

ACT 147

H.B. NO. 1079

A Bill for an Act Relating to Fees for Habitat Conservation Plans.

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

SECTION 1. The legislature finds that Hawaii hosts the greatest concentration of threatened and endangered species in the country. Increased development throughout the State, while beneficial to the State in many regards, has the potential to adversely affect threatened and endangered species. The legislature has provided a means to permit desirable activities that may cause incidental take of threatened and endangered species through the establishment of incidental take licenses and habitat conservation plans pursuant to chapter 195D, Hawaii Revised Statutes.

Incidental take licenses authorize take of threatened and endangered species in cases where take is incidental to an otherwise lawful activity; provided that the applicant obtains approval of a habitat conservation plan that identifies and implements measures to avoid, minimize, mitigate, and monitor take of those species, and that will increase the likelihood of recovery of the endangered or threatened species that are the focus of the plan.

The department of land and natural resources is responsible for evaluating, processing, and approving habitat conservation plans and incidental take licenses to ensure compliance with requirements under chapter 195D, Hawaii Revised Statutes. Chapter 195D, Hawaii Revised Statutes, provides that the department may establish a technical assistance program to assist landowners with habitat conservation plans. The department has established such a program, and the technical assistance that is required is specialized in nature and labor intensive, requiring consultation with expert staff, endangered species biologists, and land managers.

The number of applications for incidental take licenses and requests for technical assistance related to habitat conservation plans have increased significantly in recent years. The demand for the technical assistance program cannot be met under the department's current budget.

The purpose of this Act is to authorize the department of land and natural resources to collect fees and payment for costs incurred by the technical assistance program associated with assisting landowners in the development, review, and monitoring of habitat conservation plans, and adopt rules for establishing such fees.

SECTION 2. Section 195D-2, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

““Technical assistance program” means a program that includes department staff designated to assist landowners in developing, reviewing, or monitoring habitat conservation plans by providing technical assistance.”

SECTION 3. Section 195D-23, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) The department may establish a habitat conservation technical assistance program to assist landowners in developing, reviewing, or monitoring habitat conservation plans by providing technical assistance. The department may collect fees and payment for costs incurred for use of the technical assistance program in the development, review, or monitoring of a specific habitat conservation plan. Fees shall be charged at an hourly rate of \$50. The fees and payment for costs collected pursuant to this subsection shall be deposited into the endangered species trust fund established under section 195D-31.”

SECTION 4. Section 195D-31, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) There is established within the state treasury a trust fund to be known as the endangered species trust fund to be administered by the department to implement the purposes of this chapter.

The fund shall consist of moneys from the following sources:

- (1) Moneys accrued from the sale of retail items officially sponsored by the department for the fund;
- (2) Private contributions for the management and recovery of Hawaii’s unique plants and animals;
- (3) Fees and assessments charged for the commercial use of public land and waters and designated for the fund;
- (4) Penalties, fines, or auctions resulting from enforcement violations;
- (5) Legislative appropriations; and
- (6) Moneys deposited to implement the obligations of a habitat conservation plan [ø], as security for habitat conservation plan funding[-], or technical assistance program fees and payment for costs incurred for use of the technical assistance program as set forth in section 195D-23(d).”

SECTION 5. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 6. This Act shall take effect upon its approval.

(Approved June 21, 2011.)