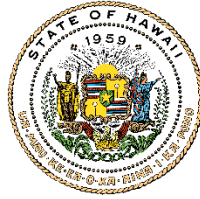


JOSH GREEN, M.D.
GOVERNOR | KE KIA'ĀINA

SYLVIA LUKE
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA



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

P.O. BOX 621
HONOLULU, HAWAII 96809

DAWN N.S. CHANG
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE
MANAGEMENT
LAURA H.E. KAAKUA
FIRST DEPUTY
M. KALEO MANUEL
DEPUTY DIRECTOR - WATER
AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE
MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES
ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

Testimony of
DAWN N.S. CHANG
Chairperson

Before the House Committee on
JUDICIARY & HAWAIIAN AFFAIRS

Wednesday, March 1, 2023
2:00 PM
Conference Room 325 Via Videoconference

In consideration of
HOUSE BILL 201, HOUSE DRAFT 1
RELATING TO HISTORIC PRESERVATION

House Bill 201, House Draft 1 proposes to amend the definition of “historic property” in Section 6E-2, Hawaii Revised Statutes (HRS), by requiring that a property be eligible for inclusion in the Hawaii Register of Historic Places (Hawaii Register) and 50-years old, or 100-years old. **The Department of Land and Natural Resources (Department) supports this measure, and recommends an amendment.**

The Department agrees that the current definition of historic property which relies entirely on age alone to define what is or is not historic is flawed. In prior sessions, the Department has supported measures to amend the definition. The Department appreciates that the House Committee on Water and Land amended this measure to include the requirement that a property be both 50-years old and eligible for inclusion in the Hawaii Register. The Department believes that this is entirely appropriate and will allow for appropriate consideration of properties that are truly historic rather than simply old. The Department believes that defining historic property by age alone is the problem. Historical value is a reflection of age *and* association with events, people, architectural distinction, or valuable historic, scientific, or cultural information. House Bill 201, House Draft 1 defines historic property based on both age and historical association.

The Department believes that even properties that are 100-years old or older should still have to qualify for inclusion in the Hawaii Register to be considered historic. Without the additional requirement of historic association, many poor-quality structures without historic significance to Hawai'i could be included in the Hawaii Register. This inappropriate inclusion could have unforeseen negative consequences as Hawai'i grapples with many other issues such as sea level rise, more frequent storm events and flooding, and the need for low-income and affordable housing. Accordingly, the Department

recommends that SECTION 1 of House Bill 201, House Draft 1 be amended (highlighted in gray) on line 15, and all of line 16 as follows:

"Historic property" means any building, structure, object, district, area, or site, including a heiau and an underwater site, ~~which~~ that is ~~over~~ at least:

(1) Over fifty years old~~[-]~~ and meets the 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~~[- or~~

~~(2) Over one hundred years old~~].

Mahalo for the opportunity to provide testimony in support of this measure with the proposed amendment.

March 1, 2023

The Honorable David A. Tarnas, Chair

House Committee on Judiciary & Hawaiian Affairs
State Capitol, Conference Room 325 & Videoconference

RE: House Bill 201, HD1, Relating to Historic Preservation

HEARING: Wednesday, March 1, 2023, at 2:00 p.m.

Aloha Chair Tarnas, Vice Chair Takayama, and Members of the Committee:

My name is Lyndsey Garcia, Director of Advocacy, testifying on behalf of the Hawai'i Association of REALTORS® ("HAR"), the voice of real estate in Hawai'i and its over 11,000 members. HAR **supports** House Bill 201, HD1, which expands the definition of "historic property" for purposes of the historic preservation program. Effective 6/30/3000.

Currently, Hawai'i Revised Statutes Chapter 6E, defines a historic property as, "any building, structure, object, district, area or site, including heiau and under water site, which is over fifty years old. With the current definition, the number of homes and buildings that qualify has continued to increase. This can be challenging for homeowners that must comply with the historic preservation review process for permits, even when their properties have no historical significance. For example, homes in Mililani were built in 1968, and homes there can be over 55 years old.

Furthermore, current law can also be challenging for the State Historic Preservation Division, as they will have to review properties simply because the property is over 50 years old, even without historical significance. As such, amending the definition of a historic property to either properties that are over 100 years old or 50 years old that 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 may help address these challenges.

For the foregoing reasons, Hawai'i REALTORS® supports this measure. Mahalo for the opportunity to testify.



COMMERCIAL REAL ESTATE
DEVELOPMENT ASSOCIATION
HAWAII CHAPTER

February 28, 2023

Representative David Tarnas, Chair
Representative Gregg Takayama, Vice Chair
Committee on Judiciary and Hawaiian Affairs

RE: **HB 201 HD1 - Relating to Historic Preservation**
Hearing date: Marc1, 2013 at 2:00PM

Aloha Chair Tarnas, Vice Chair Takayama and members of the committee,

Mahalo for the opportunity to submit testimony on behalf of NAIOP Hawaii in **SUPPORT** on HB 201, with comments on HD1. 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.

HB 201 amends the definition of "Historic Property" to increase the minimum age of a building structure, object, district, area, or site from 50 to 100 years to be defined as a historic property for purposes of the historic preservation program. The intent of the measure is to promote more timely reviews of projects conducted the Department of Land and Natural Resources (DLNR) State Historic Preservation Division (SHPD) by narrowing the scope of project which require review while preserving historic properties which meet the 100-year definition.

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.

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 the truly aged projects to determine if they are indeed historic. An

Representative David Tarnas, Chair
Representative Gregg Takayama, Vice Chair
Committee on Judiciary and Hawaiian Affairs
February 28, 2023
Page 2

increase to 100 years is the most cost-effective solution to reducing the volume of reviews while still preserving historic properties.

We greatly appreciate the work of the previous committee to make amendments to balance the issue at hand. The amendments, as reflected in HD1, would broaden the definition of "historic property" to also include any property that is 50 years old provided certain very vague criteria relating to historical value, Native Hawaiian or other ethnic group beliefs or practices are met. NAIOP Hawaii is very concerned that this amendment casts too broad of a net and will effectively nullify the primary intent of the measure to resolve the current backlog of permit reviews while allowing the state to focus its very limited staffing and resources on identifying and reviewing truly historic properties. The proposed criteria is 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.

Accordingly, NAIOP Hawaii respectfully requests the committee revert back to the original language of HB 201. Alternatively, if the committee is concerned about preserving specific types of historical properties, such as pre-WWII buildings, we would recommend that a specific date, such as September 2, 1945 (the end of World War II), be set for the definition of "historic property." Such an amendment would be unambiguous, clear and prevent a future backlog of permit reviews similar to what we are experiencing. This would address DLNR's concerns noted in their testimony while preserving the intent of the bill. NAIOP Hawaii looks forward to working together with stakeholders to find the right language to balance the concerns being addressed in this bill.

NAIOP greatly supports the intent of the measure to identify a solution to the significant backlog of much needed projects awaiting SHPD review. Ultimately, HB 201 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,

A handwritten signature in black ink, appearing to read 'J Camp', with a stylized flourish at the end.

Jennifer Camp, President
NAIOP Hawaii

HISTORIC HAWAI'I FOUNDATION

TO: Representative David A. Tarnas, Chair
Representative Gregg Takayama, Vice Chair
Committee on Judiciary & Hawaiian Affairs (JHA)

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

Committee: Wednesday, March 1, 2023
2:00 p.m.
Via Video Conference and Conference Room 325

RE: HB 201 HD1, Relating to Historic Preservation

On behalf of Historic Hawaii Foundation (HHF), I am writing in **opposition to HB 201 HD 1 as currently written, with recommendations for amendments.** The bill would amend Hawai'i Revised Statutes §6E-2 to revise the definition of "historic property" to include only those properties that are over 100 years of age or to those that are 50 years of age that also meet the criteria to be listed in the Hawai'i register of historic places or that have value to Native Hawaiians or other ethnic groups due to associations with cultural practices.

HHF finds the proposed definition to be convoluted and believes it will introduce ambiguities and difficulty for applying to the State's historic preservation program. **HHF recommends that the phrase "over 100 years old" be deleted.**

HHF appreciates the intent of the additional proposed language, that a historic property is that which is "over fifty years old and meets the 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."

HISTORIC HAWAI'I FOUNDATION COMMENTS

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. HHF is concerned that changing the age threshold to 100 years will disadvantage numerous sites that are important to the history and culture of Hawai'i.

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.

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.

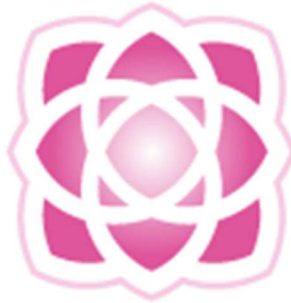
By adding this additional layer of knowledge, skill and experience to the determining whether or not a property is "historic," and not merely relying on age of construction, it will be more difficult for property owners, developers, permitting and planning agencies and the general public to know if a

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 department promulgate administrative rules to address the issue of who will make the determinations, based on established criteria and standards, subject to qualified personnel concurrence and at what stage of the process.

Thank you for the opportunity to comment.



MAUI

CHAMBER OF COMMERCE

VOICE OF BUSINESS

HEARING BEFORE THE HOUSE COMMITTEE ON
JUDICIARY AND HAWAIIAN AFFAIRS
HAWAII STATE CAPITOL, HOUSE CONFERENCE ROOM 325
WEDNESDAY, MARCH 1, 2023 AT 2:00 P.M.

To The Honorable David A. Tarnas, Chair
The Honorable Gregg Takayama, Vice Chair
Members of the committee on Judiciary and Hawaiian Affairs

SUPPORT HB201 HD1 RELATING TO HISTORIC PRESERVATION

The Maui Chamber of Commerce **Supports HB201 HD1** which expands the definition of "historic property" for purposes of the historic preservation program.

Buildings that are 50 years old were built in 1973. The Chamber agrees that "historic" buildings are those that were built at least 100 years ago. While we understand there may be exceptions to this, depending on the property, we feel those should be handled on an individual basis. We believe this bill may help decrease the number of reviews at SHPD and expedite the process for those that need it.

We appreciate that the definition of "historic property" has been amended to mean certain structures or sites that are over 100 years old or that are over 50 years old and meet certain criteria.

For these reasons, we **support HB201 HD1**.

Sincerely,

Pamela Tumpap
President

To advance and promote a healthy economic environment for business, advocating for a responsive government and quality education, while preserving Maui's unique community characteristics.

HB-201-HD-1

Submitted on: 2/27/2023 9:54:27 AM

Testimony for JHA on 3/1/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Sara Collins	Individual	Oppose	Written Testimony Only

Comments:

I OPPOSE HB 201, HD 1 as written.

The proposed amendments to Chapter 6E-2, HRS do not comport with federal historic preservation law which stipulates that historic sites are properties that are 50 years or more old. If Hawai'i amends state law as proposed in HB 201, HD1, we will no longer be in compliance with the National Historic Preservation Act (NHPA) which is the federal legislation that guides the state's historic preservation program and law. Adding a provision to state law that redefines historic properties as being both "50 years old" and "100 years old" is needlessly confusing and does not comport with the NHPA.

Pursuant to the NHPA, the state receives at least \$600,000 to \$700,000 per year in Historic Preservation Fund grants from the National Park Service. These funds are a significant part of the operating budget of the State Historic Preservation Division. If the state of Hawai'i amends its historic preservation laws so that it is no longer in compliance with federal law, such vital funding could be jeopardized.

For these reasons, I OPPOSE HB 201, HD 1 and respectfully ask that the Committee HOLD the bill and not pass it any further.

Mahalo for considering my comments.

HB-201-HD-1

Submitted on: 2/27/2023 9:50:33 AM

Testimony for JHA on 3/1/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Keao NeSmith	Individual	Support	Written Testimony Only

Comments:

Please support this measure.

HB-201-HD-1

Submitted on: 2/27/2023 2:33:07 PM

Testimony for JHA on 3/1/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Dana Keawe	Individual	Support	Written Testimony Only

Comments:

support

HB-201-HD-1

Submitted on: 2/28/2023 12:33:37 PM

Testimony for JHA on 3/1/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Rona Ikehara-Quebral	Individual	Oppose	Written Testimony Only

Comments:

SUBJECT: Testimony **OPPOSING HB 201 HD1** relating to expanding the definition of “historic property” for purposes of the historic preservation program

Aloha,

I have worked in the Cultural Resources Management industry in Hawaii for over 30 years. I am submitting this testimony in **opposition** of **HB201 HD1**. The proposed change to increase the age criteria from 50 to 100 years to be considered for listing in the Hawaii Register of Historic Places would exclude places associated with significant historical events, such as World War II and Statehood, and ignore the achievements of Hawaii’s architects, artists and designers from 50 to 100 years ago. This change would also undermine previous efforts to diversify and include properties associated with historically underrepresented groups (women, people of color, and the less affluent).

Hawaii has long been a melting pot where people of all groups come together to work towards a better future for our state and our keiki. What better way than to recognize, celebrate, and protect the achievements and the history of the people and events that occurred within our lifetime.

Mahalo for the opportunity to comment on this bill.

Thank you for considering this testimony.

Kind Regards,

Rona Ikehara-Quebral, Ph.D.

Manager & Senior Bioarchaeologist

International Archaeological Research Institute, Inc., Honolulu