

ACT 32

S.B. NO. 204

A Bill for an Act Relating to Aquatic Resources.

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

SECTION 1. The legislature finds that in-lieu fee mitigation is an effective mechanism for the restoration, creation, enhancement, and preservation of aquatic habitats or resources to recover the ecological functions, services, and values of aquatic resources lost by adverse impacts to other similar aquatic habitats. In-lieu fee mitigation is widely used across the United States to achieve ecologically valuable conservation.

The purpose of this Act is to authorize the department of land and natural resources to use aquatic in-lieu fee mitigation to restore, create, enhance, or preserve aquatic habitats or resources where a person is required to provide compensatory mitigation either:

- (1) Prospectively, and the use of in-lieu fee mitigation is approved by the agency requiring mitigation; or
- (2) For past damages to aquatic habitats or resources.

SECTION 2. Chapter 187A, part IV, Hawaii Revised Statutes, is amended by amending its title to read as follows:

“PART IV. AQUATIC MITIGATION [BANKS] BANKING AND AQUATIC IN-LIEU FEE MITIGATION”

SECTION 3. Section 187A-41, Hawaii Revised Statutes, is amended to read as follows:

“§187A-41 Aquatic mitigation banking and aquatic in-lieu fee mitigation. The department ~~[is authorized to]~~ may establish and operate aquatic mitigation banks and aquatic in-lieu fee mitigation programs for the purpose of ~~[which shall be to restore, create, enhance, or preserve]~~ restoring, creating, enhancing, preserving, or any combination thereof, aquatic habitats or resources ~~[as compensatory mitigation]~~ where a person is required to provide compensatory mitigation ~~[prospectively and]~~ either for:

- (1) Prospective damages to aquatic habitats or resources where the use of [banked] aquatic mitigation banking or aquatic in-lieu fee mitigation is approved by the agency requiring mitigation; or ~~[for past]~~
- (2) Past damages to aquatic habitats or resources.”

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 Statutory material to be repealed is bracketed and stricken.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

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

(Approved June 8, 2022.)