

COUNCIL OF THE COUNTY OF MAUI
COMMITTEE OF THE WHOLE

August 24, 2010

**Committee
Report No.** _____

Honorable Chair and Members
of the County Council
County of Maui
Wailuku, Maui, Hawaii

Chair and Members:

Your Committee of the Whole, having met on August 5, 2010, makes reference to County Communication No. 09-17, from Michael J. Molina, Chair of your Committee, regarding matters relating to the Hawaii State Association of Counties (HSAC).

By correspondence dated July 22, 2010, Councilmember Joseph Pontanilla, HSAC Treasurer, transmitted correspondence dated July 1, 2010, from Derek S. K. Kawakami, HSAC President, informing that each Council has until September 1, 2010, to submit legislative proposals to the HSAC Executive Committee for possible inclusion in the 2011 HSAC Legislative Package.

Your Committee is in receipt of the following:

1. Correspondence dated July 21, 2010, from Councilmember Gladys C. Baisa, transmitting a draft State bill entitled "A BILL FOR AN ACT RELATING TO NOMINATION PAPERS", and a corresponding justification sheet. The purpose of the draft State bill is to require that candidates for elective County office include with their nomination papers a sworn certification of compliance with any relevant provision of the County Charter or ordinances pertaining to elected officials, or the nomination papers shall be void and not accepted for filing by the County Clerk.
2. Correspondence dated July 21, 2010, from Councilmember Jo Anne Johnson, transmitting a draft State bill entitled "A BILL FOR AN ACT RELATING TO TAXATION", and a corresponding justification sheet. The purpose of the draft State bill is to establish a tax credit for the rehabilitation of historic structures.
3. Correspondence dated July 22, 2010, from Councilmember Bill Kauakea Medeiros, transmitting a draft State bill entitled "A BILL FOR AN ACT RELATING TO TARO SECURITY", and

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a corresponding justification sheet. The purpose of the draft State bill is to prohibit the development, testing, propagation, release, importation, planting, or growing of genetically modified taro.

4. Correspondence dated July 23, 2010, from Councilmember Bill Kauakea Medeiros, transmitting a draft State bill entitled "A BILL FOR AN ACT RELATING TO AQUARIUM AQUATIC LIFE", and a corresponding justification sheet. The purpose of the draft State bill is to improve the regulation of aquarium aquatic life collecting to protect aquatic life and the marine environment.

Your Committee noted that all four Councils must unanimously approve each proposal in order for the proposal to be included in the 2011 HSAC Legislative Package.

Your Committee found that the four proposals have worthy objectives, as expressed in their respective purpose statements and justification sheets.

Your Committee voted 9-0 to recommend that the four proposals, along with their corresponding justification sheets, be approved for inclusion in the 2011 HSAC Legislative Package. Committee Chair Molina, Vice-Chair Mateo, and members Baisa, Johnson, Kaho'ohalahala, Medeiros, Nishiki, Pontanilla, and Victorino voted "aye".

Your Committee of the Whole RECOMMENDS the following:

1. That the following proposals, along with their corresponding justification sheets, attached hereto, be APPROVED for inclusion in the 2011 HSAC Legislative Package:
 - a. A draft State bill entitled "A BILL FOR AN ACT RELATING TO NOMINATION PAPERS";
 - b. A draft State bill entitled "A BILL FOR AN ACT RELATING TO TAXATION";
 - c. A draft State bill entitled "A BILL FOR AN ACT RELATING TO TARO SECURITY"; and


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- d. A draft State bill entitled "A BILL FOR AN ACT RELATING TO AQUARIUM AQUATIC LIFE".
2. That a copy of this committee report be TRANSMITTED to the HSAC Executive Committee.

This report is submitted in accordance with Rule 7 of the Rules of the Council.



MICHAEL J. MOLINA, Chair

cow:cr:10003(7)aa:dmr

JUSTIFICATION SHEET

- PROPOSER:** County of Maui
- TITLE:** A BILL FOR AN ACT RELATING TO NOMINATION PAPERS
- PURPOSE:** The purpose of the draft bill is to require that candidates for elective county office include with their nomination paper a sworn certification of compliance with any relevant provision of the county charter or ordinances pertaining to elected officials, or the nomination papers shall be void and not accepted for filing by the county clerk.
- MEANS:** Amend Section 12-3, Hawaii Revised Statutes, to add to the list of information required to be contained in a candidate's nomination paper the following:
- “For candidates seeking elective County office, a sworn certification by self-subscribing oath by the candidate that the candidate has complied with provisions of the relevant County charter and County ordinances pertaining to elected officials.”
- JUSTIFICATION:** This measure will help to ensure that a candidate for elective County office has complied with any County laws, including the filing of financial disclosure statements, prior to the candidate's name being placed on the ballot.

____.B. NO.____

A BILL FOR AN ACT

RELATING TO NOMINATION PAPERS.

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

1 SECTION 1. Section 12-3, Hawaii Revised Statutes, is
2 amended to read as follows:

3 “(a) No candidate's name shall be printed upon any
4 official ballot to be used at any primary, special primary, or
5 special election unless a nomination paper was filed in the
6 candidate's behalf and in the name by which the candidate is
7 commonly known. The nomination paper shall be in a form
8 prescribed and provided by the chief election officer containing
9 substantially the following information:

10 (1) A statement by the registered voters signing the form
11 that they are eligible to vote for the candidate;

12 (2) A statement by the registered voters signing the form
13 that they nominate the candidate for the office
14 identified on the nomination paper issued to the
15 candidate;

16 (3) The residence address and county in which the candidate
17 resides;

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- 1 (4) The legal name of the candidate, the name by which the
2 candidate is commonly known, if different, the office
3 for which the candidate is running, and the
4 candidate's party affiliation or nonpartisanship; all
5 of which are to be placed on the nomination paper by
6 the chief election officer or the clerk prior to
7 releasing the form to the candidate;
- 8 (5) Space for the name, signature, date of birth, last four
9 digits of the social security number, and residence
10 address of each registered voter signing the form, and
11 other information as determined by the chief election
12 officer; provided that no more than the last four
13 digits of a voter's social security number shall be
14 required;
- 15 (6) A sworn certification by self-subscribing oath by the
16 candidate that the candidate qualifies under the law
17 for the office the candidate is seeking and that the
18 candidate has determined that, except for the
19 information provided by the registered voters signing
20 the nomination papers, all of the information on the
21 nomination papers is true and correct;

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1 (7) A sworn certification by self-subscribing oath by a
2 party candidate that the candidate is a member of the
3 party;

4 (8) For candidates seeking elective County office, a sworn
5 certification by self-subscribing oath by the
6 candidate that the candidate has complied with
7 provisions of the relevant County charter and County
8 ordinances pertaining to elected officials.

9 [(8)] (9) A sworn certification by self-subscribing oath,
10 where applicable, by the candidate that the candidate
11 has complied with the provisions of article II,
12 section 7, of the Constitution of the State of Hawaii;

13 [(9)] (10) A sworn certification by self-subscribing oath by
14 the candidate that the candidate is in compliance with
15 section 831-2, dealing with felons, and is eligible to
16 run for office; and

17 [(10)] (11) The name the candidate wishes printed on the
18 ballot and the mailing address of the candidate.

19 (b) Signatures of registered voters shall not be counted,
20 unless they are upon the nomination paper having the format set
21 forth above, written or printed thereon, and if there are
22 separate sheets to be attached to the nomination paper, the

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1 sheets shall have the name of the candidate, the candidate's
2 party affiliation or nonpartisanship, and the office and
3 district for which the candidate is running placed thereon by
4 the chief election officer or the clerk. The nomination paper
5 and separate sheets shall be provided by the chief election
6 officer or the clerk.

7 (c) Nomination papers shall not be filed in behalf of any
8 person for more than one party or for more than one office; nor
9 shall any person file nomination papers both as a party
10 candidate and as a nonpartisan candidate.

11 (d) The office and district for which the candidate is
12 running, the candidate's name, and the candidate's party
13 affiliation or nonpartisanship may not be changed from that
14 indicated on the nomination paper and separate sheets. If the
15 candidate wishes to run for an office or district different from
16 that for which the nomination paper states or under a different
17 party affiliation or nonpartisanship, the candidate may request
18 the appropriate nomination paper from the chief election officer
19 or clerk and have it signed by the required number of registered
20 voters.

21 (e) Nomination papers that contain alterations or changes
22 made by anyone other than the chief election officer or the

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1 clerk to the candidate's information, the candidate's party
2 affiliation or nonpartisanship, the office to which the
3 candidate seeks nomination, or the oath of loyalty or
4 affirmation, after the nomination paper was issued by the chief
5 election officer or clerk, shall be void and will not be
6 accepted for filing by the chief election officer or clerk.

7 (f) Nomination papers which are incomplete and do not
8 contain all of the certifications, signatures, and requirements
9 of this section shall be void and will not be accepted for
10 filing by the chief election officer or clerk."

11 SECTION 2. Statutory material to be deleted is bracketed.
12 New statutory material is underscored.

13 SECTION 3. This Act shall take effect upon its approval.

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15 INTRODUCED BY: _____

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JUSTIFICATION SHEET

- PROPOSER:** County of Maui
- TITLE:** A BILL FOR AN ACT RELATING TO TAXATION
- PURPOSE:** The purpose of the draft bill is to establish a tax credit for the rehabilitation of historic structures.
- MEANS:** Amend Chapter 235, Hawaii Revised Statutes, to add a new section to be appropriately designated.
- JUSTIFICATION:** The architectural, cultural, and historical integrity of Lahaina continues to diminish despite the Federal, State, and County laws and programs that have been established to help protect and preserve the Lahaina Historic Districts.
- Lahaina's National Historic District designation is at risk because there are now more noncontributing buildings than there are contributing buildings in the district.
- The demolition of buildings and structures within the Lahaina Historic Districts continues, despite provisions in the Maui County Code to discourage this.
- This measure was introduced in the 2008 State Legislative Session as SB 2561. The Historic Hawai'i Foundation submitted supporting testimony. The State Department of Taxation raised concerns, which were addressed in Senate Draft 1.
- This measure will provide incentives to homeowners in the Lahaina Historic Districts as well as the Wailuku Historic District to restore their homes.

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A BILL FOR AN ACT

RELATING TO TAXATION.

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

SECTION 1. Chapter 235, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§235- Historic preservation income tax credit. (a) Any law to the contrary notwithstanding, there shall be allowed to each taxpayer subject to the taxes imposed by this chapter, an income tax credit, which shall be deductible from the taxpayer's net income tax liability, if any, imposed by this chapter for the taxable year in which the tax credit is properly claimed. For each rehabilitation plan accepted by qualified staff of the state historic preservation division qualified staff, the amount of tax credit shall be:

- (1) Twenty-five per cent of the projected qualified rehabilitation expenditures; or
- (2) Thirty per cent of the projected qualified expenditures for rehabilitation plans if:
 - (A) At least twenty per cent of the units are rental units and qualify as affordable housing; or
 - (B) At least ten per cent of the units are individual homeownership units and qualify as affordable housing.

(b) The tax credit allowed under this section shall be available in the tax year in which the substantially rehabilitated historic structure is placed in service. In the case of projects

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completed in phases, the tax credit shall be prorated to the substantially rehabilitated identifiable portion of the building placed in service.

(c) In the case of a partnership, S corporation, estate, trust, or any developer of a rehabilitated historic structure, the tax credit allowable shall be as provided under subsection (b) for the taxable year. The cost upon which the tax credit is computed shall be determined at the entity level and the distribution and share of the tax credit shall be determined pursuant to section 235-110.7(a).

(d) If the tax credit under this section exceeds the taxpayer's income liability, the excess of credits over liability shall be refunded to the taxpayer; provided that no refunds or payment on account of the tax credits allowed by this section shall be made for amount less than \$1. All claims, including any amended claims, for tax credits under this section shall be filed on or before the end of the twelfth month following the close of the taxable year for which the credit may be claimed. Failure to comply with the foregoing provision shall constitute a waiver of the right to claim the credit.

(e) To qualify for this tax credit, qualified staff of the state historic preservation division shall develop standards and criteria for the approval of rehabilitation of certified historic structures for which the credit is sought. These standards and criteria shall take into account whether the rehabilitation of a certified historic structure will preserve the historic character of the building.

(f) Following the completion of rehabilitation of a certified historic structure, the owner shall notify the state historic preservation division that the rehabilitation has been

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completed. The owner shall provide the state historic preservation division with documentation of the costs incurred in rehabilitating the historic structure and shall submit certification of the costs incurred in rehabilitating the historic structure. Qualified staff of the state historic preservation division shall review the rehabilitation and verify its compliance with the rehabilitation plan.

(g) The director of taxation shall prepare forms as may be necessary to claim a credit under this section. The director may also require the taxpayer to furnish information to ascertain the validity of the claim for credit made under this section and may adopt rules necessary to effectuate the purposes of this section pursuant to chapter 91.

(h) The aggregate amount of tax credits claimed for qualified rehabilitation projects shall not exceed \$ _____ per year and the review board shall be required to monitor, and inform the department of taxation, of the annual projected credit amount.

(i) The state historic preservation division, in consultation with the department of taxation, shall determine the types of information that are necessary on an annual basis to enable a quantitative and qualitative assessment of the outcomes of the tax credit to be determined. Every taxpayer, no later than the last day of the taxable year following the close of the taxpayer's taxable year in which qualified costs were expended, shall submit a written, certified statement to the review board.

Any taxpayer failing to submit information to the state historic preservation division in the manner prescribed by the state historic preservation division prior to the last day of the taxable year following the close of the taxpayer's taxable year in which qualified costs

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were expended shall not be eligible to receive the tax credit, and any credit already claimed for that taxable year shall be recaptured in total. The amount of the recaptured tax credit shall be added to the taxpayer's tax liability for the taxable year in which the recapture occurs.

Notwithstanding any law to the contrary, a statement submitted under this subsection shall be a public document.

(j) Recapture of a previously claimed credit shall be required by the taxpayer who received the credit if any of the following occur:

- (1) The projected qualified expenditures do not materialize;
- (2) If the qualified rehabilitation plans do not proceed in a timely manner and in accordance with the approved plans;
- (3) In the case of the thirty per cent credit, less than twenty per cent of the units are rental units that qualify as affordable housing; or
- (4) If less than ten per cent of the units are individual homeownership units that qualifying as affordable housing.

(k) On an annual basis, the state historic preservation division, in consultation with the department of taxation, shall submit a report evaluating the effectiveness of the tax credit.

The report shall include but not be limited to findings and recommendations to improve the effectiveness of the tax credit to further encourage the rehabilitation of historic properties.

For the purposes of this section:

"Certified historic structure" means any structure that is:

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(1) Listed individually in the Hawaii register of historic places or the national register of historic places; or

(2) Located in a registered historic district and certified by the state historic preservation division as contributing to the historic significance of the district.

"Qualified rehabilitation expenditures" means any costs incurred for the physical construction involved in the rehabilitation of a historic structure for mixed residential and nonresidential uses where at least thirty per cent of the total square footage of the rehabilitation is placed into service for residential use, excluding:

(1) The owner's personal labor;

(2) The cost of a new addition, except as required to comply with the applicable county building code or fire safety code; and

(3) Any non-construction cost such as architectural fees, legal fees, and financing fees.

"Qualified staff of the state historic preservation division" means a staff member who meets the National Park Service Secretary of Interior standards for architectural historian or historic architect.

"Rehabilitation plan" means any construction plans and specifications for the proposed rehabilitation of a historic structure in sufficient detail for evaluation by compliance with the standards and criteria developed by the state historic preservation division.

"Substantial rehabilitation" means the qualified rehabilitation expenditures of a historic structure that exceed twenty-five per cent of the assessed value of the structure."

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SECTION 2. New statutory material is underscored.

SECTION 3. This Act, upon its approval, shall apply to taxable years beginning after
December 31, 2011.

JUSTIFICATION SHEET

- PROPOSER:** County of Maui
- TITLE:** A BILL FOR AN ACT RELATING TO TARO SECURITY
- PURPOSE:** The purpose of the draft bill is to prohibit the development, testing, propagation, release, importation, planting, or growing of genetically modified taro in the State of Hawaii.
- MEANS:** Amend Hawaii Revised Statutes to add a new chapter to be appropriately designated.
- JUSTIFICATION:** Taro is part of the heritage of the Hawaiian people and the State, and maintaining the cultural integrity of the plant is vital.

Farmers, Hawaiian groups, and private individuals have expressed their concerns that genetically-modified taro will destroy the genetic strains of native taro species, and is disrespectful of the cultural foundation taro holds for Native Hawaiians and their religious practices.

Out of hundreds of taro varieties that were known in Hawaii, approximately 85 remain, and 69 of these are unique to the Hawaiian islands and resulted from the horticultural skills of native Hawaiian farmers.

Experimenting with the genetic engineering of this crop, without thoroughly examining and evaluating the possible adverse effects of that process, could have far-reaching, irreversible, and unintended consequences.

Both the County of Hawaii and the County of Maui have passed ordinances banning the testing, propagating, cultivating, raising, planting, growing, introduction or release of genetically-modified taro on the islands of Hawaii, Maui, Molokai, and Lanai.

A similar measure was introduced in the 2009 State Legislative Session as HB 1663, and received the support of both the Senate and the House.

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A BILL FOR AN ACT

RELATING TO TARO SECURITY.

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

1 SECTION 1. Kalo, *Colocasia esculenta*, the Hawaiian word
2 for taro, is a culturally significant plant to the kanaka maoli
3 (Hawaii's indigenous peoples) and the State of Hawaii. Kalo
4 intrinsically embodies the interdependency of the past, the
5 present, and the future, the essence of procreation and
6 regeneration, as the foundation of any sustainable practice.
7 Kalo expresses the spiritual and physical well-being of not only
8 the kanaka maoli and their heritage, but also symbolizes the
9 environmental, social, and cultural values important to the
10 State. This relationship is represented in the use of the kalo
11 plant on the crown of King Kalakaua. The State seal,
12 established in 1959, includes eight taro leaves below the
13 shield, honoring the connection between the health of the land
14 and the health of the State. Today, the logo of the Office of
15 Hawaiian Affairs and many commercial enterprises throughout the
16 State use this symbol to communicate ohana, integrity, and a
17 connection to Hawaiian culture. The State of Hawaii further

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1 recognized the cultural and historic significance of taro by
2 designating it as the official State plant.

3 Over 300 kalo varieties may have existed at the time of the
4 arrival of European explorers (Pukui and Elbert, Hawaiian
5 Dictionary, 1986). Today, there are 85 known traditional
6 varieties of taro remaining, including Bun-Long (Chinese) whose
7 use in Hawaii dates back more than 150 years. Of these, 69 are
8 unique to the Hawaiian islands due to the horticultural skills
9 of native Hawaiian farmers (according to Bulletin 84: Taro
10 Varieties in Hawaii, 1939). Some are extremely rare. The State
11 is also a repository for many taro varieties from around the
12 world. Leaf blight-resistant cultivars were developed from this
13 resource using conventional hand-pollination methods to restore
14 taro crops in Samoa in the 1990s. Protecting and maintaining
15 the genetic identity of these varieties is critically important
16 to the recovery of old taro varieties in Hawaii and the
17 Pacific.

18 Kalo is an important food crop in Hawaii and a complex
19 carbohydrate whose hypo-allergenic properties are life-saving
20 for those with digestive disorders and allergies, including
21 young children and the elderly. The health implications of
22 non-taro genes in genetically engineered kalo have never been

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1 tested, nor have they been approved for human
2 consumption. Historically, there were thousands of acres under
3 taro cultivation in Hawaii. Today, however, there remain less
4 than 500 acres of taro in production. In 2006, the most recent
5 year for Hawaii Agriculture Statistic Services (HASS) market
6 values, 4,500,000 pounds were produced on 380 acres of
7 commercial taro land (11,842 pounds per acre) at a value of
8 \$2,565,000,000 farm gate, amounting to an estimated per acre
9 value of \$6,750, excluding lu'au leaf. Raw taro and value-added
10 taro products represent a multi-million dollar crop in Hawaii
11 with great potential for further growth as the State moves
12 towards food security and self-sufficiency. Control of the
13 single worst taro pest, the apple snail, *Pomacea canaliculata*,
14 will increase taro production on existing acreage by as much as
15 25 percent (Levin 2006). Cold water and adjusting growing
16 regimes will further reduce taro disease. Neither of these
17 issues requires a genetically engineered taro solution. Most
18 locally-grown taro is consumed within the State, indicating a
19 highly specialized market. Millers and consumers have
20 specifically and consistently rejected the use of genetically
21 modified taro or poi.

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1 The 2008 Legislature established the two-year taro security
2 and Purity Task Force under Act 211, Session Laws of Hawaii
3 2008, to address non genetically-modified-organism alternatives
4 to taro farmer issues, including land and water concerns,
5 threats from pests, diseases and taro imports, educational
6 opportunities, and economic issues. In the same year, the
7 counties of Hawaii, Maui, and Kauai supported a moratorium on
8 genetically-modified taro. In November of 2008, the County of
9 Hawaii passed Ordinance 361 banning the testing, propagating,
10 cultivating, raising, planting, growing, introduction or release
11 of genetically modified taro on that island. In October 2009,
12 the County of Maui passed Ordinance 3694 prohibiting the same
13 practices on the islands of Maui, Molokai, and Lanai.

14 The purpose of this Act is to further protect:

- 15 (1) The cultural integrity of kalo as part of the heritage
16 of the Hawaiian people and the State;
- 17 (2) The genetic biodiversity and integrity of all
18 traditional taro varieties in the State as part of the
19 sacred trust between the State and the indigenous
20 peoples of the Pacific; and
- 21 (3) Hawaii taro farmers' raw taro, poi, lu'au, and
22 value-added markets, by establishing a ban on

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1 "Release" means a discharge, emission, or liberation of
2 any genetically engineered organisms, or the product of a
3 genetically engineered organism, into the open environment.

4 "Transgenic" means "genetically modified."

5 § -2 **Genetically modified taro; prohibited.** No
6 genetically modified taro shall be developed, tested,
7 propagated, released, imported, planted, or grown in the State
8 of Hawaii."

9 SECTION 3. This Act shall not serve as a referendum on the
10 merits of biotechnology nor be applicable to any other crop.
11 Nothing in this Act shall be construed to prohibit the use of
12 controlled hand-pollination taro breeding methods (taro-to-taro)
13 to improve taro as a crop.

14 SECTION 4. This Act shall take effect on July 1, 2011.

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16 INTRODUCED BY: _____

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JUSTIFICATION SHEET

- PROPOSER:** County of Maui
- TITLE:** A BILL FOR AN ACT RELATING TO AQUARIUM AQUATIC LIFE
- PURPOSE:** The purpose of the draft bill is to improve the regulation of aquarium aquatic life collecting to protect Hawaii's aquatic life and the marine environment.
- MEANS:** Amend Chapter 188, Hawaii Revised Statutes, to add a new section to be appropriately designated.
- JUSTIFICATION:** Despite the presence of an aquarium fish permit process adopted by the Department of Land and Natural Resources, Division of Aquatic Resources, reef fish populations continue to diminish around the major Hawaiian islands.
- These commercial aquarium fish permits allow for the unlimited collection of aquatic life, and presently, do not provide protection for those species of aquatic life that are endemic to Hawaii found nowhere else in the world or are deemed to be crucial to the overall health of the reef environment.
- The idea that Hawaii can, or should, supply the entire world's growing demand for these endemic species without Hawaii's reefs suffering irreversible consequences through "sustainable harvesting" is a farce that must be addressed through increased State regulation and protection.
- This measure will improve the regulation of the aquarium industry and protect the beauty and health of Hawaii's natural environment.

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A BILL FOR AN ACT

RELATING TO AQUARIUM AQUATIC LIFE.

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

1 SECTION 1. The legislature finds that the aquarium aquatic
2 life collecting industry has operated for over 50 years without
3 limits or constraints on its catch or the number of collectors
4 in the state.

5 The aquarium industry focuses on juvenile reef fish and
6 small invertebrates and exports 82 per cent of its catch to the
7 mainland United States. However, with expanding Asian markets,
8 collectors are targeting more remote and deeper reefs as
9 evidenced by the species sold on many internet websites.

10 Endemic species such as the bandit angelfish and the masked
11 angelfish sell for hundreds or even thousands of dollars each,
12 with no regulation or limit.

13 Home aquariums in China reflect the new prosperity there,
14 with large aquariums covering multiple walls that display adult
15 eels and other large animals from Hawaii's reefs. Aquarium
16 collecting is having major impacts on Oahu and Hawaii reefs and
17 moderate impacts on Maui reefs where over-harvesting is reducing

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1 the marine tourism experience. Many coral reef fish and
2 invertebrates have complicated relationships to the overall
3 ecology of the reef. Their removal may affect the long-term
4 stability of these ecosystems. Significant population declines
5 and major shifts in species diversity are now evident in coral
6 reef areas where collection is occurring. The aquarium catch is
7 mostly herbivore. Their removal could result in increased algal
8 growth, due to a lack of grazers to keep the algae in check,
9 with a corresponding decrease in coral cover.

10 The lack of regulation enables the industry to supply the
11 growing demand for color, shape, and rarity. The Hawaiian
12 cleaner wrasse is one of the most popular fish species collected
13 and is known for its radiant color and lively movement. These
14 fish pick parasites from many other fish, are found nowhere else
15 in the world, and are collected and shipped daily without
16 limitation. The Hawaiian cleaner wrasse will not eat fish food
17 in captivity and eventually dies of starvation. Likewise,
18 coral-eating butterfly fishes, prized by aquarists for their
19 beauty, starve in a short period of time.

20 The purpose of this Act is to improve the regulation of
21 aquarium aquatic life collecting to protect aquatic life and the
22 marine environment.

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SECTION 2. Chapter 188, Hawaii Revised Statutes, is amended by adding two new sections to part II to be appropriately designated and to read as follows:

"§188- Definitions. As used in this part, unless the context clearly requires otherwise:

"Aquarium collecting gear" means any equipment used to collect aquarium fish or animals including but not limited to hand nets, fence or barrier nets, fiberglass or metal "tickle sticks," catch buckets, keeps, or baskets.

"Aquarium purpose" means to hold saltwater fish, freshwater nongame fish, or other aquatic life alive in a state of captivity as pets, for scientific study, or for public exhibition or display, or for sale for these purposes.

"Collect" means to take, catch, capture, harvest, confine, 15 or to attempt to take, catch, capture, harvest, or confine 16 aquatic life. The use of any aquarium collecting gear to take, catch, capture, harvest, or confine, or to attempt to take, catch, capture, harvest, or confine aquatic life by any person who is on or about the shores of Hawaii or in a vessel in Hawaiian waters shall be construed as collecting under this section.

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

3 "Endemic" or "endemic species" means any aquatic life
4 specimen found nowhere else other than Hawaii.

5 §188- _____ Aquarium aquatic life; collection. (a) The
6 department shall develop and maintain an aquarium collecting
7 white list of aquatic species for each county. No aquatic
8 species shall be collected or sold for aquarium purposes in the
9 state unless the species appears on the aquarium collecting
10 white list of the county where the species is collected or sold.

11 (b) The aquarium collecting white list shall only include
12 species that are shown by an official, published department or
13 equivalent federal agency study to meet the following criteria:

14 (1) The species can survive capture, transport, and
15 captivity for at least one hundred eighty days; and

16 (2) Based on historical evidence, the species is part of a
17 stable or increasing population trend in the
18 collection area.

19 (c) In addition to the requirements of subsection (b), the
20 following criteria shall apply:

21 (1) The collection of the species in a county shall not
22 exceed the average annual collection in that county

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1 for the calendar years 2005 through 2007, based on
2 department collection reports for those years;

3 (2) The removal of the species does not negatively impact
4 the reef ecosystem by contributing to algae overgrowth
5 for herbivores, parasite overload on other reef fishes
6 for cleaner wrasses and cleaner shrimp, or other
7 harmful results; and

8 (3) The species is not endemic to Hawaii.

9 (d) The department shall inform all permit holders under
10 section 188-31 of the species included in the aquarium
11 collecting white list and the penalties for failure to comply
12 with the restrictions regarding the collection of aquatic life.

13 (e) Any person who collects or sells aquatic life for
14 aquarium purposes not on the aquarium collecting white list
15 shall be fined \$1,000 for each specimen collected or sold.

16 (f) In addition to any other penalty or fine provided by
17 law, any person violating this section shall be sentenced as
18 follows:

19 (1) For a first violation, a fine of not more than \$1,000
20 or thirty days imprisonment, or both;

