A BILL FOR AN ACT

RELATING TO SHORELINE SETBACKS.

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

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. Since oceanfront properties experience landward retreat, building setbacks need to be adjusted to respond to this new geographic landscape.

Accordingly, the purpose of this Act is to establish greater shoreline setback requirements, in order to accurately
reflect the areas that are no longer suitable for long-term structures.

SECTION 2. 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[ ], and an altitude of at least two meters above sea level. The department shall adopt rules pursuant to chapter 91, and shall enforce the shoreline setbacks and rules pertaining thereto."

SECTION 3. 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,] January 1, 2020;
(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 within the shoreline area without a variance."

SECTION 4. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.
SECTION 5. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 6. This Act shall take effect on April 22, 2021.

INTRODUCED BY: [Signature]

[Signature]

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Report Title:
Shoreline Setbacks

Description:
Adjusts shoreline setback requirements by taking into consideration rising sea levels.

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