A BILL FOR AN ACT

RELATING TO REAL ESTATE DISCLOSURE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAI'I:

SECTION 1. The legislature finds that real property in the State is often vulnerable to hazards, such as coastal erosion and flooding from tsunamis, storms, and high waves. These hazards can be exacerbated by sea level rise and human-caused interruptions to natural sand supply. In Hawai'i, all beaches are prone to seasonal or episodic erosion from high waves and storms. In addition, chronic erosion affects seventy per cent of the beaches on O'ahu, Maui, and Kaua'i.

The legislature further finds that numerous court decisions have affirmed that privately owned oceanfront land is lost when shorelines undergo landward retreat and oceanfront properties become smaller. When oceanfront property experiences landward retreat, building setbacks, property values, and insurance availability can be adversely impacted. Another challenge property owners face in Hawai'i is the stringent permit requirements imposed by the counties and State for shoreline protection. When shoreline retreat occurs, obtaining a permit
to repair or install shoreline protection structures, such as seawalls, revetments, geotextile sandbags, or groins, can be challenging due to Hawai‘i's coastal zone management policies, which protect coastal natural resources and shoreline public access. Furthermore, the legislature recognizes sea level rise and shoreline retreat as concerns for all property owners, not just oceanfront property owners.

Accordingly, the purpose of this Act is to require:

(1) A sea level rise hazard exposure statement with the sale or transfer of vulnerable coastal property to ensure that new property owners and transferees understand the special hazards, permitting requirements, and limitations that may affect the property; and

(2) Inclusion of the material fact that a residential real property lies within a sea level rise exposure area, if applicable, within a seller's mandatory disclosure statement to a buyer.

SECTION 2. Chapter 508D, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:
§508D—  Sea level rise hazard exposure statement;

vulnerable coastal property.  (a) Beginning November 1, 2019, every sale or transfer of vulnerable coastal property shall include a sea level rise hazard exposure statement executed by the purchaser or transferee.

(b) Every sea level rise hazard exposure statement shall include acknowledgment by the purchaser or transferee that:

1. The coastal property is at risk of losing area if the shoreline retreats inland due to erosion, sea level rise, or permitting requirements;

2. Maps showing historic coastal erosion, flood insurance zones, and sea level rise exposure areas exist to inform the public of risks;

3. Shoreline certifications and setbacks are determined pursuant to chapter 205A, and the location of the certified shoreline and setback may be affected by inland migration of the upper reach of the wash of the waves;

4. Obtaining permits to repair or install shoreline protection structures may be difficult due to state
and federal coastal zone management policies
discouraging coastal hardening;

(5) Beaches are public trust resources that governmental
agencies have a responsibility to protect;

(6) The public enjoys a right of access to Hawaii's
shorelines, including the right of transit along the
shorelines, pursuant to section 115-4, and this right
of transit can be threatened by shoreline protection
structures that reduce the width of beaches as sea
level rise occurs; and

(7) The department of land and natural resources may
require a landowner to remove encroaching vegetation
if a landowner's human-induced, enhanced, or
unmaintained vegetation interferes with or encroaches
on a beach transit corridor pursuant to section
115-10.

(c) All vulnerable coastal property purchaser statements
shall be notarized and recorded in the bureau of conveyances.

(d) For purposes of this section, "vulnerable coastal
property" means real property within the sea level rise exposure
area as officially designated by the Hawaii climate change mitigation and adaptation commission."

SECTION 3. 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 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; [ex]"
(4) Within the anticipated inundation areas designated on the department of defense’s emergency management tsunami inundation maps; or

(5) Within a sea level rise exposure area as officially designated by the Hawaii climate change mitigation and adaptation commission,

subject to the availability of maps that designate the 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 five designated areas specified in this subsection. The maps shall identify the properties situated within the 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 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.
SECTION 5. This Act shall take effect on December 31, 2050.
Report Title:
Real Estate Disclosure; Sea Level Rise; Hazard Exposure Statement; Vulnerable Coastal Property

Description:
Beginning on November 1, 2019, requires all vulnerable coastal property sales or transfers to include a sea level rise hazard exposure statement to ensure that new property owners and transferees understand the special hazards, requirements, and limitations that may affect the property. Requires sellers to include whether property is within a sea level rise exposure area in the disclosure statement provided to the buyer. Takes effect 12/31/2050. (SD2)

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