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## A BILL FOR AN ACT

RELATING TO HAWAIIAN FISHPONDS.

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

1           SECTION 1. The legislature finds that the repair or  
2 restoration of Hawaiian fishponds may require permits from the  
3 department of land and natural resources, department of health,  
4 office of planning, federal agencies, and county agencies. The  
5 legislature further finds that the permit process for repair or  
6 restoration of fishponds may be time consuming, complicated,  
7 confusing, and inconsistent across agencies. Burdensome  
8 regulations and permit requirements have historically prevented  
9 community organizations or native Hawaiian aquaculturalists from  
10 initiating projects to restore, repair, or maintain fishponds.

11           In practice, it has reportedly taken up to ten years to  
12 obtain the certifications and permits required for fishpond  
13 restoration and repair by state and federal law, including the  
14 Clean Water Act and the Coastal Zone Management Act. For  
15 example, sections 401 and 404 of the Clean Water Act require  
16 first a water quality certification and permit from the



1 department of health and then a permit from the Army Corps of  
2 Engineers before fishpond activities may proceed.

3 Government and community interests have demonstrated their  
4 willingness and ability to work together to streamline the  
5 permit process for Hawaiian fishponds. Pursuant to Senate  
6 Resolution No. 86 (2012), the department of land and natural  
7 resources, office of planning, and the department of health have  
8 led these efforts, including by coordination with cultural  
9 practitioners, community groups, and affected federal and county  
10 agencies.

11 The department of land and natural resources is in the  
12 final stages of implementing a statewide programmatic general  
13 permit and programmatic agreement that will allow most  
14 applicants for fishpond restoration and repair permits to submit  
15 a single permit application for review by an interagency  
16 advisory group and relevant resource agencies instead of a  
17 series of single-agency applications. Upon the appropriate  
18 findings by the advisory group, the department of land and  
19 natural resources will be able to issue the applicant an  
20 authorization to proceed. After a final thirty-day comment  
21 period, the permit will issue and the applicant may conduct



1 restoration and repair activities in compliance with existing  
2 environmental protection and other laws, including the Clean  
3 Water Act.

4       The purpose of this Act is to ensure that the statewide  
5 programmatic general permit and programmatic agreement functions  
6 as intended by specifying that a permit applicant that has  
7 received notice of authorization to proceed from the department  
8 of land and natural resources is not required to obtain an  
9 additional water pollution permit from the department of health.  
10 The legislature finds that the intent of this Act is to improve  
11 state government efficiency and response time in the  
12 administration of water pollution control. It is not the intent  
13 of the legislature to limit or impede state environmental  
14 controls on water pollution.

15       SECTION 2. Section 342D-6.5, Hawaii Revised Statutes, is  
16 amended to read as follows:

17       " **[+]§342D-6.5[+]** **Hawaiian fishponds.** (a) The department  
18 shall process applications for permits and water quality  
19 certifications for the reconstruction, restoration, repair, or  
20 reuse of any Hawaiian fishpond as defined in section 183B-1  
21 before all other permits and certifications. The director shall



1 render a decision on the completeness of any application for  
2 that permit or water quality certification within thirty days of  
3 receipt. Applications for fishpond reconstruction, restoration,  
4 or repair that are incomplete shall be denied without prejudice.  
5 The director shall render a decision on any complete application  
6 for a permit or water quality certification for any fishpond  
7 within one hundred fifty days.

8 (b) The department shall waive the requirement to obtain a  
9 permit under this chapter for any person that has received  
10 notice of authorization to proceed from the department of land  
11 and natural resources office of conservation and coastal lands  
12 under the statewide programmatic general permit for the  
13 restoration, repair, maintenance, and operation of Hawaiian  
14 fishponds.

15 (c) For purposes of this section, "water quality  
16 certification" means state certification pursuant to section 401  
17 of the federal Clean Water Act."

18 SECTION 3. Statutory material to be repealed is bracketed  
19 and stricken. New statutory material is underscored.



1 SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY:

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JAN 23 2015



# H.B. NO. 3 93

**Report Title:**

Hawaiian Fishponds; Waiver

**Description:**

Waives DOH water pollution control permit requirements for restoration, repair, and operation of Hawaiian fishponds that are permitted under the Statewide Programmatic General Permit process, administered by the DLNR.

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

