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# A BILL FOR AN ACT

RELATING TO SHORELINE SETBACKS.

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

1           SECTION 1. The legislature finds that real property in the  
2 State is often vulnerable to hazards such as coastal erosion and  
3 flooding from tsunamis, storms, and high waves. These hazards  
4 can be exacerbated by sea level rise and human-caused  
5 interruptions to natural sand supply. In Hawai'i, all beaches  
6 are prone to seasonal or episodic erosion from high waves and  
7 storms. In addition, chronic erosion affects seventy per cent  
8 of the beaches on O'ahu, Maui, and Kaua'i.

9           The legislature further finds that numerous court decisions  
10 have affirmed that privately owned oceanfront land is lost when  
11 shorelines undergo landward retreat and oceanfront properties  
12 become smaller. Since oceanfront properties experience landward  
13 retreat, building setbacks need to be adjusted to respond to  
14 this new geographic landscape.

15           Accordingly, the purpose of this Act is to establish  
16 greater shoreline setback requirements.



1 SECTION 2. Section 205A-43, Hawaii Revised Statutes, is  
2 amended by amending subsection (a) to read as follows:

3 "(a) Setbacks along shorelines [~~are established of not~~  
4 ~~less than forty feet inland from the shoreline.~~] shall be  
5 calculated as follows:

6 (1) A shoreline setback determined by taking the average  
7 lot depth, subtracting one hundred feet, dividing by  
8 two, and adding forty feet; provided that:

9 (A) For lots with naturally occurring rocky  
10 shorelines, the shoreline setback line shall be  
11 not less than forty feet;

12 (B) For all other lots, the shoreline setback line  
13 shall be not less than sixty feet; and

14 (C) For all lots, the maximum setback shall be one  
15 hundred feet; or

16 (2) For all lots with an average lot depth of over two  
17 hundred twenty feet, the greater setback of the  
18 following shall apply:

19 (A) Forty feet inland from the shoreline, and an  
20 altitude of at least two meters above the  
21 shoreline; or



1           (B) A shoreline setback of one hundred feet from the  
2           shoreline established by the board of land and  
3           natural resources pursuant to section 205A-42.  
4 For the purposes of this subsection, "average lot depth" means  
5 the measurement obtained by adding the lengths of the two sides  
6 of a lot that are at or near right angles with the shoreline, or  
7 the seaward boundary of the lot that runs roughly parallel to  
8 the shoreline if the property is not abutting the shoreline, to  
9 the length obtained by drawing a line from a point in the center  
10 of the makai side of the lot to a point in the center of the  
11 mauka side of the lot and dividing the resulting sum by three.  
12 For irregularly shaped lots including flag lots, triangular  
13 parcels, lots on peninsulas, and lots having ocean on two or  
14 more sides of the lot, the average lot depth shall be determined  
15 by the department. The department shall adopt rules pursuant to  
16 chapter 91, and shall enforce the shoreline setbacks and rules  
17 pertaining thereto."

18       SECTION 3. Section 205A-44, Hawaii Revised Statutes, is  
19 amended by amending subsection (b) to read as follows:

20       "(b) Except as provided in this section, structures are  
21 prohibited in the shoreline area without a variance pursuant to



1 this part. Structures in the shoreline area shall not need a  
2 variance if:

- 3 (1) They were completed prior to [~~June 22, 1970,~~  
4 January 1, 2022;
- 5 (2) They received either a building permit, board  
6 approval, or shoreline setback variance prior to June  
7 16, 1989;
- 8 (3) They are outside the shoreline area when they receive  
9 either a building permit or board approval;
- 10 (4) They are necessary for or ancillary to continuation of  
11 existing agriculture or aquaculture in the shoreline  
12 area on June 16, 1989;
- 13 (5) They are minor structures permitted under rules  
14 adopted by the department which do not affect beach  
15 processes or artificially fix the shoreline and do not  
16 interfere with public access or public views to and  
17 along the shoreline; or
- 18 (6) Work being done consists of maintenance, repair, and  
19 minor additions or alterations of legal boating,  
20 maritime, or watersports recreational facilities,



1           which are publicly owned, and which result in little  
 2           or no interference with natural shoreline processes;  
 3 provided that permitted structures may be repaired, but shall  
 4 not be enlarged, rebuilt, or replaced within the shoreline area  
 5 without a variance."

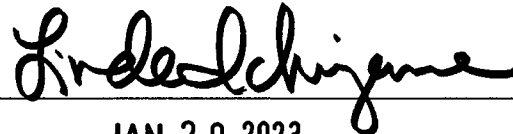
6           SECTION 4. This Act does not affect rights and duties that  
 7 matured, penalties that were incurred, and proceedings that were  
 8 begun before its effective date.

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

11          SECTION 6. This Act shall take effect on July 1, 2023.

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INTRODUCED BY:



JAN 20 2023



# H.B. NO. 771

**Report Title:**

Shoreline Setbacks

**Description:**

Increases shoreline setback requirements.

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

