
A BILL FOR AN ACT

RELATING TO THE COASTAL ZONE MANAGEMENT ACT.

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

1 SECTION 1. The legislature finds that the federal Coastal
2 Zone Management Act establishes a national framework for states
3 and territories to consider when managing coastal resources and
4 determining potential impacts on those resources. The Act also
5 authorizes the federal government to provide financial
6 assistance to support coastal management efforts.

7 The legislature further finds that the Coastal Zone
8 Management Act's permitting framework is intended to regulate
9 special management area development while allowing certain
10 activities to proceed without unnecessary delay. These
11 activities, expressly excluded from the statutory definition of
12 "development", are not intended to be subject to special
13 management area use permit requirements.

14 The legislature also finds that it is in the public
15 interest to streamline the delivery of essential public
16 infrastructure, which may be accomplished, in part, by creating
17 a targeted permitting exemption for projects that have been



1 determined, under chapter 343, Hawaii Revised Statutes, to be
2 exempt from the preparation of an environmental assessment or to
3 have no significant environmental impact.

4 Accordingly, the purpose of this Act is to apply a
5 definition of "development", as it pertains to special
6 management areas, in certain counties of the State to exempt
7 from special management area use permit requirements all
8 activities that are not included in that definition, including
9 certain federal-, state-, or county-funded, authorized, or
10 implemented infrastructure and improvement projects that are
11 exempt from an environmental assessment or for which a finding
12 of no significant impact has been issued.

13 SECTION 2. Chapter 205A, Hawaii Revised Statutes, is
14 amended by adding a new section to part II to be appropriately
15 designated and to read as follows:

16 "§205A- Development; certain counties of the State.

17 (a) Notwithstanding the definition of "development" under
18 section 205A-22, in counties with a population between one
19 hundred fifty thousand and two hundred thousand, the definition
20 of "development" under subsection (b) shall apply.

21 (b) "Development":



- 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 (A) Placement or erection of any solid material or
5 any gaseous, liquid, solid, or thermal waste;
- 6 (B) Grading, removing, dredging, mining, or
7 extraction of any materials;
- 8 (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 (D) Change in the intensity of use of water, ecology
12 related thereto, or of access thereto; and
- 13 (E) Construction, reconstruction, or alteration of
14 the size of any structure; and
- 15 (2) Does not include the following and the following
16 should be exempt from special management area use
17 permit requirements:
- 18 (A) Construction or reconstruction of a single-family
19 residence that is less than seven thousand five
20 hundred square feet of floor area; is not
21 situated on a shoreline parcel or a parcel that



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



- 1 trees, and other agricultural, horticultural, or
2 forestry products or animal husbandry, or
3 aquaculture or mariculture of plants or animals,
4 or other agricultural purposes, including all
5 traditional fishpond and traditional agricultural
6 practices;
- 7 (I) Transfer of title to land;
- 8 (J) Creation or termination of easements, covenants,
9 or other rights in structures or land;
- 10 (K) Subdivision of land into lots greater than twenty
11 acres in size;
- 12 (L) Subdivision of a parcel of land into four or
13 fewer parcels when no associated construction
14 activities are proposed; provided that any land
15 that is so subdivided shall not thereafter
16 qualify for this exception with respect to any
17 subsequent subdivision of any of the resulting
18 parcels;
- 19 (M) Installation of underground utility lines and
20 appurtenant aboveground fixtures less than four
21 feet in height along existing corridors;



- 1 (N) Structural and nonstructural improvements to
- 2 existing single-family residences, where
- 3 otherwise permissible;
- 4 (O) Nonstructural improvements to existing commercial
- 5 or noncommercial structures;
- 6 (P) Construction, installation, maintenance, repair,
- 7 and replacement of emergency management warning
- 8 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, including incidental ground disturbance,
- 17 excluding the use of herbicides;
- 18 (S) Installation of fencing, including associated
- 19 improvements and incidental structures, for
- 20 invasive species control or preservation of
- 21 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;

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

12 (W) Reconstruction of any lawfully constructed
13 structure that was damaged or destroyed in a
14 disaster proclaimed by the governor to constitute
15 a state of emergency pursuant to chapter 127A, or
16 a disaster declared pursuant to federal law;
17 provided that:

18 (i) The structure is not situated on a shoreline
19 parcel or a parcel that is impacted by
20 waves, storm surges, high tide, or shoreline
21 erosion;



- 1 (ii) Reconstruction commences within six years
2 from the date that the proclamation is
3 issued; and
- 4 (iii) The reconstructed structure is similar to
5 its original footprint or overall dimensions
6 that were existing or permitted and in
7 compliance with the requirements of
8 floodplain management standards; and
- 9 (X) Federal-, state-, or county-funded, authorized,
10 or implemented infrastructure and improvement
11 projects that are exempt from an environmental
12 assessment or for which a finding of no
13 significant impact has been issued under chapter
14 343; provided that for the purposes of this
15 subparagraph, "infrastructure" includes
16 waterlines and water facilities; waste waterlines
17 and wastewater facilities; drainage facilities;
18 electrical, communications, telephone, and cable
19 television utilities; and highway, roadway,
20 bridge, and driveway improvements;



1 provided that if the authority finds that any excluded
2 use, activity, or operation may have a cumulative
3 impact, or a significant environmental or ecological
4 effect on a special management area, that use,
5 activity, or operation shall be defined as
6 "development" for the purpose of this part."

7 SECTION 3. This Act does not affect rights and duties that
8 matured, penalties that were incurred, and proceedings that were
9 begun before its effective date.

10 SECTION 4. New statutory material is underscored.

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



Report Title:

Coastal Zone Management Act; Special Management Area; Permits; Requirements; Development; Excluded Activities; Public Infrastructure and Improvement Projects; Exemption; Certain Counties

Description:

Applies a definition of "development" to special management areas within counties with a population between one hundred fifty thousand and two hundred thousand to exempt from special management area use permit requirements all activities that are not included within the definition, including certain federal-, state-, or county-funded, authorized, or implemented infrastructure and improvement projects that are exempt from an environmental assessment or for which a finding of no significant impact has been issued. (CD1)

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