

JAN 30 2026

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# A BILL FOR AN ACT

RELATING TO ECOSYSTEM RIGHTS.

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

1 SECTION 1. This Act shall be known and may be cited as the  
2 Na Aina no Ia Act, or NANI Act.

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

6 **"CHAPTER**

7 **ECOSYSTEM RIGHTS: WATERSHEDS AND CORAL REEFS**

8 **S -1 Definitions.** As used in this chapter:

9 "Coral reef" means a coral reef ecosystem, including the  
10 fish, invertebrates, limu (algae), marine mammals, and all other  
11 living components that form a functional marine life ecosystem.

12 "Ecosystem person" means a coral reef or watershed with  
13 legal personhood.

14 "Legal personhood" or "legal person" means recognition in  
15 law as a rights-bearing entity, with the capacity to be  
16 represented in legal proceedings and to exercise rights and  
17 protections under the law.



1        "Recognized customary knowledge" means knowledge derived  
2        from established Native Hawaiian or local community practices  
3        that have been consistently observed, transmitted, and validated  
4        within those communities and that are relevant to the  
5        stewardship, protection, or restoration of the affected  
6        ecosystem person.

7        "Science-backed claim" means a claim supported by credible  
8        evidence, including peer-reviewed research, governmental  
9        resource data, or expert testimony grounded in marine science,  
10       environmental science, recognized customary knowledge, or Kanaka  
11       Māoli traditional ecological knowledge.

12       "Watershed" has the same meaning as in section 183-31.

13       **S -2 Watersheds and coral reefs; legal personhood. (a)**

14       Each watershed or coral reef located in the State shall be  
15       recognized as a legal person and shall have the rights, powers,  
16       and protections of a legal person, including the right to exist,  
17       flourish, and naturally evolve, defined to include measurable  
18       ecological conditions such as maintaining or increasing live  
19       coral cover, avoiding activities that impair recruitment or  
20       resilience, and ensuring conditions that allow natural recovery  
21       processes, and as reflected by Kanaka Māoli traditional and



1 customary cultural values, practice, and worldview, including  
2 the notion and practice of malama aina. All rights secured by  
3 this chapter shall be inherent, fundamental, and inalienable and  
4 shall be self-executing and enforceable against both private and  
5 public actors, including through injunctive relief, mandatory  
6 corrective actions, and court-ordered restoration. Courts shall  
7 issue mandatory injunctions whenever a violation of an ecosystem  
8 person's rights is established, regardless of the availability  
9 of monetary or administrative remedies. By codifying these  
10 rights, the State seeks to ensure the restoration and vitality  
11 of watershed and coral reef ecosystems for the benefit of  
12 present and future generations, in harmony with Kanaka Māoli  
13 knowledge and stewardship practices.

14 (b) State agencies, entities, and subdivisions shall  
15 recognize the legal personhood of watersheds and coral reefs in  
16 the State and shall not engage in, authorize, or attempt to  
17 engage in activities that violate the rights, powers, and  
18 protections bestowed upon any ecosystem person by its  
19 establishment as a legal person.

20 **§ -3 Natural resources; uses; activities; leases.** The  
21 natural resources found associated with watersheds and coral

1 reefs, including all flora and fauna, shall be considered to  
2 have an inalienable connection to the health and well-being of  
3 the ecosystem person. No use, activity, or lease involving  
4 watersheds or coral reefs shall be approved that compromises or  
5 endangers this connection.

6 **§ -4 Right of action.** Any individual, public agency, or  
7 private entity may bring an action against another individual or  
8 entity that violates or attempts to violate the rights of an  
9 ecosystem person in the State, and courts may order injunctive  
10 relief, moratoria on harmful activities, restoration plans,  
11 monitoring, penalties proportionate to harm, and long-term  
12 stewardship obligations. If liability is established, the court  
13 shall require ecological restoration sufficient to return the  
14 ecosystem person to its ecological baseline that existed before  
15 the harm, or, if that baseline was already degraded, to the best  
16 scientifically achievable functional condition necessary to  
17 fully remedy the injury without imposing liability for unrelated  
18 historic degradation, unless the plaintiff requests an  
19 alternative remedy based on cultural or customary  
20 considerations. An action brought by a private individual shall  
21 be accompanied by a science-backed claim. Courts shall



1 liberally grant standing to persons enforcing this chapter, in  
2 recognition of their kuleana (responsibility) as stewards of the  
3 affected ecosystem person.

4 **S -5 Relationship to the public trust; no diminishment;**  
5 **rule of construction.** (a) This chapter shall be considered  
6 cumulative of and complementary to the public trust doctrine  
7 recognized in article XI of the Constitution of the State of  
8 Hawaii and in the decisions of the Hawaii supreme court. It  
9 establishes additional avenues for stewardship and enforcement  
10 and shall not be construed to supplant, replace, or diminish the  
11 public trust.

12 (b) Nothing in this chapter shall be construed to limit,  
13 modify, diminish, or otherwise affect:

14 (1) The State's fiduciary duties as public trustee over  
15 public natural resources; or  
16 (2) The protection of Native Hawaiian traditional and  
17 customary rights, appurtenant rights, or other rights  
18 safeguarded under the Hawaii State Constitution and  
19 laws.

20 (c) In any case of ambiguity or potential overlap, this  
21 chapter shall be construed, to the fullest extent permitted by



1 law, to harmonize with and enhance, not conflict with, public  
2 trust duties, and to advance the purposes of both this chapter  
3 and the public trust doctrine.

4 **S -6 Representation and stewardship duties; open**

5 **guardianship.** (a) Any person, organization, or community may  
6 act to uphold the rights of an ecosystem person under this  
7 chapter. Formal appointment or recognition shall not be  
8 required as a condition of standing.

9 (b) All persons asserting or defending rights on behalf of  
10 an ecosystem person shall act in good faith and in a manner  
11 consistent with the principles of malama aina, pono governance,  
12 and the public trust doctrine.

13 (c) Before initiating a claim or enforcement action, any  
14 person or group acting on behalf of an ecosystem person shall  
15 make reasonable efforts to consult with Native Hawaiian  
16 practitioners and community stewardship organizations connected  
17 to the affected ecosystem, and to consider their perspectives in  
18 good faith.

19 (d) Parties acting under this chapter shall disclose to  
20 the court the nature of their relationship to the affected



1 ecosystem and any material interest they hold in the outcome of  
2 the action.

3 (e) A court, upon motion or its own initiative, may  
4 dismiss or limit participation in an action if the court finds  
5 that a person or entity is acting in retaliation, bad faith, for  
6 private gain, or in a manner inconsistent with the purposes of  
7 this chapter. Nothing in this section shall preclude  
8 community-based processes for accountability or mediation  
9 consistent with Native Hawaiian customary practices.

10 (f) No individual or organization shall have exclusive  
11 authority to represent an ecosystem person. Multiple parties  
12 may act concurrently or cooperatively, provided their actions  
13 are consistent with this chapter and the public trust doctrine.

14 **§ -7 Enforcement; no waiver of accountability;**  
15 **supremacy; retroactive application.** (a) Notwithstanding any  
16 law to the contrary, no officer, agency, or authority of the  
17 executive branch of the State shall enter into or enforce any  
18 waiver, indemnity agreement, memorandum of understanding, lease,  
19 permit, or other legal instrument that purports to release,  
20 excuse, or shield any person, corporation, agency (including any  
21 branch of the United States Armed Forces), or any other entity



1 from liability or accountability under this chapter for harm to  
2 an ecosystem person. Any provision or agreement, whether now  
3 existing or executed in the future, shall be void and  
4 unenforceable as contrary to public policy.

5 For the avoidance of doubt, any enforcement, claims or  
6 suits under this chapter shall be in addition to, and shall not  
7 preclude, limit, or be deemed to satisfy any duty, remedy, or  
8 cause of action arising under the public trust doctrine or other  
9 applicable law.

10 (b) If any conflict between this chapter and any other  
11 provision of the Hawaii Revised Statutes or other state law  
12 occurs, including any law, rule, regulation, permit condition,  
13 contract, or agreement that would limit or immunize any party's  
14 responsibility for harm to a watershed or coral reef, the  
15 provisions of this chapter shall govern. This subsection shall  
16 be construed in harmony with sections -5 and -10 so that  
17 this chapter and the public trust doctrine are mutually  
18 reinforcing. Nothing in this subsection may be interpreted to  
19 limit, restrict, or subordinate any right, duty, or remedy  
20 created by this chapter. This chapter shall supersede and  
21 preempt any state or local law to the extent of the conflict,



1 particularly with respect to the accountability of any person or  
2 entity for injury to an ecosystem person recognized under this  
3 chapter.

4 (c) This chapter shall apply retroactively to all acts and  
5 omissions occurring on or after August 21, 1959, that have  
6 harmed or would have violated the rights of any watershed or  
7 coral reef as recognized by this chapter.

8 (d) Any claim alleging injury, degradation, or loss to an  
9 ecosystem person may be brought under this chapter for conduct  
10 occurring on or after August 21, 1959, regardless of whether the  
11 conduct has ceased or been previously addressed through  
12 settlement or administrative action. Prior judgments or  
13 agreements shall not bar restorative relief if the ecological or  
14 cultural harm remains unremedied or continues to impair the  
15 health, function, or rights of the affected ecosystem person.

16 Remedies under this subsection may include restoration,  
17 mitigation, monitoring, or any other equitable measures  
18 necessary to repair and reconcile the continuing effects of the  
19 harm.

20 **§ -8 Citizen enforcement safeguards and community**  
21 **protections.** (a) Citizen enforcement under this chapter shall



1 strengthen, and not undermine, lawful cultural practices and  
2 community stewardship that are conducted in good faith under  
3 Native Hawaiian tradition or state and county management.

4 (b) Any person or organization intending to bring an  
5 action under this chapter, no fewer than sixty days before  
6 filing, shall provide written notice of intent to file suit to:  
7 (1) The relevant public trustee agency or agencies; and  
8 (2) Native Hawaiian practitioners, community  
9 organizations, or stewardship groups known to have a  
10 connection to the affected ecosystem.

11 The notice shall describe the alleged harm, the relief  
12 sought, and proposed cooperative steps toward resolution.

13 (c) Within the notice period, any practitioner, community  
14 group, or public trustee may respond and propose actions to  
15 address the concern through cooperative or customary means. A  
16 court may stay proceedings to allow such resolution if it serves  
17 the purposes of this chapter.

18 (d) No enforcement action under this chapter shall be  
19 maintained against the exercise of Native Hawaiian traditional  
20 and customary rights, lawful subsistence, or recognized



1 community restoration or management activities conducted in good  
2 faith.

3 (e) A court shall dismiss, and may impose costs, fees, or  
4 sanctions upon any action brought in bad faith, for harassment,  
5 retaliation, or to impede legitimate cultural or stewardship  
6 practices.

7 (f) Parties are encouraged to resolve disputes through  
8 Native Hawaiian dispute-resolution practices, hooponopono, or  
9 other forms of mediation before or during litigation. Courts  
10 may refer matters to the processes authorized under this  
11 subsection upon request or agreement of the parties.

12 **S -9 Restorative retroactivity; continuing duty of**  
13 **repair.** (a) With the acknowledgement that many harms to  
14 Hawaii's ecosystems occurred under legal regimes that failed to  
15 recognize nature's inherent rights and the reciprocal kuleana  
16 between people, āina, and kai, historic injuries to ecosystems  
17 and their descendant communities shall not be excluded from  
18 justice merely because the conduct causing them has ceased.  
19 Restoration of degraded lands and waters is a continuing moral  
20 and fiduciary duty owed to present and future generations.



9 (c) Any person, corporation, government, or other entity  
10 that caused, contributed to, benefitted from, or failed to  
11 remedy a condition of ecological degradation, even if the  
12 original act has ceased, shall have a continuing duty of repair  
13 under this chapter commensurate with its role, capacity, and  
14 present control, management, or influence.

15 (d) Courts and public trustee agencies shall give priority  
16 to cases where:

17 (1) The harm remains ecologically or culturally  
18 significant;

19 (2) The ecosystem or aquifer retains potential for  
20 recovery or rehabilitation; and



14       § -10 Preservation of water commission authority and  
15 **existing protections.** (a) Nothing in this chapter shall be  
16 construed to limit, modify, or supersede the constitutional  
17 public trust duties recognized in article XI, sections 1 and 7  
18 of the Constitution of the State of Hawaii, nor to alter the  
19 standards or protections established in *In re Water Use Permit*  
20 Applications (Waiahole Ditch), 94 Haw. 97 (2000); *Ka Paakai o ka  
21 Aina v. Land Use Commission*, 94 Haw. 31 (2000); or any other



1 cases affirming Native Hawaiian rights and environmental  
2 stewardship obligations. These decisions shall remain the  
3 governing law of the State.

4 (b) The commission on water resource management shall  
5 continue to exercise its powers and duties under chapter 174C to  
6 manage, allocate, and protect the waters of the State as a  
7 public trust resource. Nothing in this chapter shall be  
8 construed to diminish the authority of the commission.

9 (c) The rights and remedies created by this chapter are  
10 complementary to, and not contingent upon, agency enforcement.  
11 Persons and communities retain independent authority to act when  
12 necessary to protect or restore any ecosystem person. Actions  
13 under this chapter and agency proceedings may proceed  
14 concurrently, each reinforcing the other's responsibility toward  
15 the same constitutional trust.

16 (d) Courts and agencies are encouraged to coordinate  
17 information sharing and cooperative planning to avoid  
18 duplication and promote efficiency. However, no agency  
19 proceeding, investigation, or decision shall delay, preclude, or  
20 limit a citizen action brought under this chapter. The people's



1 right to enforce the public trust shall remain independent,  
2 continuous, and unimpaired.

3 **S -11 Co-governance and coordination with the commission**  
4 **on water resource management and community stewardship councils.**

5 (a) The enduring well-being of Hawaii's ecosystems depends upon  
6 shared governance grounded in both Native Hawaiian ancestral  
7 knowledge and best available science. Co-governance under this  
8 chapter is intended to foster partnership, transparency, and  
9 mutual accountability among State agencies, Native Hawaiian  
10 practitioners, and community organizations engaged in malama  
11 aina and wai.

12 (b) Communities may form voluntary kahu aina councils or  
13 other stewardship bodies to advise, coordinate, and collaborate  
14 in actions under this chapter. The councils shall operate as  
15 inclusive forums for cultural, scientific, and community  
16 guidance and shall have the opportunity to consult with the  
17 commission on water resource management and any other relevant  
18 agencies regarding restoration, monitoring, and enforcement  
19 priorities.

20 (c) Nothing in this section shall be construed to limit  
21 who may bring a claim, assert a right, or participate in



1 proceedings under this chapter. Citizens and communities shall  
2 retain independent authority to act; actions under this chapter  
3 may proceed concurrently with agency proceedings, each  
4 reinforcing the other's responsibility toward the same  
5 constitutional trust. The rights and duties established herein  
6 belong equally to all persons and communities who act in good  
7 faith to protect or restore any protected ecosystem persons,  
8 regardless of ancestry, cultural affiliation, or organizational  
9 membership.

10 (d) Without conditioning or delaying any person's right to  
11 file or prosecute an action, the commission on water resource  
12 management or other relevant agency shall consult and coordinate  
13 in good faith with any person, community, stewardship group or  
14 kahu aina council relevant to any proceeding or project under  
15 this chapter. Coordination shall include, but is not limited  
16 to, data sharing, joint restoration planning, and recognition of  
17 customary knowledge as valid evidence in decision-making. The  
18 coordination shall not diminish or condition any person's  
19 independent enforcement rights under this chapter.

20 (e) No agency, council, or organization may use  
21 coordination or co-governance under this section to obstruct,



1 delay, or discourage lawful action brought under this chapter.

2 Co-governance shall enhance accountability, not restrict it.

3       **§ -12 Void against public policy.** Any law, rule, lease,  
4 contract, permit, memorandum of understanding, or other  
5 agreement that limits, waives, or indemnifies liability for harm  
6 to any ecosystem person shall be void and unenforceable as  
7 contrary to public policy.

8       **§ -13 Nonbinding instruments.** No memorandum of  
9 understanding, statement of principles, or other nonbinding  
10 instrument may be used to delay, waive, or diminish any duty,  
11 right, or remedy established under this chapter.

12       **§ -14 State land leases and contracts.** All leases,  
13 permits, or contracts involving state lands or resources shall  
14 include or imply binding terms requiring full compliance with  
15 this chapter. Any term to the contrary shall be void.

16       **§ -15 Indemnification and minimum standards.** (a) No  
17 state agency or subdivision shall indemnify, insure, or  
18 otherwise shield any contractor, lessee, or partner from  
19 liability arising under this chapter.



4        **§ -16 Federal and public oversight.** (a) This chapter  
5 shall apply to all persons and entities, including federal  
6 agencies and military activities, to the maximum extent  
7 permitted by law. Remedies against federal entities shall  
8 permit declaratory and injunctive relief to the maximum extent  
9 allowed under federal law.

10 (b) Any agreement concerning natural resources that could  
11 affect the rights recognized by this chapter shall be publicly  
12 disclosed and made continuously available for public inspection  
13 online and in an accessible repository upon execution.

14       § -17 **Civil penalties.** (a) Any person or entity that  
15 violates the rights of an ecosystem person shall be subject to  
16 civil penalties imposed by the court in addition to any  
17 injunctive or restorative relief ordered under this chapter.

18 (b) Civil penalties shall be determined by the court based  
19 on science-backed evidence and shall be commensurate with:  
20 (1) The severity, extent, and duration of the harm to the  
21 ecosystem person;



8 (3) Any additional monitoring, stewardship, or long-term  
9 obligations required to ensure full ecological  
10 recovery.

11 (c) Civil penalties may be structured to support or  
12 accelerate restoration, monitoring, cultural stewardship,  
13 scientific assessment, or long-term ecological resilience of the  
14 affected ecosystem person.

15 (d) Compliance with any permit, standard, or regulatory  
16 requirement shall not constitute a defense to liability or a  
17 basis for reducing civil penalties under this section.

18 (e) Penalties collected under this section shall be  
19 deposited into a dedicated fund established for the restoration,  
20 monitoring, and long-term protection of ecosystem persons and  
21 shall be used exclusively for those purposes."



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

2

INTRODUCED BY:



# S.B. NO. 3323

**Report Title:**

Ecosystem Rights; Watersheds; Coral Reefs; Legal Personhood; Enforcement; Ecosystem Persons

**Description:**

Recognizes watersheds and coral reef ecosystems as legal persons with inherent and inalienable rights to exist, flourish, and naturally evolve. Establishes enforceable ecosystem rights grounded in public trust doctrine and Native Hawaiian customary stewardship. Authorizes citizen enforcement, restorative and injunctive remedies, civil penalties, and continuing duties of ecological repair, including for historic harms. Provides for open representation, community consultation, co-governance, and supremacy over conflicting laws.

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