
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 conservation habitats or resources as compensatory mitigation
15 where a person or entity is required to provide compensatory
16 mitigation prospectively and the use of banked mitigation is
17 approved by the agency requiring mitigation, or for past damages
18 to conservation habitats or resources.

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



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"CHAPTER

CONSERVATION MITIGATION BANKS

§ -1 **Conservation mitigation banking.** The department of land and natural resources is authorized to establish and operate conservation mitigation banks, the purpose of which shall be to restore, create, enhance, or preserve conservation habitats or resources as compensatory mitigation where a person or entity is required to provide compensatory mitigation prospectively and the use of banked mitigation is approved by the agency requiring mitigation, or for past damages to conservation habitats or resources.

§ -2 **Conservation mitigation banking administrator.** The department of land and natural resources may contract with a third-party administrator that specializes in mitigation banking to operate and manage the conservation mitigation banks in section -1.

§ -3 **Conservation mitigation bank; sale of credits.** Investors in a conservation mitigation bank shall not be required to own the parcel of land and shall be authorized to sell the credits generated from the ecological conditions to



1 persons or entities that need the credits to compensate for
2 environmental impacts that they have caused.

3 **§ -4 Rules.** The department of land and natural
4 resources may adopt rules pursuant to chapter 91 necessary for
5 the purposes of this chapter.

6 **§ -5 Definition.** As used in this chapter, "conservation
7 mitigation bank" means a parcel of land managed to restore or
8 maintain certain ecological conditions, including a functional
9 wildlife habitat and the presence of endangered species, for a
10 set time period. The term "conservation mitigation bank" may
11 refer to mitigation activity for both species and habitats and
12 shall be analogous to habitat bank and biodiversity bank."

13 SECTION 3. This Act shall take effect on January 1, 2050.



Report Title:

DLNR; Conservation Mitigation Bank

Description:

Authorizes the department of land and natural resources to establish and operate conservation mitigation banks to restore, create, enhance, or preserve conservation habitats or resources as compensatory mitigation. Clarifies the sale of credits involved in conservation mitigation banking. Defines "conservation mitigation bank". Authorizes the department to contract a third-party administrator for the operation of the mitigation banks. Effective 1/1/2050. (HD1)

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