THE SENATE
THIRTY-THIRD LEGISLATURE, 2026
STATE OF HAWAII

S.B. NO. 2005

JAN 21 2026

A BILL FOR AN ACT

RELATING TO CONSERVATION BANKING.

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

SECTION 1. The legislature finds that the use of conservation banks as compensatory mitigation projects for incidental take licensees with habitat conservation plans increases certainty that the mitigation obligation is complete, expedites project review, and makes project costs more predictable for incidental take licensees. The legislature further finds that conservation banks provide long-term, landscape-scale protection for Hawaii's threatened, endangered, candidate, and proposed species.

Accordingly, the purpose of this Act is to authorize the use of conservation banks where a person or entity is required to provide compensatory mitigation to offset adverse impacts to threatened, endangered, candidate, or proposed species as part of a habitat conservation plan and associated incidental take license.

SECTION 2. Chapter 195D, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"**§195D- Conservation banking.** (a) The department or other bank sponsor may seek board approval of a conservation bank instrument to operate a conservation bank for the purposes of restoring, creating, enhancing, or protecting populations of threatened, endangered, candidate, or proposed species and their habitats to provide for situations in which a person or entity is required to provide compensatory mitigation to offset adverse impacts to threatened, endangered, candidate, or proposed species as part of an approved incidental take license and habitat conservation plan.

(b) The department may adopt rules pursuant to chapter 91 necessary to implement this section."

SECTION 3. Section 195D-2, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

""Conservation bank" means a site or suite of sites established under a conservation bank instrument for the purposes of restoring, creating, enhancing, or protecting

populations of threatened, endangered, candidate, or proposed species and their habitats, expressed as credits."

SECTION 4. Section 195D-21, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b)(1) Except as otherwise provided by law, the board, upon recommendation from the department, in cooperation with other state, federal, county, or private organizations and landowners, after a public hearing on the island affected, and upon an affirmative vote of no less than two-thirds of its authorized membership, may enter into a habitat conservation plan, if it determines that:

(A) The plan will further the purposes of this chapter by protecting, maintaining, restoring, or enhancing identified ecosystems, natural communities, or habitat types upon which endangered, threatened, proposed, or candidate species depend within the area covered by the plan;

(B) The plan will increase the likelihood of recovery of the endangered or threatened species that are the focus of the plan; and

(C) The plan satisfies all the requirements of this chapter.

~~[In the event]~~ If the board votes to enter into a habitat conservation plan for which the majority of the endangered species recovery committee recommended disapproval, the board [~~may~~] shall not enter into the habitat conservation plan unless the plan is approved by a two-thirds majority vote of both houses of the legislature. Habitat conservation plans may allow conservation rental agreements, habitat banking, conservation banks, and direct payments. Any habitat conservation plan approved pursuant to this section shall be based on the best available scientific and other reliable data available at the time the plan is approved.

(2) Each habitat conservation plan shall:

(A) Identify the geographic area encompassed by the plan; the ecosystems, natural communities, or

habitat types within the plan area that are the focus of the plan; and the endangered, threatened, proposed, and candidate species known or reasonably expected to be present in those ecosystems, natural communities, or habitat types in the plan area;

(B) Describe the activities contemplated to be undertaken within the plan area with sufficient detail to allow the department to evaluate the impact of the activities on the particular ecosystems, natural communities, or habitat types within the plan area that are the focus of the plan;

(C) Identify the steps that will be taken to minimize and mitigate all negative impacts, including without limitation the impact of any authorized incidental take, with consideration of the full range of the species on the island so that cumulative impacts associated with the take can be adequately assessed; and the funding that will be available to implement those steps;

(D) Identify those measures or actions to be undertaken to protect, maintain, restore, or enhance the ecosystems, natural communities, or habitat types within the plan area; a schedule for implementation of the measures or actions; and an adequate funding source to ensure that the actions or measures, including monitoring, are undertaken in accordance with the schedule;

(E) Be consistent with the goals and objectives of any approved recovery plan for any endangered species or threatened species known or reasonably expected to occur in the ecosystems, natural communities, or habitat types in the plan area;

(F) Provide reasonable certainty that the ecosystems, natural communities, or habitat types will be maintained in the plan area, throughout the life of the plan, in sufficient quality, distribution, and extent to support within the plan area those species typically associated with the ecosystems, natural communities, or habitat types, including any endangered, threatened, proposed, and

candidate species known or reasonably expected to be present in the ecosystems, natural communities, or habitat types within the plan area;

(G) Include an agreement to enter into and maintain an annual service contract with a stand-by and response facility available to provide emergency medical and rehabilitation services to native wildlife affected by activities undertaken within the plan area;

(H) Contain objective, measurable goals, the achievement of which will contribute significantly to the protection, maintenance, restoration, or enhancement of the ecosystems, natural communities, or habitat types; time frames within which the goals are to be achieved; provisions for monitoring (such as field sampling techniques), including periodic monitoring by representatives of the department or the endangered species recovery committee, or both; and provisions for evaluating progress in

achieving the goals quantitatively and qualitatively; and

(I) Provide for an adaptive management strategy that specifies the actions to be taken periodically if the plan is not achieving its goals."

SECTION 5. Section 195D-25, Hawaii Revised Statutes, is amended to read as follows:

"§**195D-25 Endangered species recovery committee.** (a) There is established within the department for administrative purposes only, the endangered species recovery committee, which shall serve as a consultant to the board and the department on matters relating to endangered, threatened, proposed, and candidate species. The committee shall consist of two field biologists with expertise in conservation biology, the chairperson of the board or the chairperson's designee, the ecoregion director of the United States Fish and Wildlife Service or the director's designee, the associate director of the United States Geological Survey, [~~Biological Resources Division~~] Ecosystem Mission Area or the associate director's designee, the dean of the [~~University~~] university of Hawaii at Manoa college of natural sciences or the dean's designee, and a

person possessing a background in native Hawaiian traditional and customary practices, as evidenced by:

(1) A college degree in a relevant field, such as Hawaiian studies, native Hawaiian law, native Hawaiian traditional and customary practices, or related subject area;

(2) Work history that demonstrates an appropriate level of knowledge in native Hawaiian traditional and customary practices; or

(3) Substantial experience in native Hawaiian traditional and customary practices.

Nongovernmental members shall be appointed by the governor pursuant to section 26-34. Nongovernmental members shall not serve for more than two consecutive terms. Nongovernmental members shall serve for four-year staggered terms, except that one of the members first appointed shall serve for two years.

Governmental members from the federal agencies are requested but not required to serve on the committee. The ability of the committee to carry out its functions and purposes shall not be affected by the vacancy of any position allotted to a federal governmental member.

(b) The endangered species recovery committee shall:

(1) Review all applications and proposals for habitat conservation plans, safe harbor agreements, conservation banks, and incidental take licenses and make recommendations, based on a full review of the best available scientific and other reliable data and at least one site visit to each property that is the subject of the proposed action, and in consideration of the cumulative impacts of the proposed action on the recovery potential of the endangered, threatened, proposed, or candidate species, to the department and the board as to whether or not they should be approved, amended, or rejected;

(2) Review all habitat conservation plans, safe harbor agreements, conservation banks, and incidental take licenses on an annual basis to ensure compliance with agreed to activities and, on the basis of any available monitoring reports, and scientific and other reliable data, make recommendations for any necessary changes;

(3) Consider and recommend appropriate incentives to encourage landowners to voluntarily engage in efforts that restore and conserve endangered, threatened, proposed, and candidate species;

(4) Perform such other duties as provided in this chapter;

(5) Consult with persons possessing expertise in such areas as the committee may deem appropriate and necessary in the course of exercising its duties; and

(6) Not conduct more than one site visit per year to each property that is the subject of a habitat conservation plan [~~or~~], safe harbor agreement[~~.~~], or conservation bank instrument."

SECTION 6. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 7. This Act shall take effect upon its approval.

INTRODUCED BY: Francis P. Lamoye

S.B. NO. 2005

Report Title:
Department of Land and Natural Resources; Board of Land and Natural Resources; Conservation Banks; Habitat Conservation Plans; Compensatory Mitigation; Incidental Take License; Endangered Species

Description:
Authorizes the use of conservation banks for compensatory mitigation in a habitat conservation plan and associated incidental take license. Amends the membership and scope of authority for the Endangered Species Recovery Committee.

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