
A BILL FOR AN ACT

RELATING TO OCEAN MANAGEMENT.

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

1 SECTION 1. Section 187A-23, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§187A-23 Konohiki rights.** (a) Notwithstanding anything
4 in this section to the contrary, the State shall vest in the
5 village elder who is domiciled on Niihau the exclusive konohiki
6 rights as described in this section.

7 (b) The fishing grounds from the reefs, and where there
8 happens to be no reefs, from the distance of one geographical
9 mile seaward of the beach at low watermark, in law, shall be
10 considered the private fishery of the konohiki, whose lands by
11 ancient regulations, belong to the same. These vested fishing
12 rights for the private fishery must be established by
13 proceedings in conformity with section 96 of the Organic Act,
14 and for which judgment has been entered in any circuit court.
15 The established private fishery shall not be disturbed, except
16 to the extent of the reservations and prohibitions set forth in
17 this section, or by law or rule.



1 [~~(b)~~] (c) The konohiki shall be considered in law to hold
2 the private fishery for the equal use by the konohiki and the
3 tenants on their respective lands, and the tenants shall be
4 allowed to take for home consumption or commercial purposes, any
5 aquatic life of the fisheries, subject to the restrictions
6 imposed by the konohiki as provided in this section, or by law
7 or rule.

8 [~~(e)~~] (d) A konohiki each year may set apart one given
9 species or variety of aquatic life natural to the private
10 fishery, by giving public notice by posting at least three
11 written or printed notices in conspicuous places on the land or
12 fishery, to the tenants and others residing on the land,
13 signifying by name, the kind of aquatic life which has been set
14 apart for exclusive use by the konohiki; provided that the
15 konohiki may not reserve more than one kind of aquatic life, if
16 the konohiki possesses other private fisheries which are
17 immediately adjacent to each other. The notice shall be
18 substantially in the following form:

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NOTICE

21 Fishing for (name of aquatic life) in private fishery

22 is hereby prohibited between (specific period).



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Konohiki.

The specific aquatic life set apart shall be exclusively for the use of the konohiki within the specified period, and neither the tenants nor others shall take the reserved aquatic life within the private fishery. The konohiki may bring legal action against any person to recover the value of the reserved aquatic life which has been taken within the private fishery.

~~(d)~~ (e) The konohiki, upon consultation with the tenants of their lands and in lieu of setting apart one given species or variety of aquatic life for exclusive use as allowed in this section, may prohibit during certain months of the year, all taking of aquatic life within the private fishery; provided that during the fishing season within the private fishery, the konohiki may exact up to one-third of the aquatic life taken within the private fishery from each fisher among the tenants. In such case, the konohiki shall give notice as prescribed in this section.

~~(e)~~ (f) If the specific aquatic life which has been reserved within the private fishery for exclusive use by the

1 konohiki goes onto the public fishing grounds, such aquatic life
2 may be taken by any person.

3 ~~[(f)]~~ (g) The konohiki shall not have any power to impose
4 any tax or restriction upon the tenants regarding the private
5 fisheries, except as provided by this section, or by law or
6 rule.

7 ~~[(g)]~~ (h) The vested fishing rights for a private fishery
8 when established may be condemned for use as a public ground;
9 provided that the private fishery shall continue until judgment
10 is entered upon the condemnation proceedings and the
11 compensation named therein has been paid or tendered to the
12 konohiki, or others interested therein, or until an order of
13 possession has been issued as provided in sections 101-28 to
14 101-32.

15 ~~[(h)]~~ (i) Any person who takes any aquatic life which has
16 been set apart for the konohiki's exclusive use or to which the
17 konohiki is otherwise entitled as provided in this section or
18 who aids and abets the taking or who without lawful authority
19 fishes in or upon the private fishery shall be punished as
20 provided in section 187A-13."

21 SECTION 2. Statutory material to be repealed is bracketed
22 and stricken. New statutory material is underscored.



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

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Report Title:

Konohiki Rights; Niihau

Description:

Vests in the village elder who is domiciled on Niihau exclusive konohiki rights. (SD1)

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