



GOV. MSG. NO. 1247

EXECUTIVE CHAMBERS
HONOLULU

NEIL ABERCROMBIE
GOVERNOR

June 21, 2012

The Honorable Shan Tsutsui, President
and Members of the Senate
Twenty-Sixth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

The Honorable Calvin Say, Speaker
and Members of the House
Twenty-Sixth State Legislature
State Capitol, Room 431
Honolulu, Hawaii 96813

Dear President Tsutsui, Speaker Say and Members of the Legislature:

This is to inform you that on June 21, 2012, the following bill was signed into law:

SB2277 SD2 HD2 CD1

RELATING TO ENDANGERED AND
THREATENED SPECIES.
Act 145 (12)

Aloha
Sincerely,
Neil Abercrombie

NEIL ABERCROMBIE
Governor, State of Hawaii

Approved by the Governor
on JUN 21 2012

ACT 145

THE SENATE
TWENTY-SIXTH LEGISLATURE, 2012
STATE OF HAWAII

S.B. NO. 2277
S.D. 2
H.D. 2
C.D. 1

A BILL FOR AN ACT

RELATING TO ENDANGERED AND THREATENED SPECIES.

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

1 SECTION 1. Section 195D-27, Hawaii Revised Statutes, is
2 repealed.

3 ~~["§195D-27 Administrative enforcement of rules, plans,~~
4 ~~agreements, or licenses. (a) Any person may petition the~~
5 ~~chairperson to appoint a hearings officer to hear a request to~~
6 ~~enjoin any person, including the State and any other government~~
7 ~~agency, alleged to be in violation of this chapter, including~~
8 ~~any rule adopted pursuant to this chapter, habitat conservation~~
9 ~~plan, safe harbor agreement, or incidental take license, or to~~
10 ~~require the State to take action to enforce this chapter,~~
11 ~~including any rule adopted pursuant to this chapter or any term~~
12 ~~of a habitat conservation plan, safe harbor agreement, or~~
13 ~~incidental take license.~~

14 ~~(b) Upon receipt of a petition, the chairperson shall make~~
15 ~~a diligent effort to resolve the subject matter of the petition~~
16 ~~and, if appropriate, to cause the noncomplying or other~~
17 ~~responsible party to comply with the habitat conservation plan,~~
18 ~~safe harbor agreement, or incidental take license. If the~~



1 ~~chairperson is unable to resolve the subject matter of the~~
2 ~~petition within a period of time deemed reasonable under the~~
3 ~~circumstances, but in no event more than ninety days, or if the~~
4 ~~petitioner is not satisfied with the chairperson's resolution of~~
5 ~~the subject matter, then the chairperson shall appoint a~~
6 ~~hearings officer to hear the petition. The hearings officer~~
7 ~~shall commence a contested case hearing in accordance with~~
8 ~~chapter 91 and, within thirty days of the completion of the~~
9 ~~hearing, grant in whole or in part, or deny the petition.~~

10 ~~(c) Nothing in this section shall grant any authority~~
11 ~~whatsoever upon a hearings officer to assess monetary damages or~~
12 ~~criminal penalties against any party found to be in violation of~~
13 ~~this chapter, however, the hearings officer shall issue findings~~
14 ~~of fact and, if appropriate, an order directing the party found~~
15 ~~to be in violation to take specific action to comply with this~~
16 ~~chapter.~~

17 ~~(d) Any person who believes that a violation of a habitat~~
18 ~~conservation plan, safe harbor agreement, or incidental take~~
19 ~~license has occurred, is occurring, or is likely to occur, may~~
20 ~~petition the chairperson for an immediate hearing. The petition~~
21 ~~shall be accompanied by an affidavit alleging.~~



- 1 ~~(1) Specific facts showing that the continued existence of~~
- 2 ~~an endangered or threatened species is likely to be~~
- 3 ~~jeopardized unless the alleged violation is~~
- 4 ~~immediately enjoined; and~~
- 5 ~~(2) The efforts that have been made to notify the~~
- 6 ~~landowner of the alleged violation.~~

7 ~~If the chairperson finds that there exists good cause for a~~
8 ~~hearing, then a hearings officer shall be appointed who shall~~
9 ~~conduct a hearing forthwith, and in any event within forty eight~~
10 ~~hours after the filing of the petition. If the hearings officer~~
11 ~~determines that there is a substantial likelihood that the~~
12 ~~continued existence of an endangered or threatened species will~~
13 ~~be jeopardized unless the violation is immediately enjoined,~~
14 ~~then the hearings officer shall order temporary injunctive~~
15 ~~relief, which shall expire upon such terms as the hearings~~
16 ~~officer determines."]~~

17 SECTION 2. Act 380, Session Laws of Hawaii 1997, as
18 amended by Act 3, Session Laws of Hawaii 2001, as amended by Act
19 90, Session Laws of Hawaii 2006, is amended by amending section
20 13 to read as follows:

21 "SECTION 13. This Act shall take effect upon its approval;
22 provided that no new safe harbor agreements, habitat

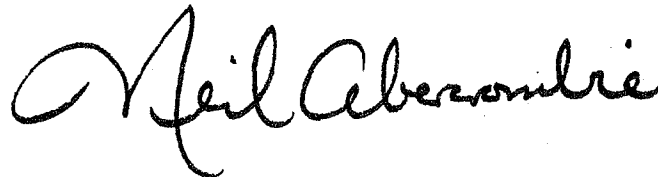


1 conservation plans, or incidental take licenses issued pursuant
2 to section 195D-4, 195D-21, or 195D-22, Hawaii Revised Statutes,
3 shall be approved or issued [~~subsequent to~~] on or after [July 1,
4 ~~2012.] June 30, 2017."~~

5 SECTION 3. Statutory material to be repealed is bracketed
6 and stricken. New statutory material is underscored.

7 SECTION 4. This Act shall take effect upon its approval;
8 provided that section 2 of this Act shall take effect on
9 June 30, 2012.

APPROVED this 21 day of JUN, 2012



GOVERNOR OF THE STATE OF HAWAII