
A BILL FOR AN ACT

RELATING TO BEACH PROTECTION AND COASTAL ACCESS.

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

1 SECTION 1. The legislature recognizes that the State has
2 an affirmative duty to preserve beaches as a public trust
3 resource for the people of Hawaii and that beaches are
4 culturally important, provide valuable recreational access, and
5 offer natural protection against sea level rise and associated
6 coastal flooding.

7 Through Act 16, Session Laws of Hawaii 2020 (Act 16), the
8 legislature recognized that beaches and coastal dunes are
9 important coastal ecosystems and added as an explicit objective
10 of the state coastal zone management program under section 205A-
11 2(b), Hawaii Revised Statutes, the protection of beaches and
12 coastal dunes for the benefit and use of public recreation,
13 coastal ecosystems, and as a natural buffer against coastal
14 hazards.

15 Additionally, Act 16 prohibited the "construction of
16 private shoreline hardening structures, including seawalls and
17 revetments, at sites having sand beaches and at sites where



1 shoreline hardening structures interfere with existing
2 recreational and waterline activities".

3 To protect public beaches and access to coastal resources,
4 section 205A-2(c)(9)(E) and (F), Hawaii Revised Statutes,
5 prohibits private property owners from creating a public
6 nuisance by:

7 (1) Inducing or cultivating the private property owner's
8 vegetation in a beach transit corridor; and

9 (2) Allowing the private property owner's unmaintained
10 vegetation to interfere or encroach upon a beach
11 transit corridor.

12 The legislature further finds that section 171-6(12),
13 Hawaii Revised Statutes, authorizes necessary actions to remove
14 or remedy encroachments upon public lands. However, the
15 legislature finds it necessary still to declare unauthorized
16 structures, materials, armoring, or hardening structures placed
17 in the shoreline as a nuisance per se. Furthermore, section
18 171-6(12), Hawaii Revised Statutes, does not allow for citizen
19 suits against illegal encroachments or nuisances, potentially
20 preventing suits against offenders.



1 The purpose of this Act is to further protect Hawaii's
2 beaches and public access to coastal resources by:

3 (1) Recognizing that unauthorized structures, materials,
4 armoring, or hardening structures, including seawalls
5 and revetments, placed in the shoreline are a nuisance
6 per se; and

7 (2) Strengthening state and county abatement and cost
8 recovery authority.

9 SECTION 2. Section 205A-2, Hawaii Revised Statutes, is
10 amended by amending subsection (c) to read as follows:

11 "(c) Policies.

12 (1) Recreational resources;

13 (A) Improve coordination and funding of coastal
14 recreational planning and management; and

15 (B) Provide adequate, accessible, and diverse
16 recreational opportunities in the coastal zone
17 management area by:

18 (i) Protecting coastal resources uniquely suited
19 for recreational activities that cannot be
20 provided in other areas;



- 1 (ii) Requiring restoration of coastal resources
2 that have significant recreational and
3 ecosystem value, including but not limited
4 to coral reefs, surfing sites, fishponds,
5 sand beaches, and coastal dunes, when these
6 resources will be unavoidably damaged by
7 development; or requiring monetary
8 compensation to the State for recreation
9 when restoration is not feasible or
10 desirable;
- 11 (iii) Providing and managing adequate public
12 access, consistent with conservation of
13 natural resources, to and along shorelines
14 with recreational value;
- 15 (iv) Providing an adequate supply of shoreline
16 parks and other recreational facilities
17 suitable for public recreation;
- 18 (v) Ensuring public recreational uses of county,
19 state, and federally owned or controlled
20 shoreline lands and waters having
21 recreational value consistent with public



- 1 safety standards and conservation of natural
2 resources;
- 3 (vi) Adopting water quality standards and
4 regulating point and nonpoint sources of
5 pollution to protect, and where feasible,
6 restore the recreational value of coastal
7 waters;
- 8 (vii) Developing new shoreline recreational
9 opportunities, where appropriate, such as
10 artificial lagoons, artificial beaches, and
11 artificial reefs for surfing and fishing;
12 and
- 13 (viii) Encouraging reasonable dedication of
14 shoreline areas with recreational value for
15 public use as part of discretionary
16 approvals or permits by the land use
17 commission, board of land and natural
18 resources, and county authorities; and
19 crediting that dedication against the
20 requirements of section 46-6;
- 21 (2) Historic resources;



- 1 (A) Identify and analyze significant archaeological
- 2 resources;
- 3 (B) Maximize information retention through
- 4 preservation of remains and artifacts or salvage
- 5 operations; and
- 6 (C) Support state goals for protection, restoration,
- 7 interpretation, and display of historic
- 8 resources;
- 9 (3) Scenic and open space resources;
- 10 (A) Identify valued scenic resources in the coastal
- 11 zone management area;
- 12 (B) Ensure that new developments are compatible with
- 13 their visual environment by designing and
- 14 locating those developments to minimize the
- 15 alteration of natural landforms and existing
- 16 public views to and along the shoreline;
- 17 (C) Preserve, maintain, and, where desirable, improve
- 18 and restore shoreline open space and scenic
- 19 resources; and
- 20 (D) Encourage those developments that are not coastal
- 21 dependent to locate in inland areas;



- 1 (4) Coastal ecosystems;
- 2 (A) Exercise an overall conservation ethic, and
- 3 practice stewardship in the protection, use, and
- 4 development of marine and coastal resources;
- 5 (B) Improve the technical basis for natural resource
- 6 management;
- 7 (C) Preserve valuable coastal ecosystems of
- 8 significant biological or economic importance,
- 9 including reefs, beaches, and dunes;
- 10 (D) Minimize disruption or degradation of coastal
- 11 water ecosystems by effective regulation of
- 12 stream diversions, channelization, and similar
- 13 land and water uses, recognizing competing water
- 14 needs; and
- 15 (E) Promote water quantity and quality planning and
- 16 management practices that reflect the tolerance
- 17 of fresh water and marine ecosystems and maintain
- 18 and enhance water quality through the development
- 19 and implementation of point and nonpoint source
- 20 water pollution control measures;
- 21 (5) Economic uses;



- 1 (A) Concentrate coastal dependent development in
- 2 appropriate areas;
- 3 (B) Ensure that coastal dependent development and
- 4 coastal related development are located,
- 5 designed, and constructed to minimize exposure to
- 6 coastal hazards and adverse social, visual, and
- 7 environmental impacts in the coastal zone
- 8 management area; and
- 9 (C) Direct the location and expansion of coastal
- 10 development to areas designated and used for that
- 11 development and permit reasonable long-term
- 12 growth at those areas, and permit coastal
- 13 development outside of designated areas when:
- 14 (i) Use of designated locations is not feasible;
- 15 (ii) Adverse environmental effects and risks from
- 16 coastal hazards are minimized; and
- 17 (iii) The development is important to the State's
- 18 economy;
- 19 (6) Coastal hazards;
- 20 (A) Develop and communicate adequate information
- 21 about the risks of coastal hazards;



- 1 (B) Control development, including planning and
- 2 zoning control, in areas subject to coastal
- 3 hazards;
- 4 (C) Ensure that developments comply with requirements
- 5 of the National Flood Insurance Program; and
- 6 (D) Prevent coastal flooding from inland projects;
- 7 (7) Managing development;
- 8 (A) Use, implement, and enforce existing law
- 9 effectively to the maximum extent possible in
- 10 managing present and future coastal zone
- 11 development;
- 12 (B) Facilitate timely processing of applications for
- 13 development permits and resolve overlapping or
- 14 conflicting permit requirements; and
- 15 (C) Communicate the potential short and long-term
- 16 impacts of proposed significant coastal
- 17 developments early in their life cycle and in
- 18 terms understandable to the public to facilitate
- 19 public participation in the planning and review
- 20 process;
- 21 (8) Public participation;



- 1 (A) Promote public involvement in coastal zone
- 2 management processes;
- 3 (B) Disseminate information on coastal management
- 4 issues by means of educational materials,
- 5 published reports, staff contact, and public
- 6 workshops for persons and organizations concerned
- 7 with coastal issues, developments, and government
- 8 activities; and
- 9 (C) Organize workshops, policy dialogues, and site-
- 10 specific mediations to respond to coastal issues
- 11 and conflicts;
- 12 (9) Beach protection;
- 13 ~~[(A) Locate new structures inland from the shoreline~~
- 14 ~~setback to conserve open space, minimize~~
- 15 ~~interference with natural shoreline processes,~~
- 16 ~~and minimize loss of improvements due to erosion;~~
- 17 ~~(B) Prohibit construction of private shoreline~~
- 18 ~~hardening structures, including seawalls and~~
- 19 ~~revetments, at sites having sand beaches and at~~
- 20 ~~sites where shoreline hardening structures~~



- 1 ~~interfere with existing recreational and~~
2 ~~waterline activities;~~
- 3 ~~(C) Minimize the construction of public shoreline~~
4 ~~hardening structures, including seawalls and~~
5 ~~revetments, at sites having sand beaches and at~~
6 ~~sites where shoreline hardening structures~~
7 ~~interfere with existing recreational and~~
8 ~~waterline activities;~~
- 9 ~~(D) Minimize grading of and damage to coastal dunes;~~
- 10 ~~(E) Prohibit private property owners from creating a~~
11 ~~public nuisance by inducing or cultivating the~~
12 ~~private property owner's vegetation in a beach~~
13 ~~transit corridor; and~~
- 14 ~~(F) Prohibit private property owners from creating a~~
15 ~~public nuisance by allowing the private property~~
16 ~~owner's unmaintained vegetation to interfere or~~
17 ~~encroach upon a beach transit corridor; and]~~
- 18 (A) Recognize that unauthorized structures,
19 materials, armoring, or hardening structures,
20 including seawalls and revetments, sandbags,



1 geotextile fabrics, and sand burritos placed in
2 the shoreline are a nuisance per se;
3 (B) Prohibit private property owners from creating or
4 maintaining a public nuisance per se by inducing,
5 creating, directing, contracting for,
6 supplementing, modifying, allowing, or failing to
7 remove any unauthorized structures, materials,
8 armoring, or hardening structures, including
9 seawalls and revetments, sandbags, geotextile
10 fabrics, and sand burritos in the shoreline; and
11 (C) Authorize the State and the counties to take
12 immediate abatement action to remove and
13 remediate any nuisance per se in the shoreline
14 and to seek recovery, through administrative or
15 judicial procedures, of reasonable costs and fees
16 from private landowners who are responsible for
17 the placement of the unauthorized structures,
18 materials, armoring, or hardening structures,
19 including seawalls and revetments, sandbags,
20 geotextile fabrics, and sand burritos; and
21 (10) Marine and coastal resources;



- 1 (A) Ensure that the use and development of marine and
2 coastal resources are ecologically and
3 environmentally sound and economically
4 beneficial;
- 5 (B) Coordinate the management of marine and coastal
6 resources and activities to improve effectiveness
7 and efficiency;
- 8 (C) Assert and articulate the interests of the State
9 as a partner with federal agencies in the sound
10 management of ocean resources within the United
11 States exclusive economic zone;
- 12 (D) Promote research, study, and understanding of
13 ocean and coastal processes, impacts of climate
14 change and sea level rise, marine life, and other
15 ocean resources to acquire and inventory
16 information necessary to understand how coastal
17 development activities relate to and impact ocean
18 and coastal resources; and
- 19 (E) Encourage research and development of new,
20 innovative technologies for exploring, using, or
21 protecting marine and coastal resources."



1 SECTION 3. Section 607-25, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "(a) As used in this section, "development" includes:

4 (1) The placement or erection of any solid material or any
5 gaseous, liquid, solid, or thermal waste[+], or the
6 failure to remove such solid material or any gaseous,
7 liquid, solid, or thermal waste after the expiration
8 of governmental authority or permits that allowed the
9 placement or erection;

10 (2) The grading, removing, dredging, mining, pumping, or
11 extraction of any liquid or solid materials; or

12 (3) The construction or enlargement of any structure
13 requiring a discretionary permit."

14 SECTION 4. This Act does not affect rights and duties that
15 matured, penalties that were incurred, and proceedings that were
16 begun before its effective date.

17 SECTION 5. Statutory material to be repealed is bracketed
18 and stricken. New statutory material is underscored.

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



H.B. NO. 1787

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INTRODUCED BY:

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JAN 18 2024



H.B. NO. 1787

Report Title:

Beach Protection; Coastal Access; Coastal Zone Management;
Nuisance; Shoreline Armoring or Hardening

Description:

Amends the beach protection policy of the coastal zone management program to recognize that unauthorized structures, materials, armoring, or hardening structures, including seawalls and revetments, sandbags, geotextile fabrics, and sand burritos, placed in the shoreline are a nuisance per se. Strengthens state and county abatement and cost recovery authority of, and allows citizen suits for, this type of nuisance.

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