

JAN 21 2026

A BILL FOR AN ACT

RELATING TO CONSERVATION BANKING.

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

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

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



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

4 "§195D- Conservation banking. (a) The department or
5 other bank sponsor may seek board approval of a conservation
6 bank instrument to operate a conservation bank for the purposes
7 of restoring, creating, enhancing, or protecting populations of
8 threatened, endangered, candidate, or proposed species and their
9 habitats to provide for situations in which a person or entity
10 is required to provide compensatory mitigation to offset adverse
11 impacts to threatened, endangered, candidate, or proposed
12 species as part of an approved incidental take license and
13 habitat conservation plan.

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

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

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



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

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

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

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



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

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

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

19 (2) Each habitat conservation plan shall:

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



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

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

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



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

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

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



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

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

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



1 achieving the goals quantitatively and
2 qualitatively; and

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

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

8 "**§195D-25 Endangered species recovery committee.** (a)

9 There is established within the department for administrative
10 purposes only, the endangered species recovery committee, which
11 shall serve as a consultant to the board and the department on
12 matters relating to endangered, threatened, proposed, and
13 candidate species. The committee shall consist of two field
14 biologists with expertise in conservation biology, the
15 chairperson of the board or the chairperson's designee, the
16 ecoregion director of the United States Fish and Wildlife
17 Service or the director's designee, the associate director of
18 the United States Geological Survey, [~~Biological Resources~~
19 ~~Division~~] Ecosystem Mission Area or the associate director's
20 designee, the dean of the [~~University~~] university of Hawaii at
21 Manoa college of natural sciences or the dean's designee, and a



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

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

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

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

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

17 Governmental members from the federal agencies are
18 requested but not required to serve on the committee. The
19 ability of the committee to carry out its functions and purposes
20 shall not be affected by the vacancy of any position allotted to
21 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]~~, 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: *Steven R. James*



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.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

