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# A BILL FOR AN ACT

RELATING TO OCEAN MANAGEMENT.

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

1           SECTION 1. The legislature finds that Niihau has  
2 approximately one hundred thirty permanent inhabitants, nearly  
3 all of whom are Native Hawaiians who live in the island's main  
4 settlement of Pu'uwai. They support themselves largely by  
5 subsistence fishing and farming, in the manner of the ancient  
6 Hawaiians. Residents speak the Hawaiian language as their first  
7 language to help preserve Hawaiian culture and tradition.  
8 Niihau is perhaps the last remaining vestige of that Native  
9 Hawaiian culture and tradition. The translation of the term  
10 "konohiki" is headman of an ahupua'a land division under the  
11 chief. The konohiki traditionally controlled land or fishing  
12 rights under the control of the konohiki, also referred to as  
13 konohiki rights.

14           Elizabeth McHutchison Sinclair (1800-1892) purchased Niihau  
15 and parts of Kauai from Kamehameha V in 1864. Private ownership  
16 passed on to her descendants, the Robinson family. In 1915,  
17 Sinclair's grandson Aubrey Robinson closed the island to most  
18 visitors. Even relatives of the inhabitants could visit only by



1 special permission. Upon Aubrey's death in 1939, the island  
2 passed to his son Aylmer, and in 1968 to Aylmer's youngest  
3 brother Lester. Upon Lester's wife's death, the island passed  
4 to Lester's sons, Bruce and Keith Robinson, the current co-  
5 owners.

6 The legislature finds that section 187A-23, Hawaii Revised  
7 Statutes, recognizes konohiki rights. This Act fulfills the  
8 intent of Kamehameha V in deeding Niihau to Elizabeth  
9 McHutchison Sinclair, that she and her heirs manage the island  
10 as private property. In effect, the legislature is conferring  
11 on the Robinson family the same powers and privileges that King  
12 Kamehameha V bestowed on them and their heirs.

13 The legislature also finds that this Act facilitates Native  
14 Hawaiian recognition as provided in statute under chapter 10H,  
15 Hawaii Revised Statutes, relating to Native Hawaiian  
16 recognition. Specifically, section 10H-1, Hawaii Revised  
17 Statutes, provides: "The Native Hawaiian people are hereby  
18 recognized as the only indigenous, aboriginal, maoli people of  
19 Hawaii."

20 The purpose of this Act is to vest in one individual who is  
21 domiciled on Niihau exclusive konohiki rights and to make  
22 clarifying amendments to the duties and powers of the konohiki.



1 SECTION 2. The Hawaii Revised Statutes is amended by  
2 adding a new chapter to be appropriately designated and to read  
3 as follows:

4 "CHAPTER

5 KONOHIKI RIGHTS ON NIIHAU

6 § -1 **Konohiki rights on Niihau.** The State shall vest in  
7 one individual, who is domiciled on Niihau and selected by the  
8 chairperson of the board of land and natural resources in  
9 consultation with the private owner of Niihau, the exclusive  
10 konohiki rights as described in this chapter.

11 § -2 **Fishing rights.** (a) The fishing grounds of Niihau  
12 from the reefs, and where there happens to be no reefs, from the  
13 distance of two geographical miles seaward of the shoreline,  
14 shall be considered the private fishery of the konohiki, whose  
15 lands by ancient regulations, belong to the same. These vested  
16 fishing rights for the private fishery shall be established by  
17 rules adopted by the department of land and natural resources  
18 pursuant to chapter 91. The established private fishery shall  
19 not be disturbed, except to the extent of the reservations and  
20 prohibitions set forth in this chapter, or by law or rule.

21 (b) The konohiki of Niihau shall be considered in law to  
22 hold the private fishery for the equal use by the konohiki and



1 the tenants domiciled on Niihau, and the tenants shall be  
2 allowed to take for home consumption or commercial purposes any  
3 aquatic life of the fisheries, subject to the restrictions  
4 imposed by the konohiki as provided in this chapter, or by law  
5 or rule.

6 (c) The konohiki of Niihau shall not have any power to  
7 impose any tax or restriction upon the tenants regarding the  
8 private fisheries, except as provided by this chapter, or by law  
9 or rule.

10 (d) The vested fishing rights for a private fishery on  
11 Niihau when established may be condemned for use as a public  
12 ground; provided that the private fishery shall continue until  
13 judgment is entered upon the condemnation proceedings and the  
14 compensation named therein has been paid or tendered to the  
15 konohiki in trust for those residents of Niihau domiciled there,  
16 or until an order of possession has been issued as provided in  
17 sections 101-28 to 101-32.

18 **§ -3 Aquatic life; taking.** (a) The konohiki of Niihau  
19 each year may set apart one or more given species or variety of  
20 aquatic life natural to the private fishery, by giving public  
21 notice by posting at least three written or printed notices in  
22 conspicuous places on the land or fishery, to the tenants and



1 others residing on the land, signifying by name, the kind of  
2 aquatic life which has been set apart for protection of the  
3 species by the konohiki. The notice shall be substantially in  
4 the following form:

5 **NOTICE**

6 Fishing for (name of aquatic life) in private fishery  
7 is hereby prohibited between (specific period).  
8  
9

10 \_\_\_\_\_  
Konohiki.

11 The konohiki may bring legal action against any person to  
12 recover the value of the reserved aquatic life which has been  
13 taken within the private fishery.

14 (b) If the specific aquatic life which has been reserved  
15 within the private fishery on Niihau for protection by the  
16 konohiki of Niihau goes onto the public fishing grounds, such  
17 aquatic life may be taken by any person.

18 (c) Any person who takes any aquatic life which has been  
19 set apart for protection by the konohiki of Niihau or to which  
20 the konohiki is otherwise entitled as provided in this section  
21 or who aids and abets the taking or who without lawful authority



1 fishes in or upon the private fishery shall be punished as  
2 provided in section 187A-13.

3       **§ -4 Conflict with other laws.** This chapter shall  
4 supersede section 187A-23 for purposes of establishing konohiki  
5 rights on Niihau."

6       SECTION 3. This Act shall take effect on July 1, 2050.



**Report Title:**

Konohiki Rights; Niihau

**Description:**

Vests in one individual who is domiciled on Niihau exclusive konohiki rights on Niihau. Requires selection of the konohiki to be made by the chairperson of the board of land and natural resources in consultation with the private owner of Niihau. Authorizes the konohiki to set apart certain aquatic life for protection. Takes effect 7/1/2050. (SD3)

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

