

JAN 17 2020

A BILL FOR AN ACT

RELATING TO REAL PROPERTY TRANSACTIONS.

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

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

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

- 13 (1) Identification of the major areas of sea level rise
14 impacts affecting the State and counties through 2050;
- 15 (2) Identification of expected impacts of sea level rise
16 based on the latest scientific research for each area
17 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 statement
17 (September 4, 2018) includes a recommendation to require
18 mandatory disclosure for private properties and public offerings
19 located in areas with potential exposure to sea level rise. At
20 a minimum, the seller shall be required to disclose if the



1 property is located in the sea level rise exposure area as
2 identified in the State's report.

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

17 The purpose of this Act is to require that mandatory seller
18 disclosures in real property transactions include identification
19 of residential real properties lying within the sea level rise
20 exposure area.



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

3 "(a) When residential real property lies:

4 (1) Within the boundaries of a special flood hazard area
5 as officially designated on Flood Insurance
6 Administration maps promulgated by the United States
7 Department of Housing and Urban Development for the
8 purposes of determining eligibility for emergency
9 flood insurance programs;

10 (2) Within the boundaries of the noise exposure area shown
11 on maps prepared by the department of transportation
12 in accordance with Federal Aviation Regulation part
13 150, Airport Noise Compatibility Planning (14 C.F.R.
14 part 150), for any public airport;

15 (3) Within the boundaries of the Air Installation
16 Compatible Use Zone of any Air Force, Army, Navy, or
17 Marine Corps airport as officially designated by
18 military authorities; [~~or~~]

19 (4) Within the anticipated inundation areas designated on
20 the department of defense's emergency management
21 tsunami inundation maps [~~or~~]; or



1 (5) Within the sea level rise exposure area as officially
2 designated by the Hawaii climate change mitigation and
3 adaptation commission or its successor,
4 subject to the availability of maps that designate the [~~four~~]
5 five areas by tax map key (zone, section, parcel), the seller
6 shall include the material fact information in the disclosure
7 statement provided to the buyer subject to this chapter. Each
8 county shall provide, where available, maps of its jurisdiction
9 detailing the [~~four~~] five designated areas specified in this
10 subsection. The maps shall identify the properties situated
11 within the [~~four~~] five designated areas by tax map key number
12 (zone, section, parcel) and shall be of a size sufficient to
13 provide information necessary to serve the purposes of this
14 section. Each county shall provide legible copies of the maps
15 and may charge a reasonable copying fee."

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

18 SECTION 4. This Act shall take effect on January 1, 2021.

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INTRODUCED BY:

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S.B. NO. 2671

Report Title:

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

Description:

Requires that mandatory seller disclosures in real estate transactions include identification of residential real properties lying within the sea level rise exposure area as officially designated by the Hawaii Climate Change Mitigation and Adaptation Commission, subject to the availability of county maps designating the areas by tax map key. Effective 1/1/2021.

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