

**ACT 16**

S.B. NO. 2060

A Bill for an Act Relating to Coastal Zone Management.

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

SECTION 1. The legislature finds that the coastal zone management program was established pursuant to Act 188, Session Laws of Hawaii 1977. The Act declared that it is state policy to:

- (1) Protect, preserve, and where desirable, restore or improve the quality of coastal scenic and open space resources;
- (2) Protect valuable coastal ecosystems from disruption and minimize adverse impacts on all coastal ecosystems;
- (3) Reduce hazards to life and property from tsunamis, storm waves, stream flooding, erosion, and subsidence; and
- (4) Improve the development review process, communication, and public participation in the management of coastal resources and hazards.

The legislature also finds that a 2012 collaborative study by the United States Geological Survey and the University of Hawaii indicates that seventy per cent of beaches in Hawaii are undergoing a trend of chronic sand loss and shoreline retreat. Further, more than thirteen miles of beach in the State have been completely lost to erosion fronting seawalls and revetments. The Hawaii sea level rise vulnerability and adaptation report, accepted in 2017 by the Hawaii climate change mitigation and adaptation commission, finds that with just 1.1 feet of sea level rise, many more miles of beach could be lost to erosion if widespread shoreline armoring is allowed. This could mean a loss of five miles of beach on Kauai, seven miles of beach on Oahu, and eight miles of beach on Maui. Based on its findings, the report recommends enabling beaches to persist with sea level rise and suggests integrating sea level rise considerations into Hawaii's laws regarding coastal zone management.

The legislature further finds that the convergence of dense development along shorelines, increasing landward migration of shoreline due to sea level rise and other human and natural impacts, and extensive beach loss fronting shoreline armoring necessitates revision of existing policies and regulations. Revision of these existing policies and regulations would both protect beaches and other coastal environments from further degradation and reduce the exposure of shorefront communities to increasing erosion and flooding hazards caused by sea level rise.

The legislature also finds that a recent study by the University of Hawaii coastal geology group identified several primary causes for the State's failure to meet coastal zone management policy objectives. Specifically, the study found that current policies, ordinances, and practices allow for:

- (1) The hardening of shorelines through a hardship variance that is granted based upon demonstrated hardship brought on by coastal erosion. When granted, these hardship variances set into motion a cycle of shoreline armoring that causes "flanking", or amplified erosion, on properties adjacent to armored shorelines. This continuous cycle of hardening and flanking can extend along an entire beach and, in a section of northeast Oahu, approximately forty-five per cent of observed shoreline hardening was implemented in response to adjacent hardening. This cycle, caused by a combination of beach erosion and coastal policy, has resulted in the narrowing and even elimination of beaches to the extent that they can no longer be used for public recreation or cultural practice; and
- (2) Renovation and expansion of single-family homes in erosion and flood-prone coastal areas, thereby extending building lifetimes indefinitely and allowing for virtually complete coverage of coastal parcels by these structures. The average building surface area increased by twenty per cent following the establishment of the State's coastal zone management program and, combined with sea level rise, this development increases the likelihood of mass structural failure and deposit of debris on public beaches.

The purpose of this Act is to strengthen coastal zone management policy by amending chapter 205A, Hawaii Revised Statutes, to protect state beaches and to reduce residential exposure to coastal hazards.

SECTION 2. Section 205A-1, Hawaii Revised Statutes, is amended by adding three new definitions to be appropriately inserted and to read as follows:

““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 chapter.

“Beach” means a coastal landform primarily composed of sand from eroded rock, coral, or shell material, or any combination thereof, that is established and shaped by wave action and tidal processes. “Beach” includes sand deposits in nearshore submerged areas, or sand dunes or upland beach deposits landward of the shoreline, that provide benefits for public use and recreation, for coastal ecosystems, and as a natural buffer against coastal hazards.

“Coastal hazards” means any tsunami, hurricane, wind, wave, storm surges, high tide, flooding, erosion, sea level rise, subsidence, or point and non-point source pollution.”

SECTION 3. Section 205A-2, Hawaii Revised Statutes, is amended by amending subsections (b) and (c) to read as follows:

“(b) Objectives.

- (1) Recreational resources;
  - (A) Provide coastal recreational opportunities accessible to the public.
- (2) Historic resources;
  - (A) Protect, preserve, and, where desirable, restore those natural and manmade historic and prehistoric resources in the coastal zone management area that are significant in Hawaiian and American history and culture.
- (3) Scenic and open space resources;
  - (A) Protect, preserve, and, where desirable, restore or improve the quality of coastal scenic and open space resources.
- (4) Coastal ecosystems;
  - (A) Protect valuable coastal ecosystems, including reefs, beaches, and coastal dunes, from disruption and minimize adverse impacts on all coastal ecosystems.
- (5) Economic uses;
  - (A) Provide public or private facilities and improvements important to the State’s economy in suitable locations.
- (6) Coastal hazards;
  - (A) Reduce hazard to life and property from [~~tsunami, storm waves, stream flooding, erosion, subsidence, and pollution.~~] coastal hazards.
- (7) Managing development;
  - (A) Improve the development review process, communication, and public participation in the management of coastal resources and hazards.
- (8) Public participation;
  - (A) Stimulate public awareness, education, and participation in coastal management.
- (9) Beach and coastal dune protection;

- (A) Protect beaches and coastal dunes for ~~[public]~~:
    - (i) Public use and recreation~~[-]~~;
    - (ii) The benefit of coastal ecosystems; and
    - (iii) Use as natural buffers against coastal hazards; and
  - (B) Coordinate and fund beach management and protection.
- (10) Marine and coastal resources;
- (A) Promote the protection, use, and development of marine and coastal resources to assure their sustainability.
- (c) Policies.
- (1) Recreational resources;
- (A) Improve coordination and funding of coastal recreational planning and management; and
  - (B) Provide adequate, accessible, and diverse recreational opportunities in the coastal zone management area by:
    - (i) Protecting coastal resources uniquely suited for recreational activities that cannot be provided in other areas;
    - (ii) Requiring ~~[replacement]~~ restoration of coastal resources ~~[having]~~ that have significant recreational and ecosystem value, including~~[-]~~ but not limited to coral reefs, surfing sites, fishponds, ~~[and]~~ sand beaches, and coastal dunes, when ~~[such]~~ these resources will be unavoidably damaged by development; or requiring ~~[reasonable]~~ monetary compensation to the State for recreation when ~~[replacement]~~ restoration is not feasible or desirable;
    - (iii) Providing and managing adequate public access, consistent with conservation of natural resources, to and along shorelines with recreational value;
    - (iv) Providing an adequate supply of shoreline parks and other recreational facilities suitable for public recreation;
    - (v) Ensuring public recreational uses of county, state, and federally owned or controlled shoreline lands and waters having recreational value consistent with public safety standards and conservation of natural resources;
    - (vi) Adopting water quality standards and regulating point and nonpoint sources of pollution to protect, and where feasible, restore the recreational value of coastal waters;
    - (vii) Developing new shoreline recreational opportunities, where appropriate, such as artificial lagoons, artificial beaches, and artificial reefs for surfing and fishing; and
    - (viii) Encouraging reasonable dedication of shoreline areas with recreational value for public use as part of discretionary approvals or permits by the land use commission, board of land and natural resources, and county authorities; and crediting ~~[such]~~ that dedication against the requirements of section 46-6;
- (2) Historic resources;
- (A) Identify and analyze significant archaeological resources;
  - (B) Maximize information retention through preservation of remains and artifacts or salvage operations; and
  - (C) Support state goals for protection, restoration, interpretation, and display of historic resources;
- (3) Scenic and open space resources;
- (A) Identify valued scenic resources in the coastal zone management area;

- (B) Ensure that new developments are compatible with their visual environment by designing and locating ~~[such]~~ those developments to minimize the alteration of natural landforms and existing public views to and along the shoreline;
- (C) Preserve, maintain, and, where desirable, improve and restore shoreline open space and scenic resources; and
- (D) Encourage those developments that are not coastal dependent to locate in inland areas;
- (4) Coastal ecosystems;
  - (A) Exercise an overall conservation ethic, and practice stewardship in the protection, use, and development of marine and coastal resources;
  - (B) Improve the technical basis for natural resource management;
  - (C) Preserve valuable coastal ecosystems~~[-including reefs,]~~ of significant biological or economic importance~~[-];~~ including reefs, beaches, and dunes;
  - (D) Minimize disruption or degradation of coastal water ecosystems by effective regulation of stream diversions, channelization, and similar land and water uses, recognizing competing water needs; and
  - (E) Promote water quantity and quality planning and management practices that reflect the tolerance of fresh water and marine ecosystems and maintain and enhance water quality through the development and implementation of point and nonpoint source water pollution control measures;
- (5) Economic uses;
  - (A) Concentrate coastal dependent development in appropriate areas;
  - (B) Ensure that coastal dependent development ~~[such as harbors and ports,]~~ and coastal related development ~~[such as visitor industry facilities and energy generating facilities,]~~ are located, designed, and constructed to minimize exposure to coastal hazards and adverse social, visual, and environmental impacts in the coastal zone management area; and
  - (C) Direct the location and expansion of coastal ~~[dependent developments]~~ development to areas ~~[presently]~~ designated and used for ~~[such developments]~~ that development and permit reasonable long-term growth at ~~[such]~~ those areas, and permit coastal ~~[dependent]~~ development outside of ~~[presently]~~ designated areas when:
    - (i) Use of ~~[presently]~~ designated locations is not feasible;
    - (ii) Adverse environmental effects and risks from coastal hazards are minimized; and
    - (iii) The development is important to the State's economy;
- (6) Coastal hazards;
  - (A) Develop and communicate adequate information about ~~[storm wave, tsunami, flood, erosion, subsidence, and point and non-point source pollution]~~ the risks of coastal hazards;
  - (B) Control development, including planning and zoning control, in areas subject to ~~[storm wave, tsunami, flood, erosion, hurricane, wind, subsidence, and point and nonpoint source pollution]~~ coastal hazards;
  - (C) Ensure that developments comply with requirements of the ~~[Federal]~~ National Flood Insurance Program; and

- (D) Prevent coastal flooding from inland projects;
- (7) Managing development;
  - (A) Use, implement, and enforce existing law effectively to the maximum extent possible in managing present and future coastal zone development;
  - (B) Facilitate timely processing of applications for development permits and resolve overlapping or conflicting permit requirements; and
  - (C) Communicate the potential short and long-term impacts of proposed significant coastal developments early in their life cycle and in terms understandable to the public to facilitate public participation in the planning and review process;
- (8) Public participation;
  - (A) Promote public involvement in coastal zone management processes;
  - (B) Disseminate information on coastal management issues by means of educational materials, published reports, staff contact, and public workshops for persons and organizations concerned with coastal issues, developments, and government activities; and
  - (C) Organize workshops, policy dialogues, and site-specific mediations to respond to coastal issues and conflicts;
- (9) Beach protection;
  - (A) Locate new structures inland from the shoreline setback to conserve open space, minimize interference with natural shoreline processes, and minimize loss of improvements due to erosion;
  - (B) Prohibit construction of private ~~[erosion-protection]~~ shoreline hardening structures ~~[seaward of the shoreline, except when they result in improved aesthetic and engineering solutions to erosion at the sites and do not]~~, including seawalls and revetments, at sites having sand beaches and at sites where shoreline hardening structures interfere with existing recreational and waterline activities;
  - (C) Minimize the construction of public ~~[erosion-protection]~~ shoreline hardening structures ~~[seaward of the shoreline];, including seawalls and revetments, at sites having sand beaches and at sites where shoreline hardening structures interfere with existing recreational and waterline activities;~~
  - (D) Minimize grading of and damage to coastal dunes;
  - ~~[(D)]~~ (E) Prohibit private property owners from creating a public nuisance by inducing or cultivating the private property owner's vegetation in a beach transit corridor; and
  - ~~[(E)]~~ (F) Prohibit private property owners from creating a public nuisance by allowing the private property owner's unmaintained vegetation to interfere or encroach upon a beach transit corridor; and
- (10) Marine and coastal resources;
  - (A) Ensure that the use and development of marine and coastal resources are ecologically and environmentally sound and economically beneficial;
  - (B) Coordinate the management of marine and coastal resources and activities to improve effectiveness and efficiency;

- (C) Assert and articulate the interests of the State as a partner with federal agencies in the sound management of ocean resources within the United States exclusive economic zone;
- (D) Promote research, study, and understanding of ocean and coastal processes, impacts of climate change and sea level rise, marine life, and other ocean resources to acquire and inventory information necessary to understand how ~~[ocean]~~ coastal development activities relate to and impact ~~[upon]~~ ocean and coastal resources; and
- (E) Encourage research and development of new, innovative technologies for exploring, using, or protecting marine and coastal resources.”

SECTION 4. Section 205A-22, Hawaii Revised Statutes, is amended as follows:

1. By amending the definition of “department” to read:

““Department” means the planning department ~~[in]~~ of the counties of Kauai, Maui, and Hawaii and the department of planning and permitting ~~[in]~~ of the city and county of Honolulu, or other appropriate agency as designated by the county councils.”

2. By amending the definition of “development” to read:

““Development” means any of the uses, activities, or operations on land or in or under water within a special management area that are included below:

- (1) Placement or erection of any solid material or any gaseous, liquid, solid, or thermal waste;
- (2) Grading, removing, dredging, mining, or extraction of any materials;
- (3) Change in the density or intensity of use of land, including but not limited to the division or subdivision of land;
- (4) Change in the intensity of use of water, ecology related thereto, or of access thereto; and
- (5) Construction, reconstruction, ~~[demolition,]~~ or alteration of the size of any structure.

“Development” does not include the following:

- (1) Construction or reconstruction of a single-family residence that is less than seven thousand five hundred square feet of floor area, is not situated on a shoreline parcel or a parcel that is impacted by waves, storm surges, high tide, or shoreline erosion, and is not part of a larger development;
- (2) Repair or maintenance of roads and highways within existing rights-of-way;
- (3) Routine maintenance dredging of existing streams, channels, and drainage ways;
- (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;
- (5) Zoning variances, except for height, density, parking, and shoreline setback;
- (6) Repair, maintenance, or interior alterations to existing structures;
- (7) Demolition or removal of structures, except those structures located on any historic site as designated in national or state registers;
- (8) Use of any land for the purpose of cultivating, planting, growing, and harvesting plants, crops, trees, and other agricultural, horticul-



- tural, or forestry products or animal husbandry, or aquaculture or mariculture of plants or animals, or other agricultural purposes;
- (9) Transfer of title to land;
  - (10) Creation or termination of easements, covenants, or other rights in structures or land;
  - ~~[(11) Final subdivision approval; provided that in counties that may automatically approve tentative subdivision applications as a ministerial act within a fixed time of the submission of a preliminary plat map, unless the director takes specific action, a special management area use permit if required, shall be processed concurrently with an application for tentative subdivision approval or after tentative subdivision approval and before final subdivision approval;~~
  - (12) Subdivision of land into lots greater than twenty acres in size;
  - ~~[(13)]~~ (12) Subdivision of a parcel of land into four or fewer parcels when no associated construction activities are proposed; provided that any land that is so subdivided shall not thereafter qualify for this exception with respect to any subsequent subdivision of any of the resulting parcels;
  - ~~[(14)]~~ (13) Installation of underground utility lines and appurtenant aboveground fixtures less than four feet in height along existing corridors;
  - ~~[(15)]~~ (14) Structural and nonstructural improvements to existing single-family residences, where otherwise permissible;
  - ~~[(16)]~~ (15) Nonstructural improvements to existing commercial or non-commercial structures; and
  - ~~[(17)]~~ (16) Construction, installation, maintenance, repair, and replacement of emergency management warning or signal devices and sirens;

provided that whenever the authority finds that any excluded use, activity, or operation may have a cumulative impact, or a significant environmental or ecological effect on a special management area, that use, activity, or operation shall be defined as “development” for the purpose of this part.”

3. By amending the definition of “special management area emergency permit” to read:

““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] those structures were previously found to be in compliance with requirements of the [Federal] National Flood Insurance Program.”

4. By repealing the definition of “authority”.

[““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.”]

SECTION 5. Section 205A-26, Hawaii Revised Statutes, is amended to read as follows:

**“§205A-26 Special management area guidelines.** In implementing this part, the authority shall adopt the following guidelines for the review of developments proposed in the special management area:



- (1) All development in the special management area shall be subject to reasonable terms and conditions set by the authority in order to ensure:
  - (A) Adequate access, by dedication or other means, to publicly owned or used beaches, recreation areas, and natural reserves is provided to the extent consistent with sound conservation principles;
  - (B) Adequate and properly located public recreation areas and wildlife preserves are reserved;
  - (C) Provisions are made for solid and liquid waste treatment, disposition, and management ~~[which]~~ that will minimize adverse effects upon special management area resources; and
  - (D) Alterations to existing land forms and vegetation, except crops, and construction of structures shall cause minimum adverse effect to water resources, beaches, coastal dunes, and scenic and recreational amenities and ~~[minimum danger of]~~ minimize impacts from floods, wind damage, storm surge, landslides, erosion, sea level rise, siltation, or failure in the event of earthquake.
- (2) No development shall be approved unless the authority has first found:
  - (A) That the development will not have any ~~[substantial]~~ significant adverse environmental or ecological effect, except as ~~[such]~~ any adverse effect is minimized to the extent practicable and clearly outweighed by public health, safety, or compelling public interests. ~~[Such]~~ Those adverse effects shall include~~[-]~~ but not be limited to~~[-]~~ the potential cumulative impact of individual developments, each ~~[one]~~ of which taken ~~[in]~~ by itself might not have a ~~[substantial]~~ significant adverse effect, and the elimination of planning options;
  - (B) That the development is consistent with the objectives, policies, and special management area guidelines of this chapter and any guidelines enacted by the legislature; and
  - (C) That the development is consistent with the county general plan, community plan, and zoning~~[-Such]~~; provided that a finding of consistency [does] shall not preclude concurrent processing where a general plan, community plan, or zoning amendment may also be required.
- (3) The authority shall seek to minimize, where reasonable:
  - (A) Dredging, filling or otherwise altering any bay, estuary, salt marsh, river mouth, slough or lagoon;
  - (B) Any development ~~[which]~~ that would reduce the size of any beach or other area usable for public recreation;
  - (C) Any development ~~[which]~~ that would reduce or impose restrictions upon public access to tidal and submerged lands, beaches, portions of rivers and streams within the special management areas and the mean high tide line where there is no beach;
  - (D) Any development ~~[which]~~ that would substantially interfere with or detract from the line of sight toward the sea from the state highway nearest the coast; and
  - (E) Any development ~~[which]~~ that would adversely affect water quality, existing areas of open water free of visible structures, existing and potential fisheries and fishing grounds, wildlife habitats, or potential or existing agricultural uses of land.”

SECTION 6. Section 205A-29, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The authority in each county, upon consultation with the central coordinating agency, shall adopt rules under chapter 91 setting the special management area use permit application procedures, conditions under which hearings must be held, and the time periods within which the hearing and action for special management area use permits shall occur. The authority shall provide for adequate notice to individuals whose property rights may be adversely affected and to persons who have requested in writing to be notified of special management area use permit hearings or applications. The authority shall also provide public notice [statewide] that is, at a minimum, circulated throughout the county at least twenty days in advance of the hearing. The authority may require a reasonable filing fee which shall be used for the purposes set forth herein.

Any rule adopted by the authority shall be consistent with the objectives, policies, and special management area guidelines provided in this chapter. Action on the special management permit shall be final unless otherwise mandated by court order.”

SECTION 7. Section 205A-41, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

““Department” means the planning department of the counties of Kauai, Maui, and Hawaii and the department of planning and permitting of the city and county of Honolulu, or other appropriate agency as designated by the county councils.”

SECTION 8. Section 205A-43, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Setbacks along shorelines are established of not less than ~~[twenty feet and not more than]~~ forty feet inland from the shoreline. The department shall adopt rules pursuant to chapter 91, and shall enforce the shoreline setbacks and rules pertaining thereto.”

SECTION 9. Section 205A-43.5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Prior to action on a variance application, the authority shall hold a public hearing under chapter 91. By adoption of rules under chapter 91, the authority may delegate responsibility to the department. Public and private notice, including reasonable notice to abutting property owners and persons who have requested this notice, shall be provided, but a public hearing may be waived prior to action on a variance application for:

- (1) Stabilization of shoreline erosion by the moving of sand entirely on public lands;
- (2) Protection of a legal structure [costing more than \$20,000;] or public facility, including any facility owned by a public utility that is regulated pursuant to chapter 269, that does not fix the shoreline, under an emergency authorization issued by the authority; provided that the structure or public facility is at risk of immediate damage from shoreline erosion[;] and the authorization does not exceed three years;
- (3) Other structures or activities; provided that no person or agency has requested a public hearing within twenty-five calendar days after public notice of the application; or
- (4) Maintenance, repair, reconstruction, and minor additions or alterations of legal boating, maritime, or watersports recreational

facilities, ~~[which] that~~ result in little or no interference with natural shoreline processes.”

SECTION 10. Section 205A-44, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Except as provided in this section, structures are prohibited in the shoreline area without a variance pursuant to this part. Structures in the shoreline area shall not need a variance if:

- (1) They were completed prior to June 22, 1970;
- (2) They received either a building permit, board approval, or shoreline setback variance prior to June 16, 1989;
- (3) They are outside the shoreline area when they receive either a building permit or board approval;
- (4) They are necessary for or ancillary to continuation of existing agriculture or aquaculture in the shoreline area on June 16, 1989;
- (5) They are minor structures permitted under rules adopted by the department which do not affect beach processes or artificially fix the shoreline and do not interfere with public access or public views to and along the shoreline; or
- (6) Work being done consists of maintenance, repair, ~~[reconstruction,]~~ and minor additions or alterations of legal boating, maritime, or watersports recreational facilities, which are publicly owned, and which result in little or no interference with natural shoreline processes;

provided that permitted structures may be repaired, but shall not be enlarged, rebuilt, or replaced within the shoreline area without a variance.”

SECTION 11. Section 205A-46, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

“(a) A variance may be granted for a structure or activity otherwise prohibited in this part if the authority finds in writing, based on the record presented, that the proposed structure or activity is necessary for or ancillary to:

- (1) Cultivation of crops;
- (2) Aquaculture;
- (3) Landscaping; provided that the authority finds that the proposed structure or activity will not adversely affect beach processes and will not artificially fix the shoreline;
- (4) Drainage;
- (5) Boating, maritime, or watersports recreational facilities;
- (6) Facilities or improvements by public agencies or public utilities regulated under chapter 269;
- (7) Private facilities or improvements that are clearly in the public interest;
- (8) Private facilities or improvements ~~[which] that~~ will ~~[neither] not~~ adversely affect beach processes ~~[nor]~~, result in flanking shoreline erosion, or artificially fix the shoreline; provided that the authority ~~[also finds that]~~ may consider any hardship that will result to the applicant if the facilities or improvements are not allowed within the shoreline area;
- (9) Private facilities or improvements that may artificially fix the shoreline; provided that the authority ~~[also finds that shoreline erosion is likely to cause]~~ may consider hardship to the applicant if the facilities or improvements are not allowed within the shoreline area~~;~~ and

~~the authority imposes conditions to prohibit any structure seaward of the existing shoreline unless it is clearly in the public interest; or]; provided further that a variance to artificially fix the shoreline shall not be granted in areas with sand beaches or where artificially fixing the shoreline may interfere with existing recreational and waterline activities unless the granting of the variance is clearly demonstrated to be in the interest of the general public; or~~

- (10) Moving of sand from one location seaward of the shoreline to another location seaward of the shoreline; provided that the authority also finds that moving of sand will not adversely affect beach processes, will not diminish the size of a public beach, and will be necessary to stabilize an eroding shoreline.”

2. By amending subsection (c) to read:

imposed:  
“(c) No variance shall be granted unless appropriate conditions are

- (1) To maintain safe lateral access to and along the shoreline or adequately compensate for its loss;
- (2) To minimize risk of adverse impacts on beach processes;
- (3) To minimize risk of structures failing and becoming loose rocks, sharp or otherwise dangerous debris, or rubble on public property; and
- (4) To minimize adverse impacts on public views to, from, and along the shoreline.”

SECTION 12. Section 205A-62, Hawaii Revised Statutes, is amended to read as follows:

“§205A-62 **Duties and responsibilities of the lead agency.** The lead agency shall have the following duties and responsibilities:

- (1) Coordinate overall implementation of the plan, giving special consideration to the plan's priority recommendations;
- (2) Review and periodically update the plan;
- (3) Coordinate the development of state agency work plans to implement the ocean resources management plan. The work plans shall be revised on a biennial basis and coordinated with the budget process. State agencies with responsibilities relating to marine and coastal zone management include but are not limited to:
  - (A) The department of agriculture;
  - (B) The department of business, economic development, and tourism;
  - (C) The department of defense;
  - (D) The department of education;
  - ~~(D)]~~ (E) The department of health;
  - ~~(E)]~~ (F) The department of land and natural resources;
  - ~~(F)]~~ (G) The department of public safety;
  - ~~(G)]~~ (H) The department of transportation; and
  - ~~(H)]~~ (I) The University of Hawaii;
- (4) Ensure that state agency work plans are closely coordinated with the work plans of relevant federal and county agencies;
- (5) Analyze, resolve conflicts between, and prioritize, in cooperation with relevant agencies and as part of the work plan development process, the sector-specific recommendations included in the plan;
- (6) Coordinate exclusive economic zone and other marine-related issues with state and county agencies;

- (7) Provide technical assistance to the agencies on policy and issue-related matters regarding marine and coastal resources management;
- (8) Coordinate marine and coastal education activities; and
- (9) Adopt rules pursuant to chapter 91 to carry out the purposes of this part.”

SECTION 13. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 14. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 15. This Act shall take effect upon its approval.

(Approved September 15, 2020.)