

JAN 25 2012

A BILL FOR AN ACT

RELATING TO HAWAIIAN FISHPONDS.

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

1 SECTION 1. The legislature finds that Hawaiian fishponds,
2 or loko i'a, have faced difficulties with restoration due to a
3 complex permitting structure and other barriers to entry for
4 Native Hawaiian aquaculturists. The master conservation
5 district use application process has eased the regulations
6 somewhat, but still restricts usage to noncommercial use,
7 effectively limiting fishponds to educational or subsistence
8 entities and forcing many loko i'a to languish unrepaired.

9 The legislature also finds that the Hawaii Revised
10 Statutes, Hawaii supreme court, and article XII of the Hawaii
11 State Constitution have declared that government agencies have
12 an affirmative duty to protect Native Hawaiian rights
13 customarily and traditionally exercised for subsistence,
14 cultural, and religious purposes. The easing of restrictions on
15 fishpond usage and restoration will help to fulfill this duty.

16 Fishponds were once an essential factor in the
17 sustainability of food for the islands of Hawaii. As the State
18 has become increasingly reliant on the importation of food,



1 including fish, the restoration and commercial use of the loko
2 i'a provides an opportunity to reduce the trade deficit in
3 seafood. At the same time, restoration will increase
4 sustainable economic opportunities for rural Hawaiian
5 communities. A more accessible fishpond creates jobs and food
6 within a diversified agricultural framework.

7 The purpose of this Act is to streamline fishpond
8 permitting while encouraging Native Hawaiian sustainable
9 economic development of loko i'a.

10 SECTION 2. Section 171-1, Hawaii Revised Statutes, is
11 amended by adding a new definition to be appropriately inserted
12 and to read as follows:

13 "Mariculture" has the same meaning as in section 190D-3."

14 SECTION 3. Section 183B-1, Hawaii Revised Statutes, is
15 amended by adding four new definitions to be appropriately
16 inserted and to read as follows:

17 "Cultural descendant" means a Native Hawaiian applicant
18 recognized by the department as having traditional and customary
19 fishpond practices and rights.

20 "Department" means the department of land and natural
21 resources.



1 "Lineal descendant" means a Native Hawaiian applicant
2 recognized by the appropriate island burial council after
3 establishing genealogical connections to Native Hawaiian
4 ancestors who once resided, are buried, or both, in the same
5 ahupua'a or district in which a particular fishpond is located.

6 "Native Hawaiian organization" means any organization that
7 serves and represents the interests of Native Hawaiians, has as
8 a primary and stated purpose the provision of services to Native
9 Hawaiians, and has expertise in Native Hawaiian affairs."

10 SECTION 4. Section 183B-3, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "~~§~~183B-3 **Department assistance.** The department of
13 land and natural resources shall actively assist applicants
14 applying for leases, permits, certifications, and approvals to
15 reconstruct, restore, repair, and use Hawaiian fishponds. The
16 department shall establish rules to streamline and facilitate
17 the restoration of existing Hawaiian fishponds. Where
18 applicants are lineal or cultural descendants or a Native
19 Hawaiian organization, commercial use of the Hawaiian fishpond
20 shall be allowed within the streamlined process. The program
21 shall assist applicants in sending permit applications to all
22 affected agencies."



1 SECTION 5. Section 190D-3, Hawaii Revised Statutes, is
2 amended by amending the definition of "mariculture" to read as
3 follows:

4 "Mariculture" means the aquaculture, cultivation, and
5 production for research, development, demonstration, and
6 commercial purposes of aquatic plants and animals within state
7 marine waters, [~~but excludes~~] including floating structures that
8 are not anchored[-] but excluding Hawaiian fishponds as defined
9 in section 183B-1."

10 SECTION 6. If any provision of this Act, or the
11 application thereof to any person or circumstance, is held
12 invalid, the invalidity does not affect other provisions or
13 applications of the Act that can be given effect without the
14 invalid provision or application, and to this end the provisions
15 of this Act are severable.

16 SECTION 7. Statutory material to be repealed is bracketed
17 and stricken. New statutory material is underscored.

18 SECTION 8. This Act shall take effect upon its approval.
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INTRODUCED BY: _____

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S.B. NO. 3023

Report Title:

Hawaiian Fishponds; Loko i'a; Restoration; Permits

Description:

Allows for the streamlining and facilitation of the permitting process if for the restoration of Hawaiian fishponds (loko i'a). Allows for the commercial use of the fishponds if the applicant is a lineal or cultural descendant of Native Hawaiians or a Native Hawaiian organization. Amends the definition of "mariculture" for chapters 171 and 190D, Hawaii Revised Statutes, to exclude Hawaiian fishponds from certain lease provisions.

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

