

JAN 18 2024

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# A BILL FOR AN ACT

RELATING TO CONSERVATION MITIGATION BANKS.

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

1           SECTION 1. The legislature finds that mitigation banks  
2 restore, create, enhance, or preserve habitats or resources to  
3 recover the ecological functions, services, and values of  
4 resources lost by adverse impacts to other similar habitats. By  
5 2001, the federal government and at least thirty-one states  
6 developed successful mitigation bank guidelines and programs.  
7 Mitigation banking has a number of advantages over traditional  
8 permittee-responsible compensatory mitigation because of the  
9 ability of mitigation banking programs to:

10           (1) Reduce uncertainty about whether compensatory  
11 mitigation will be successful in offsetting project  
12 impacts;

13           (2) Assemble and apply extensive financial resources,  
14 planning, and scientific expertise not always  
15 available to many permittee-responsible compensatory  
16 mitigation proposals;



1           (3) Reduce permit processing times and provide more  
2           cost-effective compensatory mitigation opportunities;  
3           and

4           (4) Enable the efficient use of limited agency resources  
5           in the review and compliance monitoring of  
6           compensatory mitigation projects because of  
7           consolidation.

8 Mitigation banks would serve as a mechanism to restore or  
9 replace resources and ecological functions of habitats either  
10 prospectively or after they have been damaged.

11           The purpose of this Act is to authorize the department of  
12 land and natural resources to establish and operate conservation  
13 mitigation banks to restore, create, enhance, or preserve  
14 conservation habitats or resources as compensatory mitigation  
15 where a person or entity is required to provide compensatory  
16 mitigation prospectively and the use of banked mitigation is  
17 approved by the agency requiring mitigation, or for past damages  
18 to conservation habitats or resources.



1 SECTION 2. The Hawaii Revised Statutes is amended by  
2 adding a new chapter to be appropriately designated and to read  
3 as follows:

4 "CHAPTER

5 CONSERVATION MITIGATION BANKS

6 § -1 **Conservation mitigation banking.** The department of  
7 land and natural resources may establish and operate  
8 conservation mitigation banks to restore, create, enhance, or  
9 preserve conservation habitats or resources as compensatory  
10 mitigation where a person or entity is required to provide  
11 compensatory mitigation prospectively and the use of banked  
12 mitigation is approved by the agency requiring mitigation, or  
13 for past damages to conservation habitats or resources.

14 § -2 **Conservation mitigation banking administrator.** The  
15 department of land and natural resources may contract with a  
16 third-party administrator that specializes in mitigation banking  
17 to operate and manage the conservation mitigation banks in  
18 section -1.

19 § -3 **Conservation mitigation bank; sale of credits.**  
20 Investors in a conservation mitigation bank shall not be  
21 required to own the parcel of land and shall be authorized to



1 sell the credits generated from the ecological conditions to  
2 persons or entities that need the credits to compensate for  
3 environmental impacts that they have caused.

4       **§ -4 Rules.** The department of land and natural  
5 resources may adopt rules pursuant to chapter 91 necessary for  
6 the purposes of this chapter.

7       **§ -5 Definition.** As used in this chapter, "conservation  
8 mitigation bank" means a parcel of land managed to restore or  
9 maintain certain ecological conditions, including a functional  
10 wildlife habitat and the presence of endangered species, for a  
11 set time period. The term "conservation mitigation bank" may  
12 refer to mitigation activity for both species and habitats and  
13 shall be analogous to habitat bank and biodiversity bank."

14       SECTION 3. This Act shall take effect upon its approval.

15

INTRODUCED BY: 



# S.B. NO. 2164

**Report Title:**

DLNR; Conservation Mitigation Banks

**Description:**

Authorizes the Department of Land and Natural Resources to establish and operate conservation mitigation banks to restore, create, enhance, or preserve conservation habitats or resources as compensatory mitigation. Authorizes the Department of Land and Natural Resources to contract a third-party administrator for the operation of the mitigation banks. Clarifies the sale of credits involved in conservation mitigation banking. Defines "conservation mitigation bank".

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