

ACT 304

S.B. NO. 1296

A Bill for an Act Relating to Disaster Recovery.

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

SECTION 1. The legislature finds that special controls on developments within an area along the shoreline are necessary to avoid permanent losses of valuable resources and the foreclosure of management options, and to ensure adequate access, by dedication or other means, to public owned or used beaches,

recreation areas, and natural reserves. The legislature further finds that it is state policy to preserve, protect, and where possible, restore the natural resources of the coastal zones of the State. The legislature further finds that the 2023 Maui wildfires devastated Lahaina's heritage, economy, and sense of place, and has deeply affected housing, businesses, jobs, and treasured resources. If the area is not rebuilt in a deliberate, coordinated, and expeditious manner, the area may languish in the long term, further affecting the well-being of the land, the people, and the economy. However, there is an opportunity to rebuild Lahaina and the other parts of Maui that the wildfires destroyed, as recognized in the Presidential Disaster Declaration, by preserving and reintroducing its valued resources in a manner that reflects the values and priorities of its residents and businesses, and addressing future challenges, including climate change and affordable housing.

Accordingly, the purpose of this Act is to facilitate recovery efforts on Maui and other disaster-affected areas by exempting the reconstruction of any lawfully constructed structure destroyed in a disaster proclaimed by the governor to constitute a state of emergency or a disaster declared pursuant to federal law from the requirements of a special management area minor permit or a special management area use permit under certain conditions.

SECTION 2. Section 205A-22, Hawaii Revised Statutes, is amended by amending the definition of "development" to read as follows:

""Development"":

- (1) Means any of the uses, activities, or operations on land or in or under water within a special management area that are included below:
 - (A) Placement or erection of any solid material or any gaseous, liquid, solid, or thermal waste;
 - (B) Grading, removing, dredging, mining, or extraction of any materials;
 - (C) Change in the density or intensity of use of land, including but not limited to the division or subdivision of land;
 - (D) Change in the intensity of use of water, ecology related thereto, or of access thereto; and
 - (E) Construction, reconstruction, or alteration of the size of any structure; and
- (2) Does not include the following:
 - (A) 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;
 - (B) Repair or maintenance of roads and highways within existing rights-of-way;
 - (C) Routine maintenance dredging of existing streams, channels, and drainage ways;
 - (D) Repair and maintenance of underground utility lines, including but not limited to water, sewer, power, and telephone and minor appurtenant structures [~~such as~~] including pad mounted transformers and sewer pump stations;
 - (E) Zoning variances, except for height, density, parking, and shoreline setback;
 - (F) Repair, maintenance, or interior alterations to existing structures;

- (G) Demolition or removal of structures, except those structures located on any historic site as designated in national or state registers;
- (H) Use of any land for the purpose of cultivating, planting, growing, and harvesting 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, including all traditional fishpond and traditional agricultural practices;
- (I) Transfer of title to land;
- (J) Creation or termination of easements, covenants, or other rights in structures or land;
- (K) Subdivision of land into lots greater than twenty acres in size;
- (L) 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;
- (M) Installation of underground utility lines and appurtenant aboveground fixtures less than four feet in height along existing corridors;
- (N) Structural and nonstructural improvements to existing single-family residences, where otherwise permissible;
- (O) Nonstructural improvements to existing commercial or non-commercial structures;
- (P) Construction, installation, maintenance, repair, and replacement of emergency management warning or signal devices and sirens;
- (Q) Installation, maintenance, repair, and replacement of public pedestrian and bicycle facilities, including sidewalks, paths, bikeways, crosswalks, stairs, ramps, traffic control barriers, signs, signals, and associated improvements;
- (R) Trash removal or invasive vegetation removal or control, including incidental ground disturbance, excluding the use of herbicides;
- (S) Installation of fencing, including associated improvements and incidental structures, for invasive species control or preservation of native habitats on conservation land;
- (T) Installation, maintenance, repair, and replacement of lighting, fixtures, and equipment to establish compliance with current standards at existing public facilities;
- (U) Installation, maintenance, repair, and replacement of security measures, including fencing, to existing public facilities; ~~and~~
- (V) Hawaiian traditional and customary practices, including work conducted by traditional means near, in, or related to loko i'a, traditional Hawaiian fishponds; ~~and~~
- (W) Reconstruction of any lawfully constructed structure that was damaged or destroyed in a disaster proclaimed by the governor to constitute a state of emergency pursuant to chapter 127A, or a disaster declared pursuant to federal law; provided that:
 - (i) The structure is not situated on a shoreline parcel or a parcel that is impacted by waves, storm surges, high tide, or shoreline erosion;

- (ii) Reconstruction commences within six years from the date that the proclamation is issued; and
- (iii) The reconstructed structure is similar to its original footprint or overall dimensions that were existing or permitted and in compliance with the requirements of floodplain management standards;

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.”

SECTION 3. If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the invalidity does not affect other provisions or applications of the Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval and shall be repealed on July 1, 2028; provided that section 205A-22, Hawaii Revised Statutes, shall be reenacted in the form in which it read on the day before the effective date of this Act.

(Approved July 8, 2025.)