
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; and

16 (4) Appropriating funds.

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

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



1 **§171-A Definitions.** As used in this part, unless the
2 context otherwise requires:

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

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

12 "Receiving area" means an area where additional growth and
13 development can be accommodated from a sending area.

14 "Sending area" means an area where development is no longer
15 encouraged due to exposure to increasing hazards with climate
16 change and sea level rise.

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



1 purchase development rights from property owners in areas where
2 development is no longer desirable or sustainable and transfer
3 those development rights to their own property.

4 **§171-B General powers.** In carrying out its functions
5 under this part, the board may do all things necessary, useful,
6 and convenient in connection with voluntary relocation of
7 development from locations that are or will be critically
8 threatened by impacts related to climate change and sea level
9 rise and have high natural resource value, including
10 acquisitions, leasebacks, transfers of development rights, land
11 exchanges, and restoration of coastal lands from sending areas
12 to receiving areas in state-owned lands, subject to all
13 applicable laws, so long as the public interest is served.

14 **§171-C Sea level rise relocation plan.** (a) The
15 department, in cooperation with the appropriate state and county
16 agencies, shall prepare, and from time to time revise, plans for
17 the implementation of a program to facilitate voluntary
18 relocation of residential development from areas that:

- 19 (1) Are critically threatened by coastal erosion and
20 flooding due to sea level rise; and
21 (2) Have high natural and community resource value,



1 to areas outside of the sea level rise exposure area, as
2 designated by the Hawaii climate change mitigation and
3 adaptation commission, and special flood hazard areas.

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

6 (1) Coastal lands that are critically threatened by
7 coastal erosion and sea level rise and have high
8 natural and community resource value; and

9 (2) Potential sending areas and receiving areas for
10 relocation of development.

11 (c) In preparing plans pursuant to this section, the
12 department:

13 (1) May utilize studies:

14 (A) Pertaining to the need for restoration of lands
15 to natural conditions and for public purposes;
16 and

17 (B) Necessary to support the development of voluntary
18 relocation projects, including the development of
19 environmental studies pertaining to relocation of
20 development, cost-benefit analyses for project
21 viability, and engineering studies;



- 1 (2) Shall consider any plan relating to the restoration of
- 2 lands that has been prepared by any federal, state,
- 3 county, or private agency or entity;
- 4 (3) Shall include a community education and outreach
- 5 component to inform and obtain input from affected
- 6 communities on the plans; and
- 7 (4) Shall ensure that any plans and programs for voluntary
- 8 relocation be aligned with the state and county hazard
- 9 mitigation 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;



1 (5) Proceeds from lawsuits holding industries accountable
2 for climate change impacts that threaten the State;
3 and

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

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

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

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

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

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



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

4 (1) Consolidation of holdings of public lands; [~~(2)~~
5 straightening]

6 (2) Straightening of boundaries of public lands; [~~(3)~~
7 acquisition]

8 (3) Acquisition of adequate access for landlocked public
9 lands which have development potential; [~~or (4)~~
10 acquisition]

11 (4) Acquisition of lands suitable for residential use[~~-~~];
12 or

13 (5) Transfer of development rights or land exchanges to
14 relocate private development away from high-risk areas
15 of sea level rise and flooding exposure.

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



1 SECTION 4. There is appropriated out of the general
2 revenues of the State of Hawaii the sum of \$ or so
3 much thereof as may be necessary for fiscal year 2023-2024 to be
4 deposited into the sea level rise relocation special fund
5 established pursuant to section 171-D, Hawaii Revised Statutes.

6 SECTION 5. There is appropriated out of the sea level rise
7 relocation special fund established pursuant to section 171-D,
8 Hawaii Revised Statutes, the sum of \$ or so much
9 thereof as may be necessary for fiscal year 2023-2024 for the
10 department of land and natural resources to prepare and
11 implement the sea level rise relocation plan and program
12 pursuant to section 171-C, Hawaii Revised Statutes.

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

15 SECTION 6. In codifying the new sections added by section
16 2 of this Act, the revisor of statutes shall substitute
17 appropriate section numbers for the letters used in designating
18 the new sections in this Act.

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



1 SECTION 8. 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. Appropriates funds. Effective 6/30/3000. (HD2)

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

