

ACT 129

H.B. NO. 505

A Bill for an Act Relating to Coastal Zone Management.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 205A-22, Hawaii Revised Statutes, is amended as follows:

“§205A-22 Definitions. As used in this part, unless the context otherwise requires:

[(1)] “Applicant” means any individual, organization, partnership, or corporation, including any utility[,] and any agency of government.

[(2)] “Authority” means the county planning commission, except in counties where the county planning commission is advisory only, in which case “authority” means the county council or such body as the council may by ordinance designate. The authority may, as appropriate, delegate the responsibility for administering this part.

[(3)] “Development” means any of the uses, activities, or operations on land[;] or in or under water[,] within [the] a special management area that are included below[, but not those uses, activities, or operations excluded in subparagraph (B)]:

- [(A) "Development" includes the following:
- (i) The placement] (1) Placement or erection of any solid material or any gaseous, liquid, solid, or thermal waste;
 - [(ii)] (2) Grading, removing, dredging, mining, or extraction of any materials;
 - [(iii)] (3) Change in the density or intensity of use of land, including but not limited to the division or subdivision of land;
 - [(iv)] (4) Change in the intensity of use of water, ecology related thereto, or of access thereto; and
 - [(v)] (5) Construction, reconstruction, demolition, or alteration of the size of any structure.
- [(B) "Development" does not include the following:
- [(i)] (1) Construction of a single-family residence that is not part of a larger development;
 - [(ii)] (2) Repair or maintenance of roads and highways within existing rights-of-way;
 - [(iii)] (3) Routine maintenance dredging of existing streams, channels, and drainage ways;
 - [(iv)] The repair] (4) Repair and maintenance of underground utility lines, including but not limited to water, sewer, power, and telephone and minor appurtenant structures such as pad mounted transformers and sewer pump stations;
 - [(v)] (5) Zoning variances, except for height, density, parking, and shoreline setback;
 - [(vi)] (6) Repair, maintenance, or interior alterations to existing structures;
 - [(vii)] (7) Demolition or removal of structures, except those structures located on any historic site as designated in national or state registers;
 - [(viii)] The use] (8) Use of any land for the purpose of cultivating, planting, growing, and harvesting [of] plants, crops, trees, and other agricultural, horticultural, or forestry products or animal husbandry, or aquaculture or mariculture of plants or animals, or other agricultural purposes [subject to review by the authority in accordance with subparagraph (C)];
 - [(ix)] The transfer] (9) Transfer of title to land;
 - [(x)] The creation] (10) Creation or termination of easements, covenants, or other rights in structures or land;
 - [(xi)] The subdivision] (11) Subdivision of land into lots greater than twenty acres in size;
 - [(xii)] The subdivision] (12) Subdivision of a parcel of land into four or fewer parcels when no associated construction activities are proposed[,]; provided that any [such] land which is so subdivided shall not thereafter qualify for this exception with respect to any subsequent subdivision of any of the resulting parcels;
 - [(xiii)] (13) Installation of underground utility lines and appurtenant aboveground fixtures less than four feet in height along existing corridors;

- [(xiv)] (14) Structural and nonstructural improvements to existing single-family residences, including additional dwelling [unit,] units, where otherwise permissible; and
- [(xv)] (15) Nonstructural improvements to existing commercial structures[.];

[(C) Whenever] provided that whenever the authority finds that any excluded use, activity, or operation [excluded in subparagraph (B)] is or may become part of a larger project[,], the cumulative impact of which may have a significant environmental or ecological effect on [the] a special management area, that use, activity, or operation shall be defined as “development” for the purpose of this part.

[(4)] “Special management area” means the land extending inland from the shoreline as delineated on the maps filed with the authority as of June 8, 1977, or as amended pursuant to section 205A-23.

[(5)] “Special management area emergency permit” means an action by the authority authorizing development in cases of emergency requiring immediate action to prevent substantial physical harm to persons or property or to allow the reconstruction of structures damaged by natural hazards to their original form[.]; provided that such structures were previously found to be in compliance with requirements of the Federal Flood Insurance Program.

[(6)] “Special management area minor permit” means an action by the authority authorizing development[,], the valuation of which is not in excess of [\$65,000] \$125,000 and which has no substantial adverse environmental or ecological effect, taking into account potential cumulative effects.

[(7)] “Special management area use permit” means an action by the authority authorizing development[,], the valuation of which exceeds [\$65,000] \$125,000 or which may have a substantial adverse environmental or ecological effect, taking into account potential cumulative effects.

[(8)] “Structure” includes[,], but is not limited to[,], any building, road, pipe, flume, conduit, siphon, aqueduct, telephone line, and electrical power transmission and distribution line.

[(9)] “Valuation” shall be determined by the authority and means the estimated cost to replace the structure in kind[,], based on current replacement costs, or in the cases of other development[,], as defined above, the fair market value of the development.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 22, 1991.)