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# A BILL FOR AN ACT

RELATING TO LAND USE.

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

1           SECTION 1. The legislature finds that managed retreat is  
2 the shifting of development inland from the coast either by the  
3 physical movement of structures or changing the restrictions and  
4 management of coastal areas. Managed retreat in Hawaii will be  
5 an essential tool for relocating development away from areas  
6 that are critically impacted by coastal erosion and flooding  
7 with sea level rise, particularly in areas with high natural and  
8 community resource value. The legislature further finds that in  
9 2019, the office of planning and sustainable development  
10 completed a study that assessed the feasibility and implications  
11 of managed retreat strategies for vulnerable coastal areas in  
12 Hawaii. The study had the following recommendations:

- 13           (1) Determine the feasibility and implications of  
14                 additional managed retreat tools, such as transfer of  
15                 development rights;
- 16           (2) Establish criteria for areas to be retreated from and  
17                 priority lists;



- 1 (3) Identify funding for retreat;
- 2 (4) Review state and county land use to determine possible
- 3 locations to which to retreat;
- 4 (5) Review state and county plans to determine whether
- 5 amendments or updates are necessary to support
- 6 retreat;
- 7 (6) Review laws and regulations to determine whether
- 8 amendments or adoption are necessary to facilitate
- 9 retreat; and
- 10 (7) Conduct outreach to obtain community input and buy-in
- 11 for retreat strategies.

12 The legislature further finds that transferring development  
13 rights and land exchanges are useful techniques to achieve  
14 managed retreat strategies by voluntarily shifting development  
15 away from areas that are critically threatened by sea level  
16 rise, including areas with particularly high natural and  
17 community resource value. To help achieve this goal, the  
18 legislature enacted Act 223, Session Laws of Hawaii 2022, which  
19 expanded the authority of the counties to regulate the transfer  
20 of development rights to protect areas vulnerable to sea level  
21 rise, coastal erosion, storm surge, and flooding, thereby



1 facilitating the potential movement of development away from at-  
2 risk areas to locations more appropriate for development.

3 The purpose of this Act is to effectuate some of the  
4 recommendations in the office of planning and sustainable  
5 development's 2019 report by:

6 (1) Requiring the department of land and natural resources  
7 to prepare plans and a program to facilitate voluntary  
8 relocation of residential development away from  
9 certain at-risk areas;

10 (2) Establishing the sea level rise relocation special  
11 fund;

12 (3) Allowing the exchange of public land for private lands  
13 for the transfer of development rights or land  
14 exchanges to relocate private development away from  
15 high-risk areas;

16 (4) Expanding the climate change adaptation priority  
17 guidelines; and

18 (5) Appropriating funds.

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



1 "PART . VOLUNTARY RELOCATION OF RESIDENTIAL DEVELOPMENT FROM  
2 SEA LEVEL RISE EXPOSURE AREAS INVOLVING STATE LANDS

3 §171-A Definitions. As used in this part, unless the  
4 context otherwise requires:

5 "Land exchanges" means mechanisms to secure lands while  
6 compensating property owners in-kind, including partial or full  
7 replacement to financial compensation, through providing land or  
8 development rights.

9 "Leaseback" means a transaction in which a property owner  
10 willingly sells the real property to the State or third party  
11 and leases the property back from that new owner until such time  
12 as the State deems the land is unsafe for the leased use due to  
13 increasing erosion or flood hazard.

14 "Receiving areas" means areas where additional growth and  
15 development can be accommodated from a sending area.

16 "Sending areas" means areas where development is no longer  
17 encouraged due to exposure to increasing hazards with climate  
18 change and sea level rise.

19 "Transfer of development rights" means programs allowing  
20 property owners to transfer development rights from property in  
21 areas where development is no longer desirable or sustainable to



1 desirable or sustainable development areas. "Transfer of  
2 development rights" includes programs allowing developers to  
3 purchase development rights from property owners in areas where  
4 development is no longer desirable or sustainable and transfer  
5 those development rights to their own property.

6       **§171-B General powers.** (a) In carrying out its functions  
7 under this part, the board may do all things necessary, useful,  
8 and convenient in connection with voluntary relocation of  
9 development from locations that are or will be critically  
10 threatened by impacts related to climate change and sea level  
11 rise and have high natural resource value, including  
12 acquisitions, leasebacks, transfers of development rights, land  
13 exchanges, and restoration of coastal lands from sending areas  
14 to receiving areas in state-owned lands, subject to all  
15 applicable laws, so long as the public interest is served.

16       **§171-C Sea level rise relocation plan.** (a) The  
17 department, in cooperation with the appropriate state and county  
18 agencies, shall prepare, and from time to time revise, plans for  
19 the implementation of a program to facilitate voluntary  
20 relocation of residential development from areas that:



1 (1) Are critically threatened by coastal erosion and  
2 flooding due to sea level rise; and

3 (2) Have high natural resource value,  
4 to areas outside of the sea level rise exposure area, as  
5 designated by the Hawaii climate change mitigation and  
6 adaptation commission, and special flood hazard areas.

7 (b) Plans developed pursuant to this section shall guide  
8 the board in identifying and prioritizing:

9 (1) Coastal lands that are critically threatened by  
10 coastal erosion and sea level rise and have high  
11 natural and community resource value; and

12 (2) Potential sending areas and receiving areas for  
13 relocation of development.

14 (c) In preparing plans pursuant to this section, the  
15 department:

16 (1) May utilize studies:

17 (A) Pertaining to the need for restoration of lands  
18 to natural conditions and for public purposes;  
19 and

20 (B) Necessary to support the development of voluntary  
21 relocation projects, including the development of

1 environmental studies pertaining to relocation of  
2 development, cost-benefit analyses for project  
3 viability, and engineering studies;

4 (2) Shall consider any plan relating to the restoration of  
5 lands that has been prepared by any federal, state,  
6 county, or private agency or entity; and

7 (3) Shall include a community education and outreach  
8 component to inform and obtain input from affected  
9 communities on the plans.

10 **§171-D Sea level rise relocation special fund.** (a) There  
11 is established in the state treasury the sea level rise  
12 relocation special fund, into which shall be deposited:

13 (1) Appropriations made by the legislature;

14 (2) Donations and contributions made by private  
15 individuals or organizations;

16 (3) Grants provided by government agencies or other  
17 sources;

18 (4) Proceeds from transfers of development rights,  
19 leasebacks, and land exchanges;

20 (5) Proceeds from lawsuits holding industries accountable  
21 for climate change impacts that threaten the State;



1 (6) Appropriations made out of the climate impact special  
2 fund, if established, for deposit into the sea level  
3 rise relocation special fund.

4 (b) The sea level rise relocation special fund may be used  
5 for the following:

6 (1) Planning, designing, development, or implementation of  
7 sea level rise relocation projects;

8 (2) Providing grants to the counties, nongovernmental  
9 organizations, and the University of Hawaii for the  
10 restoration of coastal lands in sending areas and for  
11 research or engineering studies necessary to support  
12 sea level rise relocation projects; or

13 (3) Acquiring through eminent domain private development  
14 at risk of exposure to sea level rise and flooding."

15 SECTION 3. Section 171-50, Hawaii Revised Statutes, is  
16 amended by amending subsection (a) to read as follows:

17 "(a) Purpose. No exchange of public land for private land  
18 shall be made except for public purposes, including but not  
19 limited to [~~(1) consolidation~~]:

20 (1) Consolidation of holdings of public lands; [~~(2)~~  
21 ~~straightening~~]



- 1        (2) Straightening of boundaries of public lands; [~~(3)~~
- 2                    ~~acquisition]~~
- 3        (3) Acquisition of adequate access for landlocked public
- 4                    lands which have development potential; [~~(4)~~
- 5                    ~~acquisition]~~
- 6        (4) Acquisition of lands suitable for residential use[~~;~~];
- 7                    or
- 8        (5) Transfer of development rights or land exchanges to
- 9                    relocate private development away from high-risk areas
- 10                   of sea level rise and flooding exposure.

11 Exchanges shall be effected without public auction. Public  
 12 notice of any proposed exchange shall be given in accordance  
 13 with the applicable provisions set forth in section 171-16(d).  
 14 All private lands conveyed to the State by way of exchanges  
 15 shall thereafter become public lands."

16        SECTION 4. Section 226-109, Hawaii Revised Statutes, is  
 17 amended to read as follows:

18        "[~~§~~226-109[~~]~~]    **Climate change adaptation priority**  
 19 **guidelines.** Priority guidelines to prepare the State to address  
 20 the impacts of climate change, including impacts to the areas of  
 21 agriculture; conservation lands; coastal and nearshore marine



1 areas; natural and cultural resources; education; energy; higher  
2 education; health; historic preservation; water resources; the  
3 built environment, such as housing, recreation, transportation;  
4 and the economy shall:

- 5 (1) Ensure that Hawaii's people are educated, informed,  
6 and aware of the impacts climate change may have on  
7 their communities;
- 8 (2) Encourage community stewardship groups and local  
9 stakeholders to participate in planning and  
10 implementation of climate change policies;
- 11 (3) Invest in continued monitoring and research of  
12 Hawaii's climate and the impacts of climate change on  
13 the State;
- 14 (4) Consider native Hawaiian traditional knowledge and  
15 practices in planning for the impacts of climate  
16 change;
- 17 (5) Encourage the preservation and restoration of natural  
18 landscape features, such as coral reefs, beaches and  
19 dunes, forests, streams, floodplains, and wetlands,  
20 that have the inherent capacity to avoid, minimize, or  
21 mitigate the impacts of climate change;



- 1           (6) Explore adaptation strategies that moderate harm or  
2           exploit beneficial opportunities in response to actual  
3           or expected climate change impacts to the natural and  
4           built environments;
- 5           (7) Promote sector resilience in areas such as water,  
6           roads, airports, and public health, by encouraging the  
7           identification of climate change threats, assessment  
8           of potential consequences, and evaluation of  
9           adaptation options;
- 10          (8) Foster cross-jurisdictional collaboration between  
11          county, state, and federal agencies and partnerships  
12          between government and private entities and other  
13          nongovernmental entities, including nonprofit  
14          entities;
- 15          (9) Use management and implementation approaches that  
16          encourage the continual collection, evaluation, and  
17          integration of new information and strategies into new  
18          and existing practices, policies, and plans; [~~and~~]
- 19          (10) Encourage planning and management of the natural and  
20          built environments that effectively integrate climate  
21          change policy[~~-~~];



1        (11) Identify and prioritize climate change and sea level  
2            rise adaptation action areas facing the greatest  
3            threats from flooding, erosion, and other increasing  
4            impacts; and

5        (12) Identify and prioritize sending areas and receiving  
6            areas, both as defined in section 171-A, for transfer  
7            of development from locations that are or will be  
8            critically threatened by impacts related to climate  
9            change and sea level rise and have high natural  
10          resource value."

11            SECTION 5. There is appropriated out of the general  
12 revenues of the State of Hawaii the sum of \$                    or so  
13 much thereof as may be necessary for fiscal year 2023-2024 to be  
14 deposited into the sea level rise relocation special fund.

15            SECTION 6. There is appropriated out of the sea level rise  
16 relocation special fund the sum of \$                    or so much  
17 thereof as may be necessary for fiscal year 2023-2024 for the  
18 department of land and natural resources to prepare and  
19 implement the sea level rise relocation plan and program  
20 pursuant to section 171-C, Hawaii Revised Statutes.



1           The sum appropriated shall be expended by the department of  
2 land and natural resources for the purposes of this Act.

3           SECTION 7. In codifying the new sections added by section  
4 2 of this Act, the revisor of statutes shall substitute  
5 appropriate section numbers for the letters used in designating  
6 the new sections in this Act.

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

9           SECTION 9. This Act shall take effect on June 30, 3000.



**Report Title:**

Sea Level Rise; Land Exchange; DLNR; Public Lands; Transfer of Development Rights; Sea Level Rise Relocation; Appropriation

**Description:**

Requires the department of land and natural resources to prepare plans and a program to facilitate voluntary relocation of residential development away from areas at risk of sea level rise. Establishes the sea level rise relocation special fund. Allows the exchange of public land for private lands for the transfer of development rights or land exchanges to relocate private development away from high-risk areas. Expands the climate change adaptation priority guidelines. Appropriates funds. Effective 6/30/3000. (HD1)

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

