



GOV. MSG. NO. 1250

EXECUTIVE CHAMBERS
HONOLULU

NEIL ABERCROMBIE
GOVERNOR

June 21, 2011

The Honorable Shan Tsutsui, President
and Members of the Senate
Twenty-Sixth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

The Honorable Calvin Say, Speaker
and Members of the House
Twenty-Sixth State Legislature
State Capitol, Room 431
Honolulu, Hawaii 96813

Dear President Tsutsui, Speaker Say and Members of the Legislature:

This is to inform you that on June 21, 2011, the following bill was signed into law:

HB1079 HD2 SD1 CD1

RELATING TO FEES FOR HABITAT
CONSERVATION PLANS
Act 147 (11)

Neil Abercrombie

NEIL ABERCROMBIE
Governor, State of Hawaii

ORIGINAL

Approved by the Governor

on JUN 21 2011

HOUSE OF REPRESENTATIVES
TWENTY-SIXTH LEGISLATURE, 2011
STATE OF HAWAII

ACT 147
H.B. NO. 1079
H.D. 2
S.D. 1
C.D. 1

A BILL FOR AN ACT

RELATING TO FEES FOR HABITAT CONSERVATION PLANS.

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

1 SECTION 1. The legislature finds that Hawaii hosts the
2 greatest concentration of threatened and endangered species in
3 the country. Increased development throughout the State, while
4 beneficial to the State in many regards, has the potential to
5 adversely affect threatened and endangered species. The
6 legislature has provided a means to permit desirable activities
7 that may cause incidental take of threatened and endangered
8 species through the establishment of incidental take licenses
9 and habitat conservation plans pursuant to chapter 195D, Hawaii
10 Revised Statutes.

11 Incidental take licenses authorize take of threatened and
12 endangered species in cases where take is incidental to an
13 otherwise lawful activity; provided that the applicant obtains
14 approval of a habitat conservation plan that identifies and
15 implements measures to avoid, minimize, mitigate, and monitor
16 take of those species, and that will increase the likelihood of
17 recovery of the endangered or threatened species that are the
18 focus of the plan.

HB1079 CD1 HMS 2011-3994



1 The department of land and natural resources is responsible
2 for evaluating, processing, and approving habitat conservation
3 plans and incidental take licenses to ensure compliance with
4 requirements under chapter 195D, Hawaii Revised Statutes.
5 Chapter 195D, Hawaii Revised Statutes, provides that the
6 department may establish a technical assistance program to
7 assist landowners with habitat conservation plans. The
8 department has established such a program, and the technical
9 assistance that is required is specialized in nature and labor
10 intensive, requiring consultation with expert staff, endangered
11 species biologists, and land managers.

12 The number of applications for incidental take licenses and
13 requests for technical assistance related to habitat
14 conservation plans have increased significantly in recent years.
15 The demand for the technical assistance program cannot be met
16 under the department's current budget.

17 The purpose of this Act is to authorize the department of
18 land and natural resources to collect fees and payment for costs
19 incurred by the technical assistance program associated with
20 assisting landowners in the development, review, and monitoring
21 of habitat conservation plans, and adopt rules for establishing
22 such fees.



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

4 "Technical assistance program" means a program that
5 includes department staff designated to assist landowners in
6 developing, reviewing, or monitoring habitat conservation plans
7 by providing technical assistance."

8 SECTION 3. Section 195D-23, Hawaii Revised Statutes, is
9 amended by amending subsection (d) to read as follows:

10 "(d) The department may establish a habitat conservation
11 technical assistance program to assist landowners in developing,
12 reviewing, or monitoring habitat conservation plans by providing
13 technical assistance. The department may collect fees and
14 payment for costs incurred for use of the technical assistance
15 program in the development, review, or monitoring of a specific
16 habitat conservation plan. Fees shall be charged at an hourly
17 rate of \$50. The fees and payment for costs collected pursuant
18 to this subsection shall be deposited into the endangered
19 species trust fund established under section 195D-31."

20 SECTION 4. Section 195D-31, Hawaii Revised Statutes, is
21 amended by amending subsection (a) to read as follows:



1 "(a) There is established within the state treasury a
2 trust fund to be known as the endangered species trust fund to
3 be administered by the department to implement the purposes of
4 this chapter.

5 The fund shall consist of moneys from the following
6 sources:

- 7 (1) Moneys accrued from the sale of retail items
8 officially sponsored by the department for the fund;
- 9 (2) Private contributions for the management and recovery
10 of Hawaii's unique plants and animals;
- 11 (3) Fees and assessments charged for the commercial use of
12 public land and waters and designated for the fund;
- 13 (4) Penalties, fines, or auctions resulting from
14 enforcement violations;
- 15 (5) Legislative appropriations; and
- 16 (6) Moneys deposited to implement the obligations of a
17 habitat conservation plan [~~ex~~], as security for
18 habitat conservation plan funding[-], or technical
19 assistance program fees and payment for costs incurred
20 for use of the technical assistance program as set
21 forth in section 195D-23(d)."



1 SECTION 5. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.
3 SECTION 6. This Act shall take effect upon its approval.

APPROVED this 21 day of JUN , 2011

Neil Abernethy
GOVERNOR OF THE STATE OF HAWAII

