

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

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

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ENFORCEMENT
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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
WATER AND LAND
and
HOUSING
and
HAWAIIAN AFFAIRS

Friday, February 7, 2025
1:13 PM

State Capitol Conference Room 229 & Videoconference

In consideration of
SENATE BILL 79
RELATING TO HISTORIC PRESERVATION REVIEWS

Senate Bill 79 would amend Chapter 6E, Hawaii Revised Statutes (HRS) to require the Department of Land and Natural Resources to determine the effect of any proposed State housing project within ninety days of a request for determination and sets forth the historic review requirements based on the project area's known historic, cultural, and archaeological resources. **The Department of Land and Natural Resources (Department) supports this measure and offers recommended amendments.**

Chapter 6E, HRS, provides the framework for a comprehensive statewide historic preservation program in Hawai'i. A key part of that program is the review of projects as required by sections 6E-8, 6E-10, 6E-42, and 6E-43 HRS. These statutory provisions reflect the Legislature's intent to require project proponents to consider the impact of their projects on iwi kūpuna, as well as historic and cultural resources.

The Department recognizes the need to streamline the historic preservation review process in order to help address the current housing crisis in Hawai'i and support the State's efforts to provide affordable housing. This bill will allow affordable housing project to proceed in an expedited manner while establishing measures that will support the identification, documentation, and avoidance of iwi kūpuna, as well as historic and cultural resources during planning and construction of affordable housing projects.

The amendments and additions to Chapter 6E, HRS and alternative approaches established within this bill are both reasonable and feasible.

To further strengthen this bill, the Department recommends the following edits and additions for clarity and completeness:

Pg. 1, line 15-17 and Pg. 2, line 1-6

“(1) Highly sensitive area known to include a high density of historic, cultural, or archaeological resources, or in an area that is likely to contain a high density of historic, cultural, or archaeological resources, the department shall require an archaeological inventory survey in accordance with rules adopted by the department unless an archaeological inventory survey has already been previously reviewed and accepted by the department for the same or a substantially similar project located in the same project area, in which case the department may allow the project to proceed under an archaeological monitoring program in accordance with rules adopted by the department.”

Pg. 2, line 7-11

“(2) Moderately sensitive area where an archaeological inventory survey has already been previously reviewed and accepted by the Department and no historic properties have been identified, the department may authorize the project to proceed under an archaeological monitoring program in accordance with rules adopted by the department; or

Pg. 2, line 20-21 and Pg. 3, line 1-2

“The department shall provide its written determination within ninety days after the filing of a complete and accurate project request with the department; provided that the department’s determination may be appealed to the Hawaii historic places review board.”

Pg. 3, line 3-6

“(b) The department shall confirm that housing projects have state inventory of historic places numbers for all historic properties located within the housing project area before the start of construction. The project proponent shall obtain state inventory of historic places numbers from the state historic preservation division for all historic properties within housing project area if an archaeological or architectural survey is conducted as part of the historic preservation review process. If an archaeological inventory survey is conducted prior to the start of construction, the project proponent shall obtain state inventory of historic places numbers for all historic properties identified within the housing project area during archaeological monitoring prior to completion of construction.”

Pg. 3, line 7-17

“(c) Before any agency or officer of the State or its political subdivisions commences any affordable housing project that may adversely affect a significant historic property, the agency or officer shall make a reasonable and good faith effort to avoid or minimize any effect to significant historic properties. If an adverse effect cannot reasonably be avoided, the agency or officer shall mitigate the adverse effect. Mitigation may take different forms, including but not limited to preservation, archaeological data

recovery, burial treatment reburial, ethnographic documentation, historic data recovery, and architectural recordation. Mitigation shall be implemented pursuant to terms approved by the department.”

Pg. 3, line 18-20 and Pg. 4, line 1-2

“(d) If previously unidentified human remains are inadvertently discovered ~~identified~~ during archaeological monitoring or housing project construction, all work within a twenty-foot radius ~~the vicinity of the finding~~ of the inadvertent discovery ~~remains~~ and within a twenty-foot radius of the back-dirt pile containing the soil removed during excavation in proximity of the inadvertent discovery shall be stopped, and both areas shall be securely covered and protected from the natural elements and adjacent activities.; ~~provided that~~ Work in other areas of the project may continue, and may only proceed in accordance with section 6E-43.6.

Pg. 4, line 3-6

“(e) If a previously unidentified historic property is identified or previously unanticipated effects are found after the 6E, HRS historic preservation review process has concluded, during archaeological monitoring or housing project construction, all work within a twenty-foot radius of the finding shall be stopped and the state historic preservation division shall be contacted within 48 hours of the discovery. The notification shall include: a historic properties assessment that documents the historic or cultural resource and assesses its significance; an assessment of effect, which will consider any impacts the project has had or will have to the historic or cultural resource; proposed actions that can be taken to avoid, minimize, or mitigate any adverse effects the project may have to the historic or cultural resource. The state historic preservation division shall respond within two working days of the notification. Upon completion of any identified avoidance, minimization, and/or mitigation measures, a report shall be submitted to the state historic preservation division documenting the actions taken.

Mahalo for the opportunity to provide testimony on this measure.

JOSH GREEN, M.D.
GOVERNOR

SYLVIA LUKE
LT. GOVERNOR



DEAN MINAKAMI
EXECUTIVE DIRECTOR

STATE OF HAWAII

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT AND TOURISM
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Statement of
DEAN MINAKAMI
Hawaii Housing Finance and Development Corporation
Before the

**SENATE COMMITTEE ON WATER AND LAND,
SENATE COMMITTEE ON HOUSING,
AND**

SENATE COMMITTEE ON HAWAIIAN AFFAIRS

February 07, 2025 at 1:13 p.m.
State Capitol, Room 229

In consideration of
S.B. 79
RELATING TO HISTORIC PRESERVATION REVIEWS.

Chairs Inouye, Chang, and Richards, Vice Chairs Elefante, Hashimoto, and San Buenaventura, and members of the Committees.

HHFDC **supports** SB 79, which requires the Department of Land and Natural Resources to determine the effect of any certain proposed housing projects within ninety days of a request for determination. It establishes historical review requirements based on the project area's known historic, cultural, and archaeological resources and requires the Department of Hawaiian Home Lands (DHHL) to consult with the DLNR before commencement of a proposed project relating to lands under DHHL's jurisdiction.

Lengthy and backlogged historic preservation reviews historically prevent the timely development of affordable housing and increase their costs. The goal of the bill is to streamline the historic review process while avoiding or minimizing any effect on significant historic properties. We are hopeful that this bill will accelerate the historic review process, especially for projects that likely will not have significant effects.

Thank you for the opportunity to testify on this bill.

JOSH GREEN, M.D.
GOVERNOR
STATE OF HAWAII
*Ke Kia'āina o ka Moku'āina 'o
Hawaii*

SYLVIA J. LUKE
LT. GOVERNOR
STATE OF HAWAII
*Ka Hope Kia'āina o ka Moku'āina
'o Hawaii*



KALI WATSON
CHAIRPERSON, HHC
Ka Luna Ho'okele

KATIE L. LAMBERT
DEPUTY TO THE CHAIR
Ka Hope Luna Ho'okele

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS
Ka 'Oihana 'Āina Ho'opulapula Hawaii'i

P. O. BOX 1879
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TESTIMONY OF KALI WATSON, CHAIR
HAWAIIAN HOMES COMMISSION
BEFORE THE SENATE COMMITTEES ON WATER AND LAND,
HOUSING, AND HAWAIIAN AFFAIRS
HEARING ON FEBRUARY 7, 2025 AT 1:13PM IN CONFERENCE ROOM 229

SB 79, RELATING TO HISTORIC PRESERVATION REVIEWS

FEBRUARY 6, 2025

Aloha Chairs Inouye, Chang and Richards, Vice Chairs Elefante, Hashimoto and San Buenaventura, and Members of the Committees:

The Department of Hawaiian Home Lands (DHHL) **supports with reservations** this bill which 1) requires the Department of Land and Natural Resources (DLNR) to determine the effect of any certain proposed housing projects within ninety days of a request for determination 2) establishes historical review requirements based on the project area's known historic, cultural, and archaeological resources and 3) requires the Department of Hawaiian Home Lands to consult with the DLNR before commencement of a proposed project relating to lands under DHHL's jurisdiction.

DHHL appreciates the intent of this bill to streamline and expedite historic preservation reviews for housing projects to address the housing needs of Hawai'i. DHHL could certainly benefit from having housing projects reviewed within 90 days. Pursuant to HRS Chapter 6E-8(b), "the Department of Hawaiian Home Lands, prior to any proposed project relating to lands under its jurisdiction, shall consult with the department (DLNR) regarding the effect of the project upon historic property or a burial site." The proposed paragraph (f) as written in SB79 is redundant concerning this noted requirement in HRS Chapter 6E-8(b).

DHHL has two concerns, the first being that DLNR may not have adequate capacity to fulfill the additional responsibilities and expectations of expedited deliverables as written in this bill. Secondly, DHHL is concerned that the bill only considers historic properties of archaeological value, which does not account for historic properties that may be significant under criterion "e" of the Hawaii Register of Historic Places eligibility criteria, or historic architecture. Failure to consider these historic resources as well as the correct types of inventory surveys necessary to identify and inventory them, may potentially increase the potential of destroying historic properties throughout Hawai'i, which goes against the intent of Ch. 6E and the Hawaii State Constitution.

Thank you for your consideration of our testimony.

SB-79

Submitted on: 2/4/2025 5:00:16 PM

Testimony for WTL on 2/7/2025 1:13:00 PM

Submitted By	Organization	Testifier Position	Testify
De MONT Kalai Manaole	Testifying for Hoomana Pono, LLC	Oppose	In Person

Comments:

We **STRONGLY REJECT** this bill that seems to strip Trust Beneficiaries of our inherent right to self-determination & self-governance. Plus, this kneecaps DHHL & HHC to faithfully carry out its Trust mandate pursuant to the HHCA & the Hawaii Constitution, by having a separate Agency dictate policy over DHHL.

PLEASE REJECT this overreach by DLNR.

SB79

He Mele komo a he mele aloha no na kupuna o ke au i hala Aloha mai kakou.

Aloha,

My name is Cindy Freitas and I'm a Native Hawaiian descended of the native inhabitants of Hawai'i prior to 1778 and born and raised in Hawai'i.

I am also a practitioner who still practice the cultural traditional customary practices that was instill in me by my grandparents at a young age from mauka (MOUNTAIN TO SEA) to makai in many areas.

I'm in OPPOSITION for SB79

Due to concerns over its potential to unnecessarily delay critical housing projects, create bureaucratic inefficiencies, and impede the Department of Hawaiian Home Lands (DHHL) from fulfilling its mandate to provide housing for Native Hawaiian beneficiaries.

Unnecessary Delays and Bureaucratic Red Tape

While preserving cultural and historic sites is important, this bill introduces **uncertain and potentially lengthy delays** in housing development. Requiring the Department of Land and Natural Resources (DLNR) to issue a determination within 90 days may seem reasonable, but in practice, DLNR is already overburdened with a backlog of environmental and historic reviews. If additional time is required for further studies, this could **stall urgently needed housing projects** and drive up development costs.

Furthermore, the bill does not establish **clear guidelines for what constitutes a "complete" request** for determination, which could lead to disputes over whether the 90-day clock has even started. This uncertainty could leave projects in limbo, discouraging responsible development.

Overreach in DHHL Oversight

Requiring DHHL to **consult with DLNR before any project on Hawaiian Home Lands** places an unnecessary hurdle in the path of delivering housing for Native Hawaiians. DHHL already has its own processes for assessing environmental and cultural impacts and should not be forced to defer to another agency that does not have the same kuleana (responsibility) to serve Native Hawaiian beneficiaries. This bill **undermines DHHL's autonomy** and creates yet another layer of oversight that could slow down much-needed homestead developments.

Lack of Balanced Consideration for Housing Needs

Hawai'i is facing a severe housing crisis, and Native Hawaiians are among those most impacted. Adding further layers of regulation and review could **increase development costs and deter investment in housing projects**. Rather than creating additional barriers, policymakers should focus on **streamlining processes** to ensure that culturally appropriate, affordable housing is delivered in a timely manner.

Conclusion

While I support responsible and culturally sensitive development, **SB79** is not the right approach. It introduces **unnecessary bureaucratic hurdles, risks delaying housing projects, and imposes restrictions on DHHL that could ultimately harm Native Hawaiian beneficiaries.** I respectfully urge the committee to **oppose this measure** and instead pursue solutions that **balance preservation with the urgent need for housing.**

Mahalo,

____/s/____

Cindy Freitas

SB-79

Submitted on: 2/6/2025 3:23:26 PM

Testimony for WTL on 2/7/2025 1:13:00 PM



Submitted By	Organization	Testifier Position	Testify
Pialoha Callahan	Individual	Support	Written Testimony Only

Comments:

I am in support of all efforts made to avoid desecrating and/or disturbing our iwi kupuna. Measures should be taken beforehand when any project or development is proposed and all work should come to a stop if anyone is found. There have been too many times this state and its agencies have disregarded the kupuna that came before us and in my personal belief, the least we can do as the ones who walk this 'āina today, is make sure we mālama them the best we can if our wants disturb their peace and place of rest. With the constant development and hustle in todays society, 90 days doesnt seem like enough time for DLNR to conduct the research they may need but I am hopeful that this can be negotiated with those who are entrusted with kuleana. mahalo nui for the opportunity to testify on this measure.