

**ACT 327**

H.B. NO. 1699

A Bill for an Act Relating to Forest Stewardship.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to establish the forest stewardship program to assist private landowners in managing, protecting, and restoring important watersheds, timber resources, fish and wildlife habitats, isolated populations of rare and endangered plants, native vegetation, and other lands that are not recognized as potential natural area reserves.

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

**“CHAPTER  
FOREST STEWARDSHIP**

§ -1 **Findings and purpose.** The legislature finds that:

- (1) Much of the forest land in Hawaii is privately owned;
- (2) The capacity to protect important watersheds and native Hawaiian plants and animals and to produce renewable forest resources is significantly dependent on these privately owned forest and formerly forested lands;
- (3) The factors essential to the quality of life in Hawaii, including our water and air quality, mild climate, and habitat available for plants and animals unique to these islands, can be maintained and improved through good stewardship of private forest lands;

- (4) To accomplish these purposes, the present system of state and federal financial and technical assistance programs needs to be expanded to promote the long-term management of additional privately owned forest and formerly forested lands throughout the state; and
- (5) A forest stewardship program should be established to supplement the natural area reserves system's programs under chapter 195 by encouraging private landowners of privately owned forest and formerly forested lands that cannot qualify as potential natural area reserves to make long-term commitments to protect, maintain, and restore important watersheds, timber resources, fish and wildlife habitats, isolated populations of rare and endangered plants, native vegetation, and other lands that provide significant public benefits.

The purpose of this chapter is to establish a program to financially assist landowners in managing, protecting, and restoring important natural resources in Hawaii's forested and formerly forested lands.

**§ -2 Definitions.** As used in this chapter:

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

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

"Fund" means the forest stewardship fund as established by section -4.

"Landowner" means any person having an interest in or holding any encumbrance upon land in the State, including any person having a lease interest in the real property with an unexpired term of ten or more years.

"Native vegetation" means a diverse vegetation consisting mostly of plants endemic or indigenous to Hawaii.

"Potential natural area reserve" means land or water areas within the protective subzone of the conservation district established pursuant to section 183-41, intact native natural communities identified by the heritage program under chapter 195, and other lands or waters meeting criteria established by the natural area reserves system commission.

"Program" means the forest stewardship program established in section -3.

**§ -3 Establishment of the forest stewardship program.** (a) There is established a forest stewardship program to be administered by the board to assist private landowners in managing, protecting, and restoring important watersheds, native vegetation, timber resources, fish and wildlife habitats, isolated populations of rare and endangered plants, and other lands that are not recognized as potential natural area reserves.

(b) The program shall reimburse landowners for a portion of the landowners' total costs in developing and implementing approved forest stewardship management plans, as set forth in this chapter.

**§ -4 Forest stewardship fund.** (a) There is established a special fund within the state treasury known as the forest stewardship fund from which payments shall be made by the board pursuant to agreements entered into with qualified landowners to further the purposes of this chapter.

(b) The fund shall consist of moneys received from any public or private sources. The fund shall be held separate and apart from all other moneys, funds, and accounts in the state treasury; provided that any moneys received from the federal government or from private contributions shall be deposited and accounted for in accordance with conditions established by the agencies or persons from whom the moneys are received.

Investment earnings credited to the fund shall become a part of the assets of the fund. Any balance remaining in the fund at the end of any fiscal year shall be carried forward in the fund for the next fiscal year.

**§ -5 Forest stewardship management plans; approved activities.** (a) To participate in the forest stewardship program, the applicant landowner shall prepare and submit to the board a forest stewardship management plan that shall:

- (1) Identify and describe activities to be undertaken by the landowner to protect soil, water, aesthetic quality, recreation, timber, water, fish, wildlife, and native plant resources on the land in a manner that is compatible with the objectives of the program, is consistent with this chapter, and qualifies under the board's list of approved activities;
- (2) Be signed by all parties having an interest in or holding any encumbrance upon the property, and shall state that the parties agree to comply with the plan upon its approval; and
- (3) Be approved by the board and available for public review.

(b) The board and other cooperating natural resource management agencies shall develop a list of approved management activities and practices that shall be eligible for cost-share assistance under the program in the following areas:

- (1) Enhanced management and maintenance of vegetation on vital watershed lands;
- (2) Sustainable growth and management of forests for timber and other forest products on lands from which all or most of the native vegetation had been removed prior to January 1, 1991;
- (3) Protection, restoration, and enhancement of native plants and animals;
- (4) Management, maintenance, and restoration of forests for shelterbelts, windbreaks, aesthetic quality, and other conservation purposes on lands from which all or most of the native vegetation had been removed prior to January 1, 1991;
- (5) Agroforestry management on lands from which all or most of the native vegetation had been removed prior to January 1, 1991;
- (6) Management and maintenance of native fish and wildlife habitats;
- (7) Management of outdoor recreational opportunities; and
- (8) Other activities approved by the board, which are consistent with this chapter.

(c) The board shall encourage the use of private agencies, consultants, organizations, and firms to the extent feasible for the preparation of individual forest stewardship management plans and implementation of approved activities.

**§ -6 Qualifications and conditions.** (a) Payments shall only be made with funds specifically appropriated for that purpose and shall not exceed fifty per cent of the total cost of the landowner in developing and implementing an approved management plan. Total payments to any one landowner shall be determined by the board, and the reasonable value of material, goods, and services contributed toward the plan by the landowner shall be included in determining the amount of the landowner's cost. The landowner shall be required to spend private funds before reimbursements are made. In-kind services such as heavy equipment and existing sources of labor may be utilized as a portion of the landowner's contribution in implementing the management plan, that is consistent with this chapter.

(b) The board shall determine the appropriate reimbursement rate for making cost-share payments and the schedule of the payments after determining consistency with this chapter and giving appropriate consideration to:

- (1) Protecting and enhancing key watershed areas in the public interest;
- (2) Developing or adapting new forestry and conservation techniques for Hawaii;
- (3) Providing rural employment and economic diversification opportunities; and
- (4) Preserving or restoring especially valuable natural resources, including native plants, animals, and ecosystems.

(c) To receive funds under the forest stewardship program, an applicant shall:

- (1) Be a landowner of private forest that is not managed under existing federal, state, or private sector financial and technical assistance programs and that is not recognized as a potential natural area reserve. Private forest lands managed under existing federal, state, or private sector financial and technical assistance programs may be eligible for assistance under this program if the landowner agrees to comply with the requirements of the program or if forest management activities are expanded or enhanced to meet the requirements of this chapter;
- (2) Prepare and submit a forest stewardship management plan as set forth in section -5; and
- (3) Enter into an agreement with the board to do the following:
  - (A) Undertake and maintain the approved activities under the management plan for not fewer than ten years, unless the board approves modifications in the plan;
  - (B) Complete all approved activities under the management plan within the timetable agreed upon by the board and the landowner consistent with the intent of this chapter;
  - (C) Submit an annual progress report to be reviewed by the board for each year in which the landowner receives support under the program. This report shall detail accomplishments, areas requiring technical advice, and any proposed modifications of the plan; and
  - (D) Other conditions deemed necessary by the board to implement the purposes of this chapter.

(d) The board shall review the annual progress report and shall determine whether the landowner has met the objectives of the plan. To facilitate the review, the department shall have the right to make inspections of the forest land after prior landowner notification. The board may approve alteration of the plan to adapt to current conditions. Amendments to the plan shall be available for public review.

(e) The board shall submit annually a detailed report to the governor and legislature setting forth management objectives that have been completed, an analysis of problems and issues encountered in meeting or failing to meet objectives as set forth in the management plans, the financial condition of the fund, and management objectives for the next year.

**§ -7 Penalty payback provisions.** The board shall establish and implement a penalty payback provision to be applied in the event that a landowner terminates any approved practice required under the forest stewardship management plan, as agreed to by the board and the landowner.

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§ **-8 Rules.** The department shall adopt rules pursuant to chapter 91 to carry out the purposes of this chapter.”

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$50,000, or so much thereof as may be necessary for fiscal year 1991-1992, and \$50,000, or so much thereof as may be necessary for fiscal year 1992-1993, to be deposited into the forest stewardship fund. The sums appropriated shall be expended by the department of land and natural resources for the purposes of this Act.

SECTION 4. The appropriation in section 3 of this Act shall be expended as provided in this Act, except that the provisions of sections 42-4 to 42-6(a), Hawaii Revised Statutes, are waived when making the expenditures for fiscal year 1991-1992.

SECTION 5. This Act shall take effect on July 1, 1991.

(Approved July 2, 1991.)