

JAN 25 2006

S.B. NO. 2351

A BILL FOR AN ACT

RELATING TO SECTION 13 OF ACT 380, SESSION LAWS OF HAWAII 1997.

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

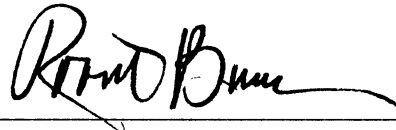
1 SECTION 1. Act 380, Session Laws of Hawaii 1997, as amended
2 by Act 3, Session Laws of Hawaii 2001, is amended by amending
3 section 13 to read as follows:

4 "SECTION 13. This Act shall take effect upon its approval[+
5 ~~provided that no new safe harbor agreements, habitat conservation~~
6 ~~plans, or incidental take licenses issued pursuant to sections~~
7 ~~195D-4, 195D-21, or 195D-22, Hawaii Revised Statutes, shall be~~
8 ~~approved or issued subsequent to July 1, 2007]."~~

9 SECTION 2. Statutory material to be repealed is bracketed
10 and stricken.

11 SECTION 3. This Act shall take effect upon its approval.

12
13 INTRODUCED BY:



14 BY REQUEST
15
16
17

JUSTIFICATION SHEET

DEPARTMENT: Land and Natural Resources

TITLE: A BILL FOR AN ACT RELATING TO SECTION 13 OF ACT 380, SESSION LAWS OF HAWAII 1997.

PURPOSE: To remove the sunset date on the use of new safe harbor agreements, habitat conservation plans, and incidental take licenses as recovery options for conserving and protecting the State's endangered species.

MEANS: Amend section 13 of Act 380, Session Laws of Hawaii 1997, as amended by Act 3, Session Laws of Hawaii 2001.

JUSTIFICATION: Hawaii is the Endangered Species Capital of the Nation with 317 listed threatened and endangered species, 117 proposed and candidate species, and 1,085 state species of concern. As such, Hawaii needs the flexibility within its state law to work cooperatively with its federal counterparts, private landowners and other government agencies to deal with the complexities of the endangered species situation in Hawaii and find the proactive, workable solutions that can protect and conserve our endangered species but allow life to go on.

In 1997, the Legislature expanded recovery options in the State Endangered Species Act (ESA) by establishing a process for the preparation and implementation of habitat conservation plans and safe harbor agreements, while providing for additional incentives to private landowners to conserve endangered species. In addition, the Legislature inserted a five-year sunset date (07/01/02) for the approval of habitat conservation plans and safe harbor agreements. Subsequently, Act 3 of the 2001 legislative session extended the sunset provision another five years (through 07/01/07).

To date, two habitat conservation plans and five safe harbor agreements have been issued under state law. The Department is currently processing three habitat conservation plan applications and several others are in the early planning stages. There is currently one safe harbor agreement going through the approval process and several are being developed.

Safe harbor agreements and habitat conservation plans are proving to be invaluable tools in the process of recovering the State's endangered species. It is important that these provisions within the State ESA be made a permanent addition by removing the sunset date and to provide public and private landowners a clear message that the Legislature is committed to maintaining responsible solutions to conserve Hawaii's endangered species.

Impact on the public: Reaffirms State's commitment to protect and conserve its endangered species.

Impact on the department and other agencies: Reinforces Department's commitment to protect and conserve the State's endangered species. If the habitat conservation plan and safe harbor agreement provisions sunset, there will remain no process to allow mitigation and permitting of the relocation and take, if appropriate, of endangered species that are affected by development activities.

GENERAL FUND: None.
OTHER FUNDS: None.
PPBS PROGRAM DESIGNATION: LNR 402.

OTHER AFFECTED
AGENCIES:

Departments of Transportation, Hawaiian Home
Lands, and Defense, University of Hawaii,
Housing and Community Development
Corporation of Hawaii, counties, and any
other land management agency that has
development projects planned in areas that
have endangered species.

EFFECTIVE DATE: Upon approval.