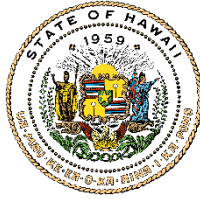


JOSH GREEN, M.D.
GOVERNOR | KE KIA'ĀINA

SYLVIA LUKE
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA



STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAII'
DEPARTMENT OF LAND AND NATURAL RESOURCES
KA 'OIHANA KUMUWAIWAI 'ĀINA

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CHAIRPERSON
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FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

Testimony of
DAWN N. S. CHANG
Chairperson

Before the Senate Committee on
JUDICIARY

Wednesday, February 26, 2025
9:40 AM

State Capitol, Conference Room 016 & Videoconference

In consideration of
SENATE BILL 15
RELATING TO HISTORIC PRESERVATION

Senate Bill 15 proposes amending the definition of “historic property” to require that the property meets the criteria for inclusion within the Hawaii Register of Historic Places or has important value to Native Hawaiians or other ethnic groups of the State due to associations with cultural practices once carried out, or still carried out, at the property or associations with traditional cultural beliefs, events, or oral accounts that are important to history, traditional cultural practices, and cultural identity. **The Department of Land and Natural Resources (Department) supports this measure.**

Under Chapter 6E-2, HRS, provides the definition of “historic property,” which informs how the State Historic Preservation Division (Division) evaluates historic and cultural resources and the impacts projects submitted to the Division, pursuant to sections 6E-8, -10, and -42, HRS, have on historic and cultural resources.

The current definition of “historic property” is overly broad and does not take into consideration if a historic or cultural resource maintains sufficient integrity and significance to be identified as an “historic property”. This bill will make a critical change to the definition of “historic property” that allows a resource to be evaluated on its integrity and significance, rather than just its age. Additionally, the definition change will be similar to the definition of “historic property” under federal regulations. This will allow historic preservation reviews that require compliance with both federal and state historic preservation policies to be completed in a more streamlined manner that is easier to understand and complied with.

Mahalo for the opportunity to provide testimony on this measure.



HISTORIC HAWAII' FOUNDATION

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TO: Senator Karl Rhoads, Chair
Senator Mike Gabbard, Vice Chair
Committee on Judiciary (JDC)

FROM: Kiersten Faulkner, Executive Director
Historic Hawai'i Foundation

Committee: Wednesday, February 26, 2025
9:40 a.m.
Via Video Conference and Conference Room 016

RE: **SB 15, Relating to Historic Preservation**

On behalf of Historic Hawai'i Foundation (HHF), I am writing to **support the intent for SB 15**, with recommendation for amendment.

The bill would amend Hawai'i Revised Statutes §6E to change the definition of historic property to add that properties 50 years or older shall meet the criteria to be placed onto the Hawai'i register of historic places or has important value to Native Hawaiians or other ethnic groups of the State due to associations with cultural practices once carried out, or still being carried out, at the property or due to associations with traditional beliefs, events, or oral accounts that are important to the group's history, traditional practices, and cultural identity.

Legislative Intent and Public Policy Context

The Constitution of the State of Hawai'i recognizes the value of conserving and developing the historic and cultural property within the State for the public good, and the Legislature has declared that it is in the public interest to engage in a comprehensive program of historic preservation at all levels of government to promote the use and conservation of such property for the education, inspiration, pleasure and enrichment of its citizens.

In order to meet this mandate and to ensure that the historic and cultural resources of Hawai'i are treated appropriately, it is necessary to have a framework based on criteria and standards to define and differentiate which properties are subject to the state's historic preservation program.

Any changes to this policy and public benefit need to demonstrate both how the substantive outcomes will be met—that is, to conserve and protect historic resources—and that the administration of the program is fair, clear, unbiased and consistent for all concerned.

Currently, HRS §6E-2 defines historic properties as any building, structure, object, district, area or site, including heiau and underwater site, which is over 50 years old. This definition has the advantage of being simple to understand and simple to evaluate, as it relies on a single piece of data: age of construction. However, that definition is also unnecessarily broad, and assumes that age is equivalent to historic importance.

Within the discipline and practice of historic preservation, there are two additional criteria used to screen properties: *historic significance* and *integrity*. The criteria for being entered into the State of Hawai'i Register of Historic Places address these additional aspects and are appropriate to add to the State's definition of "historic property."

Historic Hawai'i Foundation supports amending HRS §6E-2 to include the requirement that properties meet the criteria for being entered into the state register of historic places, but is also concerned that some cultural sites or features may have been significantly altered over time, thus affecting their historic integrity. HHF agrees that the definition needs to include these sites and appreciates the explicit inclusion in the proposed definition.

Although HHF supports the clarification in the definition of "historic property," we also note that this amendment introduces a new requirement for the statewide preservation program: the task of determining whether or not a specific property meets the criteria based on more information than age of construction.

When making determinations regarding specific properties, preservation professionals with appropriate education and experience will need to apply the criteria for evaluating historic significance and integrity. Professional judgment is needed to understand and apply the criteria to different property types, including buildings, structures, objects, sites and districts, including those properties to which Native Hawaiians and other ethnic and cultural groups of the State attach religious and cultural significance.

By adding this additional layer of knowledge, skill and experience to the act of determining whether or not a property is "historic," and not merely relying on age of construction, it will be more difficult for property owners, developers, permitting and planning agencies and the general public to know if a property will be subject to the State Historic Preservation Division's requirement to identify, evaluate and resolve potential effects that may be caused by a proposed project.

HHF believes that the revised definition would make the assessment and resolution of effects more efficient and effective, but will complicate the initial step of knowing whether the statute applies at all. We caution about unintended consequences that could be caused by a seemingly straightforward change.

HHF recommends that the bill be amended to require the department to promulgate administrative rules prior to the effective date to be implemented simultaneously with the new definition to address the issue of who will make the determinations, based on established criteria and standards, subject to qualified personnel concurrence and as an initial stage of the process.

Thank you for the opportunity to comment.



COMMERCIAL REAL ESTATE
DEVELOPMENT ASSOCIATION
HAWAII CHAPTER

February 26, 2025

Senator Karl Rhoads, Chair
Senator Mike Gabbard, Vice Chair
Committee on Judiciary

RE: **SB 15 - Relating to Historic Preservation**
Hearing date: February 26, 2025 at 9:40 AM

Aloha Chair Rhoads, Vice Chair Gabbard, and members of the committee,

Mahalo for the opportunity to submit testimony on behalf of NAIOP Hawaii in **OPPOSITION to SB 15 - RELATING TO HISTORIC PRESERVATION**. NAIOP Hawaii is the local chapter of the nation's leading organization for office, industrial, retail, residential and mixed-use real estate. NAIOP Hawaii has over 200 members in the State including local developers, owners, investors, asset managers, lenders, and other professionals.

As currently drafted, NAIOP opposes SB 15 which amends the definition of "Historic Property" to include additional "criteria to be placed onto the Hawaii register of historic places or has important value to Native Hawaiians or other ethnic groups of the State due to associations with cultural practices once carried out, or still being carried out, at the property or due to associations with traditional beliefs, events, or oral accounts that are important to the group's history, traditional practices, and cultural identity."

Primarily, NAIOP Hawaii opposes this measure as the amended definition of "historic property" to include "meets the criteria to be placed on the Hawaii register of historic places or has important value to Native Hawaiians or other ethnic groups of the State due to associations with cultural practices once carried out, or still being carried out, at the property or due to associations with traditional beliefs, events, or oral accounts that are important to the group's history, traditional practices, and cultural identity" is overly broad and could exacerbate the current backlog of reviews.

NAIOP is concerned that this amendment would continue to cast too broad of a net and will effectively nullify the primary intent of the measure to resolve the current backlog of permit reviews. The proposed criteria are ambiguous and the measure fails to clarify who will be making the determination, effectively meaning that SHPD will continue to have to review all projects over 50 years old.

Potentially expanding SHPD's scope of review is particularly concerning due to the department's limited staffing and resources for identifying and reviewing truly historic properties. This measure fails to promote more timely reviews of projects conducted the Department of Land and Natural Resources (DLNR) State Historic Preservation Division (SHPD).

Currently, the backlog of historic reviews is encumbering permits throughout the state. Reviews by SHPD are significantly slowing down the permitting process, adding costs and delays to a substantial number of projects across the State. Consequently, much needed housing, economic development, and critical infrastructure projects often face significant delays in permit approvals and project implementation. These delays result in decreased economic and construction activity and delivery of housing units.

Ultimately, the issue at hand is that far too many projects are being sent to SHPD for review that don't qualify as historic under any reasonable interpretation associated with historic importance. Nearly half of Oahu's housing stock is 50 years old including projects built in the 60s and 70's which should not be deemed historic based on age alone.

NAIOP understands the great importance that these reviews hold in preservation of Hawaii's historic sites, however, a balance needs to be found to: 1) reduce overwhelming volume of reviews placed on an understaffed department; and 2) allow SHPD staff to focus on properties of true historic significance.

NAIOP Hawaii would support an amendment a changing the definition of "historic property" to read "over fifty years old and on the Hawaii register of historic places." This amendment will seek to expedite reviews of projects by reducing the scope of SHPD to include review or properties that have been deemed historic.

Alternatively, NAIOP Hawaii would recommend an amendment to reflect the language of SB 533 which would amend the definition to read as follows:

1. ""Historic property" means any building, structure, object, district, area, or site, including heiau and underwater site, which is over fifty years old and is registered on the Hawaii register of historic places."

NAIOP Hawaii looks forward to working together with stakeholders to find the right language to balance the concerns being addressed in this bill. **NAIOP Hawaii is concerned that the current version of the measure would potentially increase the review times of permit reviews and nullify the intent of the measure.** Ultimately, SB 15 addresses a critical issue in the development of more affordable housing and critical infrastructure for Hawaii residents. NAIOP appreciates the Legislature's commitment to collaborating on this issue and look forward to working together.

Mahalo for your consideration,



Reyn Tanaka, President
NAIOP Hawaii

SB-15

Submitted on: 2/25/2025 9:38:48 AM

Testimony for JDC on 2/26/2025 9:40:00 AM

Submitted By	Organization	Testifier Position	Testify
Mahealani Cypher	Testifying for Ko`olau Foundation	Support	Written Testimony Only

Comments:

Aloha,

I strongly support S.B. 15 and urge your committee to pass this proposed legislation.

Mahalo,

Mahealani Cypher

Feb. 26, 2025, 9:40 a.m.
Hawaii State Capitol
Conference Room 016 and Videoconference

LATE

To: Senate Committee on Judiciary
Sen. Karl Rhoads, Chair
Sen. Mike Gabbard, Vice Chair

From: Grassroot Institute of Hawaii
Ted Kefalas, Director of Strategic Campaigns

RE: SB15 — RELATING TO HISTORIC PRESERVATION

Aloha Chair Rhoads, Vice-Chair Gabbard and other members of the Committee,

The Grassroot Institute of Hawaii offers **comments on — and an amendment to —** [SB15](#), which would redefine historic property.

Currently, “historic property” is defined as “any building, structure, object, district, area, or site, including heiau and underwater site, which is over fifty years old.”

SB15 would change the definition to read: “any building, structure, object, district, area, or site, including heiau and underwater site, which (1) Is over fifty years old; (2) Meets the criteria for being entered into the Hawaii register of historic places; or (3) Has important value to Native Hawaiians or other ethnic groups of the State due to: (A) Associations with cultural practices once carried out, or still carried out, at the property; or (B) Associations with traditional beliefs, events, or oral accounts that are important to history, traditional practices, and cultural identity.”

Grassroot appreciates the intent of this measure because historic preservation review of projects often takes months, and the State Historic Preservation Division faces a large and growing number of projects that will need its review.

On Oahu alone, there are 135,553 parcels improved with a single living unit, including single condominium units, in residential zones. Of these, 80,870 — almost 60% — were built in 1975 or before. Just 55,074 — about 41% — were built in 1976 or after.¹

And the number of parcels that could be subject to SHPD review will only increase as Hawaii's housing stock ages. In 2026, the 1,585 dwellings built in 1976 will become candidates for SHPD review any time their owners file for permits to conduct work on them.

A recent Grassroot white paper, "[Preserving the past or preventing progress?](#)" analyzed SHPD data and found that more than 90% of the projects the agency reviewed from 2021 to 2024 had no impact on historic properties.

The average review time for projects issued determinations has been 94 days. However, the SHPD reviewed less than half of the applications it has received during this period.

However, Grassroot has concerns that the new definition proposed by SB15 would further complicate these reviews. It keeps the current 50-year standard while adding a new, subjective standard relating to the property's cultural importance.

If this measure is to advance, we suggest changing the "or" to an "and." The new definition would thus require a property to be both 50 years old and have cultural importance.

Thus, the definition would read: "any building, structure, object, district, area, or site, including heiau and underwater site, which (1) Is over fifty years old; (2) Meets the criteria for being entered into the Hawaii register of historic places; ~~or~~ **and** (3) Has important value to Native Hawaiians or other ethnic groups of the State due to: (A) Associations with cultural practices once carried out, or still carried out, at the property; or (B) Associations with traditional beliefs, events, or oral accounts that are important to history, traditional practices, and cultural identity."

This definition change could streamline the review process while maintaining protections for unique cultural buildings and sites.

Thank you for the opportunity to testify.

Ted Kefalas
Director of Strategic Campaigns
Grassroot Institute of Hawaii

¹ Hawaii Information Service database, accessed Jan. 30, 2024. Figures exceed 100% because some parcels with a single living unit have multiple buildings with multiple construction dates, resulting in double counting. A subscription is needed to access the data.