

A Bill for an Act Relating to the Funding of a Habitat Conservation Plan.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. A habitat conservation plan is a tool that provides opportunities for landowners to protect endangered species or habitat areas. Habitat conservation plans are administered federally by the United States Fish and Wildlife Service, as well as by the state department of land and natural resources. Under federal guidelines, a landowner may use various financial tools to provide assurances that there will be sufficient funding to implement an approved habitat conservation plan.

The purpose of this Act is to provide the department of land and natural resources the same financial flexibility as the federal guidelines provide for habitat conservation plans.

SECTION 2. Section 195D-4, Hawaii Revised Statutes, is amended by amending subsection (g) to read as follows:

“(g) After consultation with the endangered species recovery committee, the board may issue a temporary license as a part of a habitat conservation plan to allow a take otherwise prohibited by subsection (e) if the take is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity; provided that:

- (1) The applicant, to the maximum extent practicable, shall minimize and mitigate the impacts of the take;
- (2) The applicant shall guarantee that adequate funding for the plan will be provided;
- (3) The applicant shall post a bond, ~~[or deposit]~~ provide an irrevocable letter of credit, insurance, or surety bond, or provide other similar financial tools, including depositing a sum of money in the endangered species trust fund created by section [183D-10.5,] 195D-31, or provide other means approved by the board, adequate to ensure monitoring of the species by the State and to ~~[assure]~~ ensure that the applicant takes all actions necessary to minimize and mitigate the impacts of the take;
- (4) The plan shall increase the likelihood that the species will survive and recover;
- (5) The plan takes into consideration the full range of the species on the island so that cumulative impacts associated with the take can be adequately assessed;
- (6) The measures, if any, required under section 195D-21(b) shall be met, and the department has received any other assurances that may be required so that the plan may be implemented;
- (7) The activity, which is permitted and facilitated by issuing the license to take a species, does not involve the use of submerged lands, mining, or blasting;
- (8) The cumulative impact of the activity, which is permitted and facilitated by the license, provides net environmental benefits; and
- (9) The take is not likely to cause the loss of genetic representation of an affected population of any endangered, threatened, proposed, or candidate plant species.

Board approval shall require an affirmative vote of not less than two-thirds of the authorized membership of the board after holding a public hearing on the matter on the affected island. The department shall notify the public of a proposed license under this section through publication in the periodic bulletin of the office of

environmental quality control and make the application and proposed license available for public review and comment for not less than sixty days prior to approval.”

SECTION 3. Section 195D-31, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) There is established within the state treasury a ~~[special]~~ trust fund to be known as the endangered species ~~trust~~ fund to be administered by the department ~~[in order]~~ to implement the purposes of this chapter.

The fund shall consist of moneys from the following sources:

- (1) Moneys accrued from the sale of retail items officially sponsored by the department for the fund;
- (2) Private contributions for the management and recovery of Hawaii’s unique plants and animals;
- (3) Fees and assessments charged for the commercial use of public land and waters and designated for the fund;
- (4) Penalties, fines, or auctions resulting from enforcement violations ~~[for this chapter; and]~~¹;
- (5) Legislative appropriations[-]; and
- (6) Moneys deposited to implement the obligations of a habitat conservation plan or as security for habitat conservation plan funding.”

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved June 23, 2004.)

Note

1. So in original.