
A BILL FOR AN ACT

RELATING TO SHORELINES.

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

1 SECTION 1. The legislature finds that the global sea level
2 has risen over the past century, and that the rate of this rise
3 has accelerated in recent decades. The National Oceanic and
4 Atmospheric Administration reported that the global mean sea
5 level in 2019 was about 3.4 inches higher than it was in 1993.
6 With continued ocean and atmospheric warming, sea levels are
7 expected to rise at even higher rates during centuries to come.
8 In fact, studies have predicted that under a "business as usual"
9 scenario where greenhouse gas emissions continue at the current
10 rate of increase, sea levels could rise as high as 3.2 feet by
11 the year 2060.

12 The legislature further finds that, as an island state,
13 Hawaii is disproportionately susceptible to the impacts of sea
14 level rise. For example, deadly and destructive storm surges
15 from hurricanes and other tropical cyclones will push farther
16 inland than they once did. In addition, coastal flooding from
17 storms and seasonal swells will become much more frequent.



1 According to the sea level rise vulnerability and
2 adaptation report, which was released by the Hawaii climate
3 change mitigation and adaptation commission in December 2017, a
4 rise in sea level of 3.2 feet will cause six thousand five
5 hundred structures to be lost across the State while displacing
6 twenty thousand residents, resulting in over \$19,000,000,000 in
7 damages to property and structures. The legislature finds that
8 the State must be prepared for the drastic impact higher sea
9 levels will have on coastal communities.

10 Considering the potential impacts of the forecasted rise in
11 sea level, the legislature also finds that the board of land and
12 natural resources' current policy of authorizing long-term
13 shoreline encroachment easements is not sustainable.
14 Specifically, it is not in the public interest to authorize
15 easements with durations in excess of fifty years when the
16 structures on the easements could be submerged by the time the
17 easement expires. Given the uncertainty and fluidity of the
18 impacts of sea level rise, the legislature finds that it would
19 be reasonable for the board of land and natural resources to
20 authorize easements that do not exceed ten years, as this time
21 period will enable the department of land and natural resources



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1 to better assess sea level rise and its impacts on specific
2 properties. The legislature concludes that the board of land
3 and natural resources must expeditiously update its policies to
4 require the impacts of sea level rise to be considered when
5 granting or renewing shoreline encroachment easements.

6 Accordingly, the purpose of this Act is to:

- 7 (1) Require the board of land and natural resources to
8 adopt a policy for the granting or renewal of
9 shoreline encroachment easements that takes into
10 consideration the impact of sea level rise on the
11 shoreline encroachment;
- 12 (2) Prohibit the board of land and natural resources from
13 granting new shoreline encroachment easements or
14 renewing any existing shoreline encroachment easement
15 for more than a period of two years until the new
16 rules are adopted; and
- 17 (3) Prohibit the board of land and natural resources from
18 granting or renewing any shoreline encroachment
19 easement for a term of more than ten years.



1 SECTION 2. Chapter 171, Hawaii Revised Statutes, is
2 amended by adding a new section to part I to be appropriately
3 designated and to read as follows:

4 "§171- Shoreline encroachment easements. (a) No later
5 than January 1, 2022, the board shall adopt rules pursuant to
6 chapter 91 that establish a policy and procedure for the
7 granting or renewal of shoreline encroachment easements to
8 landowners to enable landowners to remove or relocate a
9 shoreline encroachment landward of the shoreline setback line.

10 The rules shall require the board to consider:

- 11 (1) The impact of the expected sea level rise on the
12 shoreline encroachment, as provided in subsection (c);
13 (2) The public policies of protection and preservation of
14 the shoreline, the beach processes and lateral access
15 along the shoreline, and the long-term risks to life
16 and property from coastal hazards, including a
17 consideration of how these hazards will change over
18 time due to climate change and sea level rise; and
19 (3) The objectives and policies of the coastal zone
20 management program under section 205A-2.



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1 (b) The board shall not grant any new shoreline
2 encroachment easement or renew any existing shoreline
3 encroachment easement until the rules required by subsection (a)
4 are adopted; provided that the board may renew an existing
5 shoreline encroachment easement for a period of not more than
6 two years for the limited purpose of allowing an expiring
7 easement to continue until the rules required by subsection (a)
8 are adopted; provided further that the board shall not grant any
9 renewal pursuant to this subsection after July 1, 2022.

10 (c) For each request for a new shoreline encroachment
11 easement or the renewal of an existing shoreline encroachment
12 easement pursuant to subsection (a), the board shall take into
13 consideration the impact of expected sea level rise on the
14 shoreline encroachment being examined. If the board approves a
15 shoreline encroachment easement after taking these impacts into
16 consideration, the board shall include with the easement any
17 restrictions or conditions that the board deems necessary and
18 proper to mitigate the impact of the sea level rise, including
19 the removal or relocation of the shoreline encroachment.

20 (d) An easement approved pursuant to this section shall be
21 for a time period that is reasonable in consideration of the



1 timing of the expected sea level rise; provided that the board
2 shall not approve or renew any shoreline encroachment easement
3 for a term exceeding ten years.

4 (e) The grant or renewal of an easement pursuant to this
5 section shall not be construed as state ownership of the
6 shoreline encroachment.

7 (f) For the purposes of this section:

8 "Landowner" means a person who owns a coastal property with
9 a shoreline encroachment that is at least partially seaward of
10 the shoreline.

11 "Shoreline" shall have the same meaning as in section
12 205A-1.

13 "Shoreline encroachment" means a structure located seaward
14 of the shoreline on public land.

15 "Shoreline encroachment easement" means an easement granted
16 by the board that includes a shoreline encroachment.

17 "Shoreline setback line" and "structure" shall have the
18 same meanings as in section 205A-41."

19 SECTION 3. This Act does not affect rights and duties that
20 matured, penalties that were incurred, and proceedings that were
21 begun before its effective date.



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1 SECTION 4. New statutory material is underscored.

2 SECTION 5. This Act shall take effect upon its approval.

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INTRODUCED BY:

A large, stylized handwritten signature in black ink, appearing to read "Paul Brand", is written over a horizontal line.

JAN 27 2021



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Report Title:

BLNR; Shoreline Encroachments; Easements

Description:

Authorizes the board of land and natural resources to provide shoreline encroachment easements that do not exceed 10 years to landowners having structures that encroach on the shoreline. Requires the board of land and natural resources to adopt rules that establish a policy and procedure for the granting or renewal of shoreline encroachment easements. Requires the adopted policy to consider the impact of expected sea level rise on the encroaching structures. Prohibits the granting of any new shoreline encroachment easements until the new policy is adopted.

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