

JAN 30 2026

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 § -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 Maoli traditional ecological knowledge.

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

13 **§ -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 § -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 § -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 § -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.



(b) This chapter shall apply to ecological harms, discharges, extractions, diversions, land-use or other practices originating before its effective date if the resulting injury, degradation, or loss (whether active or dormant) continues to impair ecological integrity, cultural practice, or public trust values. Remedies under this chapter shall be restorative and equitable in nature, prioritizing rehabilitation, remediation, reconciliation, and cultural healing.

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

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

(1) The harm remains ecologically or culturally significant;

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



(3) Restoration will materially advance justice,
ecological integrity, or community well-being.

Courts may phase remedies or employ cooperative plans to
prevent excessive burden while ensuring long-term repair.

(e) In addressing historic harms, courts are encouraged to
employ mediation, restorative justice, and customary Native
Hawaiian reconciliation processes, and to recognize that many
harms arose from systemic neglect rather than isolated acts.

(f) Nothing in this section shall preclude the State or
any community from acknowledging, documenting, or educating
about historic ecological harms as part of an official record of
reconciliation, even where full physical restoration is not
feasible.

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

1 (b) Compliance with other permits, standards, or
2 regulations shall not constitute a defense to liability for harm
3 to any ecosystem person.

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;

1 (2) The measures necessary to return the ecosystem person
2 to its ecological baseline that existed before the
3 harm, or, if that baseline was already degraded, to
4 the best scientifically achievable functional
5 condition necessary to fully remedy the injury without
6 imposing liability for unrelated historic degradation;
7 and

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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