
A BILL FOR AN ACT

RELATING TO SEA LEVEL RISE.

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

1 PART I

2 SECTION 1. As reflected in the findings of Act 32, Session
3 Laws of Hawaii 2017 (Act 32), the legislature recognizes that
4 climate change is the overriding challenge of the twenty-first
5 century. Climate change poses immediate and long-term threats
6 to the State's economy, sustainability, security, and way of
7 life.

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

- 12 (1) Identification of the major areas of sea level rise
13 impacts affecting the State and counties through 2050;
- 14 (2) Identification of expected impacts of sea level rise
15 based on the latest scientific research for each area
16 through 2050;



- 1 (3) Identification of the economic ramifications of sea
- 2 level rise;
- 3 (4) Identification of applicable federal laws, policies,
- 4 or programs that impact affected areas; and
- 5 (5) Recommendations for planning, management, and
- 6 adaptation for hazards associated with increasing sea
- 7 level rise.

8 The sea level rise vulnerability and adaptation report

9 approved by the commission identifies, with maps at tax map key

10 detail, areas that are susceptible to sea level rise impacts

11 based on a 3.2-foot increase in sea level projected to occur by

12 mid-century or earlier. These areas are designated as the sea

13 level rise exposure area projection, which the commission

14 recommends be adopted as a sea level rise exposure area overlay

15 to guide state and county adaptation strategies and standards

16 for development. Furthermore, the commission's report includes

17 a recommendation to require mandatory disclosure for private

18 properties and public offerings located in areas with potential

19 exposure to sea level rise.

20 The legislature further finds that chapter 508D, Hawaii

21 Revised Statutes, requires a written disclosure statement



1 prepared by the seller, or at the seller's direction, that
2 purports to fully and accurately disclose all material facts
3 relating to residential real property being offered for sale. A
4 "material fact" is defined under section 508D-1, Hawaii Revised
5 Statutes, in pertinent part, to mean "any fact, defect, or
6 condition, past or present, that would be expected to measurably
7 affect the value to a reasonable person of the residential real
8 property being offered for sale." The value of property lying
9 within the boundaries of a sea level rise exposure area likely
10 will be affected over time, which is a material fact that should
11 be included in mandatory seller disclosure statements in real
12 property transactions.

13 The purpose of this Act is to require that mandatory seller
14 disclosures in real property transactions include identification
15 of residential real properties lying within a sea level rise
16 exposure area.

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

19 "(a) When residential real property lies:

- 20 (1) Within the boundaries of a special flood hazard area
21 as officially designated on Flood Insurance



1 Administration maps promulgated by the United States
2 Department of Housing and Urban Development for the
3 purposes of determining eligibility for emergency
4 flood insurance programs;

5 (2) Within the boundaries of the noise exposure area shown
6 on maps prepared by the department of transportation
7 in accordance with Federal Aviation Regulation Part
8 150-Airport Noise Compatibility Planning (14 Code of
9 Federal Regulations Part 150) for any public airport;

10 (3) Within the boundaries of the Air Installation
11 Compatibility Use Zone of any Air Force, Army, Navy,
12 or Marine Corps airport as officially designated by
13 military authorities; [~~or~~]

14 (4) Within the anticipated inundation areas designated on
15 the department of defense's emergency management
16 tsunami inundation maps; or

17 (5) Within a sea level rise exposure area as officially
18 designated by the Hawaii climate change mitigation and
19 adaptation commission or its successor;

20 subject to the availability of maps that designate the [~~four~~]
21 five areas by tax map key (zone, section, parcel), the seller



1 shall include such material fact information in the disclosure
2 statement provided to the buyer subject to this chapter. Each
3 county shall provide, where available, maps of its jurisdiction
4 detailing the [~~four~~] five designated areas specified in this
5 subsection. The maps shall identify the properties situated
6 within the [~~four~~] five designated areas by tax map key number
7 (zone, section, parcel) and shall be of a size sufficient to
8 provide information necessary to serve the purposes of this
9 section. Each county shall provide legible copies of the maps
10 and may charge a reasonable copying fee."

11 PART II

12 SECTION 3. Chapter 205A, Hawaii Revised Statutes, is
13 amended by adding a new section to part III to be appropriately
14 designated and to read as follows:

15 "§205A- Establishment of shoreline setback lines. (a)

16 All lots shall have a shoreline setback line that is the greater
17 of the distances from the shoreline as calculated under the
18 methods listed below or the overlay of such distances:

19 (1) Twenty-five feet plus a distance of fifty times the
20 annual erosion hazard rate from the shoreline;

21 (2) Based on the lot's depth as follows:



- 1 (A) A lot with an average lot depth of one hundred
- 2 feet or less shall have a shoreline setback line
- 3 twenty-five feet from the shoreline;
- 4 (B) A lot with an average lot depth of more than one
- 5 hundred feet but less than one hundred sixty feet
- 6 shall have a shoreline setback line forty feet
- 7 from the shoreline; and
- 8 (C) A lot with an average lot depth of one hundred
- 9 sixty feet or more shall have a shoreline setback
- 10 line located at a distance from the shoreline
- 11 equal to twenty-five per cent of the average lot
- 12 depth, but not more than one hundred fifty feet;
- 13 and
- 14 (3) For irregularly shaped lots, or where cliffs, bluffs,
- 15 or other topographic features inhibit the safe
- 16 measurement of boundaries or the shoreline, the
- 17 shoreline setback line will be equivalent to twenty-
- 18 five per cent of the lot's depth as determined by the
- 19 department, to a maximum of one hundred fifty feet
- 20 from the shoreline.



1 (b) Notwithstanding any provision of this section to the
2 contrary, a lot shall have a shoreline setback line at a
3 distance from the shoreline that provides for the minimum
4 buildable depth; provided that in no case shall the shoreline
5 setback line be less than twenty-five feet from the shoreline.

6 (c) Prior to commencement of grubbing, grading, or
7 construction activities, the shoreline setback line shall be
8 identified on the ground and posted with markers, posts, or
9 other appropriate reference marks by a surveyor licensed in the
10 State.

11 (d) As used in this section:

12 "Annual erosion hazard rate" means the annual rate of
13 coastal erosion calculated according to the methodology
14 developed by the University of Hawaii along transects placed at
15 regular intervals of approximately sixty-six feet and as
16 indicated on maps on file with the department.

17 "Department" means the department of land and natural
18 resources.

19 "Shoreline" means the upper reaches of the wash of the
20 waves, other than storm and seismic waves, at high tide during
21 the season of the year in which the highest wash of the waves



1 occurs, usually evidenced by the edge of natural rather than
2 artificially-induced vegetation growth, or the upper limit of
3 debris left by the wash of the waves that has been certified by
4 the department within the preceding twelve months.

5 "Shoreline setback line" means that line running inland
6 from and parallel to the shoreline at a horizontal plane."

7 SECTION 4. Section 205A-43, Hawaii Revised Statutes, is
8 amended by amending subsection (a) to read as follows:

9 "(a) [~~Setbacks along shorelines are established of not~~
10 ~~less than twenty feet and not more than forty feet inland from~~
11 ~~the shoreline.] The department shall adopt rules pursuant to~~
12 chapter 91, and shall enforce the shoreline setbacks and rules
13 pertaining thereto[-]; provided that the rules shall, at a
14 minimum, meet the standards set forth in section 205A- .

15 (b) The powers and duties of the department shall include,
16 but not be limited to:

17 (1) The department shall adopt rules under chapter 91
18 prescribing procedures for determining the shoreline
19 setback line; and

20 (2) The department shall review the plans of all
21 applicants who propose any structure, activity, or



1 facility that would be prohibited without a variance
 2 pursuant to this part. The department may require
 3 that the plans be supplemented by accurately mapped
 4 data and photographs showing natural conditions and
 5 topography relating to all existing and proposed
 6 structures and activities."

PART III

8 SECTION 5. Statutory material to be repealed is bracketed
 9 and stricken. New statutory material is underscored.

10 SECTION 6. This Act shall take effect on January 1, 2020;
 11 provided that part I shall take effect on November 1, 2019.

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INTRODUCED BY:

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H.B. NO. 1578

Report Title:

Real Estate Transactions; Mandatory Seller Disclosures; Sea Level Rise Exposure Area; Shoreline Setback Restrictions

Description:

Requires that mandatory seller disclosures in real estate transactions include identification of residential real properties lying within a sea level rise exposure area. Establishes shoreline setback restrictions.

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