
A BILL FOR AN ACT

RELATING TO CONSERVATION MITIGATION BANKS.

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

1 SECTION 1. The legislature finds that mitigation banks
2 restore, create, enhance, or preserve habitats or resources to
3 recover the ecological functions, services, and values of
4 resources lost by adverse impacts to other similar habitats. By
5 2001, the federal government and at least thirty-one states
6 developed successful mitigation bank guidelines and programs.
7 Mitigation banking has a number of advantages over traditional
8 permittee-responsible compensatory mitigation because of the
9 ability of mitigation banking programs to:

10 (1) Reduce uncertainty about whether compensatory
11 mitigation will be successful in offsetting project
12 impacts;

13 (2) Assemble and apply extensive financial resources,
14 planning, and scientific expertise not always
15 available to many permittee-responsible compensatory
16 mitigation proposals;



1 (3) Reduce permit processing times and provide more
2 cost-effective compensatory mitigation opportunities;
3 and

4 (4) Enable the efficient use of limited agency resources
5 in the review and compliance monitoring of
6 compensatory mitigation projects because of
7 consolidation.

8 Mitigation banks would serve as a mechanism to restore or
9 replace resources and ecological functions of habitats either
10 prospectively or after they have been damaged.

11 The purpose of this Act is to authorize the department of
12 land and natural resources to establish and operate conservation
13 mitigation banks to restore, create, enhance, or preserve
14 species, their habitats, or resources as compensatory mitigation
15 where the issuance of an incidental take license requires the
16 licensee to provide mitigation as part of a habitat conservation
17 plan and the use of banked mitigation is approved by the agency
18 requiring mitigation, or for past damages to conservation
19 habitats or resources.



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 CONSERVATION MITIGATION BANKS

6 § -1 Definitions. As used in this chapter:

7 "Board" means the board of land and natural resources.

8 "Conservation mitigation bank" means a site established
9 under a conservation mitigation bank instrument approved by the
10 department that is conserved and managed to provide ecological
11 functions and services expressed as credits for wildlife or
12 listed species.

13 "Conservation mitigation bank instrument" means an interest
14 in real property that protects a conservation mitigation bank in
15 perpetuity, such as a conservation easement, deed restriction,
16 condition, or covenant.

17 "Credit" means a value based on defined units representing
18 the accrual or attainment of ecological functions or services at
19 the conservation mitigation bank and released as the
20 conservation mitigation bank meets performance criteria.



1 "Department" means the department of land and natural
2 resources.

3 "Habitat conservation plan" means a plan developed pursuant
4 to sections 195D-4 and 195D-21.

5 "Incidental take license" means a temporary license issued
6 by the board as part of a habitat conservation plan that allows
7 take of a threatened or endangered species that is incidental to
8 and not the purpose of the carrying out of an otherwise lawful
9 activity.

10 "Wildlife" means any non-domesticated member of the animal
11 kingdom, whether reared in captivity or not, including any part,
12 product, egg, or offspring thereof, except aquatic life as
13 defined in section 195D-2.

14 § -2 **Conservation mitigation banking.** The department
15 may establish and operate conservation mitigation banks, the
16 purpose of which shall be to restore, create, enhance, or
17 preserve species, their habitats, or resources as compensatory
18 mitigation where the issuance of an incidental take license
19 requires the licensee to provide mitigation as part of a habitat
20 conservation plan and the use of banked mitigation is approved



1 by the agency requiring mitigation, or for past damages to
2 conservation habitats or resources.

3 **§ -3 Conservation mitigation banking administrator.** The
4 department may contract with a third-party administrator that
5 specializes in conservation mitigation banking to operate and
6 manage the conservation mitigation banks established pursuant to
7 section -2.

8 **§ -4 Conservation mitigation bank; sale of credits.** (a)
9 A conservation mitigation bank shall be established under a
10 legal conservation mitigation bank instrument.

11 (b) The department may sell credits generated from listed-
12 species conservation activities to incidental take licensees.

13 (c) Third-party conversation mitigation bank
14 administrators shall not be required to own the parcel of land
15 and may be authorized by the department to sell the credits.

16 **§ -5 Rules.** The department may adopt rules pursuant to
17 chapter 91 to implement this chapter."

18 SECTION 3. This Act shall take effect on June 30, 3000.

19



Report Title:

DLNR; Conservation Mitigation Banks

Description:

Authorizes the department of land and natural resources to establish and operate conservation mitigation banks to restore, create, enhance, or preserve species, their habitats, or resources as compensatory mitigation, or for past damages. Authorizes the department to contract with a third-party administrator for the operation of the conservation mitigation banks. Clarifies the sale of credits involved in conservation mitigation banking. Effective 6/30/3000. (HD1)

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