall evaluate any  
13 potential adverse effects on beach processes and the potential  
14 exacerbation of shoreline erosion.

15 [~~e~~] (d) The board, with the prior approval of the  
16 governor and the prior authorization of the legislature by  
17 concurrent resolution, may lease state submerged lands and lands  
18 beneath tidal waters under the terms, conditions, and  
19 restrictions provided in this chapter; provided that the  
20 authorization of the legislature shall not be required for  
21 leases issued under chapter 190D; and provided further that the



1 approval of the governor and authorization of the legislature  
2 shall not be required for any grant of easement or lease of  
3 state submerged lands or lands beneath tidal waters used for  
4 moorings, cables, or pipelines; provided further that this  
5 exemption shall not apply to easements for cables used for  
6 interisland electrical transmission or slurry pipelines used for  
7 transportive materials, mined at sea, or waste products from the  
8 processing of the same.

9       The lease shall provide that the lands shall be reclaimed  
10 at the expense of the lessee. Title to the reclaimed lands  
11 shall remain in the State.

12       [~~(d)~~] (e) Whenever in connection with reclaimed lands or  
13 the reclamation of submerged lands or lands beneath tidal waters  
14 by authority of law, the board deems it advantageous to the  
15 State in order to settle the rights (littoral or otherwise), if  
16 any, of an abutting owner, to create public beaches, or to  
17 consolidate the holdings of public lands in the vicinity or  
18 provide public ways or access to the public lands, it may, with  
19 the prior approval of the governor, sell, lease, or transfer by  
20 way of an exchange, without recourse to public auction but  
21 subject to the limitations contained in section 171-50 and to



1 the other provisions of this chapter, lands having the status of  
2 public lands."

3 SECTION 4. Section 171-156, Hawaii Revised Statutes, is  
4 amended by amending subsection (a) to read as follows:

5 "(a) There is established in the state treasury a special  
6 fund to be designated as the "beach restoration special fund" to  
7 carry out the purposes of this part. The following moneys shall  
8 be deposited into the beach restoration special fund:

- 9 (1) Proceeds from the lease or development of public  
10 coastal lands designated pursuant to a beach  
11 restoration plan, subject to the Hawaiian Homes  
12 Commission Act of 1920, as amended, and section 5(f)  
13 of the Admission Act of 1959;
- 14 (2) Proceeds from the lease of public lands pursuant to  
15 this part for [~~an existing~~] any seawall or revetment;
- 16 (3) Fines collected for unauthorized shoreline structures  
17 on state submerged land or conservation district land;
- 18 (4) Appropriations made by the legislature for deposit  
19 into this fund;



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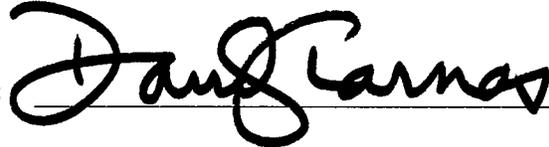
- 1           (5) Donations and contributions made by private  
2           individuals or organizations for deposit into this  
3           fund;  
4           (6) Fees collected for the processing of applications for  
5           coastal and beach erosion control projects; and  
6           (7) Grants provided by governmental agencies or any other  
7           source."

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

10          SECTION 6. This Act shall take effect upon its approval.

11

INTRODUCED BY:



JAN 21 2021



# H.B. NO. 246

**Report Title:**

State Submerged Lands; Seawalls; Lease Rents and Terms;  
Shoreline Protection and Stabilization of Shoreline Erosion

**Description:**

Authorizes BLNR to lease state submerged lands for private seawalls, with lease rents to be ten per cent of the real property tax assessment. Requires BLNR to adopt rules to limit temporary structures approved under emergency permits for shoreline protection and the stabilization of shoreline erosion to a maximum of three years, after which the temporary structure must be removed, unless BLNR approves the structure as a permanent structure.

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

