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## A BILL FOR AN ACT

RELATING TO SPECIAL MANAGEMENT AREAS.

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

1           SECTION 1. The legislature finds that targeted amendments  
2 to the definition of "development" as it relates to special  
3 management areas will promote, not undercut, the environmental  
4 controls and quality that special management area regulations  
5 are intended to protect. Currently, the broad definition of  
6 "development" coupled with rising labor and materials costs can  
7 result in a special management area use permit review being  
8 required for improvements, facilities, and incidental structures  
9 that may not warrant such intense scrutiny and the associated  
10 costs and delays that go along with it.

11           The legislature further finds that exclusions from the  
12 special management area definition of "development" are  
13 desirable for the following activities:

14           (1) Installation, maintenance, repair, and replacement of  
15           public pedestrian and bicycle facilities to reduce  
16           reliance on vehicles;



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- 1           (2) Trash removal, invasive vegetation removal or control,  
2           and fencing for invasive species control or  
3           preservation of native habitats to improve the quality  
4           of the environment;
- 5           (3) Installation, maintenance, repair, and replacement of  
6           lighting, fixtures, and equipment to comply with  
7           standards at public facilities, including health and  
8           safety standards, to protect native seabird  
9           populations and reduce light pollution; and
- 10          (4) Installation, maintenance, repair, and replacement of  
11          security measures for existing public facilities.

12           The purpose of this Act is to expand exclusions to the  
13 definition of "development" in chapter 205A, Hawaii Revised  
14 Statutes, to reduce the need for special management area permits  
15 for certain activities.

16           SECTION 2. Section 205A-22, Hawaii Revised Statutes, is  
17 amended by amending the definition of "development" to read as  
18 follows:

19           ""Development" [means]:



1        (1) Means any of the uses, activities, or operations on  
2            land or in or under water within a special management  
3            area that are included below:

4        [~~(1)~~] (A) Placement or erection of any solid material  
5            or any gaseous, liquid, solid, or thermal waste;

6        [~~(2)~~] (B) Grading, removing, dredging, mining, or  
7            extraction of any materials;

8        [~~(3)~~] (C) Change in the density or intensity of use of  
9            land, including but not limited to the division  
10          or subdivision of land;

11       [~~(4)~~] (D) Change in the intensity of use of water,  
12          ecology related thereto, or of access thereto;  
13          and

14       [~~(5)~~] (E) Construction, reconstruction, or alteration  
15          of the size of any structure.

16 [~~"Development" does~~] (2) Does not include the following:

17       [~~(1)~~] (A) Construction or reconstruction of a  
18          single-family residence that is less than [~~seven~~  
19          ~~thousand five hundred~~] five thousand square feet  
20          of floor area[~~7~~]; is not situated on a shoreline  
21          parcel or a parcel that is impacted by waves,



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- 1 storm surges, high tide, or shoreline erosion~~[7]~~;
- 2 and is not part of a larger development;
- 3 ~~[(2)]~~ (B) Repair or maintenance of roads and highways
- 4 within existing rights-of-way;
- 5 ~~[(3)]~~ (C) Routine maintenance dredging of existing
- 6 streams, channels, and drainage ways;
- 7 ~~[(4)]~~ (D) Repair and maintenance of underground
- 8 utility lines, including but not limited to
- 9 water, sewer, power, and telephone and minor
- 10 appurtenant structures such as pad mounted
- 11 transformers and sewer pump stations;
- 12 ~~[(5)]~~ (E) Zoning variances, except for height,
- 13 density, parking, and shoreline setback;
- 14 ~~[(6)]~~ (F) Repair, maintenance, or interior alterations
- 15 to existing structures;
- 16 ~~[(7)]~~ (G) Demolition or removal of structures, except
- 17 those structures located on any historic site as
- 18 designated in national or state registers;
- 19 ~~[(8)]~~ (H) Use of any land for the purpose of
- 20 cultivating, planting, growing, and harvesting
- 21 plants, crops, trees, and other agricultural,



1 horticultural, or forestry products or animal  
 2 husbandry, or aquaculture or mariculture of  
 3 plants or animals, or other agricultural  
 4 purposes[+], including all traditional fishpond  
 5 and traditional agricultural practices;

6 [~~9~~] (I) Transfer of title to land;

7 [~~10~~] (J) Creation or termination of easements,  
 8 covenants, or other rights in structures or land;

9 [~~11~~] (K) Subdivision of land into lots greater than  
 10 twenty acres in size;

11 [~~12~~] (L) Subdivision of a parcel of land into four  
 12 or fewer parcels when no associated construction  
 13 activities are proposed; provided that any land  
 14 that is so subdivided shall not thereafter  
 15 qualify for this exception with respect to any  
 16 subsequent subdivision of any of the resulting  
 17 parcels;

18 [~~13~~] (M) Installation of underground utility lines  
 19 and appurtenant aboveground fixtures less than  
 20 four feet in height along existing corridors;



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1           ~~[(14)]~~ (N) Structural and nonstructural improvements  
2                   to existing single-family residences, where  
3                   otherwise permissible;

4           ~~[(15)]~~ (O) Nonstructural improvements to existing  
5                   commercial or noncommercial structures; ~~[and~~

6           ~~+(16)]~~ (P) Construction, installation, maintenance,  
7                   repair, and replacement of emergency management  
8                   warning or signal devices and sirens;

9           (Q) Installation, maintenance, repair, and  
10           replacement of public pedestrian and bicycle  
11           facilities, including sidewalks, paths, bikeways,  
12           crosswalks, stairs, ramps, traffic control  
13           barriers, signs, signals, and associated  
14           improvements;

15           (R) Trash removal or invasive vegetation removal or  
16           control, excluding the use of herbicides;

17           (S) Installation of fencing, including associated  
18           improvements and incidental structures, for  
19           invasive species control or preservation of  
20           native habitats on conservation land;



1           (T) Installation, maintenance, repair, and  
 2           replacement of lighting, fixtures, and equipment  
 3           to establish compliance with current standards at  
 4           existing public facilities;

5           (U) Installation, maintenance, repair, and  
 6           replacement of security measures, including  
 7           fencing, to existing public facilities; and

8           (V) Traditional and customary practices, including  
 9           work conducted by traditional means near, in, or  
 10           related to loko i`a, traditional Hawaiian  
 11           fishponds;

12 provided that whenever the authority finds that any excluded  
 13 use, activity, or operation may have a cumulative impact, or a  
 14 significant environmental or ecological effect on a special  
 15 management area, that use, activity, or operation shall be  
 16 defined as "development" for the purpose of this part."

17           SECTION 3. This Act does not affect rights and duties that  
 18 matured, penalties that were incurred, and proceedings that were  
 19 begun before its effective date.

20           SECTION 4. Statutory material to be repealed is bracketed  
 21 and stricken. New statutory material is underscored.



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1 SECTION 5. This Act shall take effect upon its approval.

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INTRODUCED BY:



By Request

**JAN 17 2023**



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**Report Title:**

Hawaii State Association of Counties Package; Special Management Areas; Land Use

**Description:**

Expands exclusions to the definition of "development" for purposes of special management areas to reduce the need for special management area permits for certain activities.

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

