

ACT 179

S.B. NO. 474

A Bill for an Act Relating to Real Property Transactions.

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

SECTION 1. As reflected in Act 32, Session Laws of Hawaii 2017 (Act 32), the legislature recognizes that not only is climate change real, but it is also the overriding challenge of the twenty-first century and one of the priority issues of the legislature. Climate change poses immediate and long-term threats to the State's economy, sustainability, security, and its residents' way of life.

Act 32 established the Hawaii climate change mitigation and adaptation commission (commission) and directed the commission to, as a first step, focus on and develop sea level rise vulnerability and adaptation reports that are required to include:

- (1) Identification of the major areas of sea level rise impacts affecting the State and counties through 2050;
- (2) Identification of expected impacts of sea level rise based on the latest scientific research for each area through 2050;
- (3) Identification of the economic ramifications of sea level rise;
- (4) Identification of applicable federal laws, policies, or programs that impact affected areas; and
- (5) Recommendations for planning, management, and adaptation for hazards associated with increasing sea level rise.

The sea level rise vulnerability and adaptation report approved by the commission identifies, with maps at tax map key detail, areas that are susceptible to sea level rise impacts based on a 3.2-foot increase in sea level projected to occur by mid-century or earlier. These areas are designated as the sea level rise exposure area projection, which the commission recommends be adopted as a sea level rise exposure area overlay to guide state and county adaptation strategies and standards for development. Furthermore, the commission's statement (September 4, 2018) includes a recommendation to require disclosure for private properties and public offerings located in areas with potential exposure to sea level rise. At a minimum, the seller shall be required to disclose if the property is located in the sea level rise exposure area as identified in the State's report.

The legislature further finds that chapter 508D, Hawaii Revised Statutes, requires a written disclosure statement prepared by the seller, or at the seller's direction, that purports to fully and accurately disclose all material facts relating to residential real property being offered for sale. A "material fact" is defined under section 508D-1, Hawaii Revised Statutes, in pertinent part, to mean "any fact, defect, or condition, past or present, that would be expected to measurably affect the value to a reasonable person of the residential real property being offered for sale." The value of property lying within the boundaries of a sea level rise exposure area will likely be affected over time, which the legislature determines to be a material fact that should be disclosed by the seller in a real property transaction.

The purpose of this Act is to require that mandatory seller disclosures in real property transactions include indication that a residential real property lies within the sea level rise exposure area.

SECTION 2. Section 508D-15, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

- “(a) When residential real property lies:
- (1) Within the boundaries of a special flood hazard area as officially designated on ~~[Flood Insurance Administration maps promulgated by the United States Department of Housing and Urban Development]~~ flood maps promulgated by the National Flood Insurance Program of the Federal Emergency Management Agency for the purposes of determining eligibility for emergency flood insurance programs;
 - (2) Within the boundaries of the noise exposure area shown on maps prepared by the department of transportation in accordance with Federal Aviation Regulation part 150, Airport Noise Compatibility Planning (14 C.F.R. part 150), for any public airport;
 - (3) Within the boundaries of the Air Installation Compatible Use Zone of any Air Force, Army, Navy, or Marine Corps airport as officially designated by military authorities; ~~[or]~~
 - (4) Within the anticipated inundation areas designated on the department of defense's emergency management tsunami inundation maps~~;~~ or
 - (5) Within the sea level rise exposure area as designated by the Hawaii climate change mitigation and adaptation commission or its successor.

subject to the availability of maps that designate the ~~[four]~~ five areas by tax map key (zone, section, parcel), the seller shall include the material fact information in the disclosure statement provided to the buyer subject to this chapter. Each county shall provide, where available, maps of its jurisdiction detailing the ~~[four]~~ five designated areas specified in this subsection. The maps shall identify the

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properties situated within the [~~four~~] five designated areas by tax map key number (zone, section, parcel) and shall be of a size sufficient to provide information necessary to serve the purposes of this section. Each county shall provide legible copies of the maps and may charge a reasonable copying fee.”

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect on May 1, 2022.

(Approved July 2, 2021.)