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# A BILL FOR AN ACT

RELATING TO HISTORIC SITES.

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

1           SECTION 1. The legislature finds that existing laws do not  
2 protect historic sites on private land from intentional  
3 destruction by the landowner, unless the site is listed on the  
4 state register of historic places, the site is a burial site, or  
5 the owner has applied for a land use permit. This situation can  
6 create an incentive for landowners to destroy such sites before  
7 applying for permits. This Act protects native Hawaiian  
8 historic sites by prohibiting landowners from destroying a  
9 potential native Hawaiian historic site unless the landowner has  
10 notified the department of land and natural resources of the  
11 proposed action and of the future use the landowner proposes for  
12 the land occupied by the native Hawaiian historic site. If the  
13 proposed use requires a land use permit, the landowner is  
14 required to complete the process under section 6E-42, Hawaii  
15 Revised Statutes. Also, if the landowner wishes to destroy a  
16 site but does not intend to undertake any activity that requires  
17 a land use permit (such as cultivation of crops), the landowner  
18 must record a covenant specifying that the landowner will not



1 apply for any such permit for ten years for the area around the  
2 site.

3 SECTION 2. Chapter 6E, Hawaii Revised Statutes, is amended  
4 by adding a new section to be appropriately designated and to  
5 read as follows:

6 **"§6E- Native Hawaiian historic sites.** (a) No  
7 landowner, or any person with the consent of the landowner, may  
8 remove, excavate, injure, or destroy a potential native Hawaiian  
9 historic site on private property, unless the landowner has  
10 notified the department of the proposed action and of the future  
11 use the landowner proposes for the land containing the potential  
12 native Hawaiian historic site.

13 (b) If the proposed use requires a permit, license,  
14 certificate, land use change, subdivision, or other entitlement  
15 for use, the landowner shall follow and complete the procedures  
16 established under section 6E-42 prior to taking any action to  
17 remove, excavate, injure, or destroy the potential native  
18 Hawaiian historic site.

19 (c) If the proposed use does not require a permit,  
20 license, certificate, land use change, subdivision, or other  
21 entitlement for use, the department shall determine within sixty  
22 days whether the site in question warrants preservation, and the



1 landowner shall not take action to remove, excavate, injure, or  
2 destroy the potential native Hawaiian historic site unless:

3 (1) The department determines that the site does not  
4 warrant preservation; or

5 (2) The landowner records a covenant running with the  
6 land, with a copy sent to the department, that the  
7 landowner will not apply for a permit, license,  
8 certificate, land use change, subdivision, or other  
9 entitlement for use issued by the State or any of its  
10 political subdivisions affecting the immediate area  
11 containing the potential native Hawaiian historic  
12 site, including the area owned by the landowner within  
13 a one-hundred-foot radius of the site, for ten years  
14 from the date of recordation.

15 (d) The department may also commence condemnation  
16 proceedings, within sixty days of notification, to purchase the  
17 site or to purchase an easement for the preservation of the  
18 site.

19 (e) No state or county agency shall issue a land use  
20 permit or other approval in contradiction of a covenant recorded  
21 under subsection (c) (2).



1       (f) Any person who knowingly violates this section shall  
2 be subject to the penalties set forth in section 6E-11.5, and,  
3 in addition, shall be prohibited from applying for a permit,  
4 license, certificate, land use change, subdivision, or other  
5 entitlement for use issued by the State or any of its political  
6 subdivisions affecting the land containing the potential native  
7 Hawaiian historic site, for ten years from the date of  
8 violation. For the purposes of this section, a landowner shall  
9 be deemed to have constructive knowledge of potential native  
10 Hawaiian historic sites on the landowner's property listed in  
11 the state inventory of historic places, or shown in any  
12 archaeological study for the property with the consent of the  
13 owner or the owner's predecessors in title."

14       SECTION 3. Section 6E-2, Hawaii Revised Statutes, is  
15 amended by adding a new definition to be appropriately inserted  
16 and to read as follows:

17       "Potential native Hawaiian historic site" means a wall,  
18 platform, stone pavement, enclosure, terrace, petroglyph, heiau,  
19 mound, ahu, auwai, trail, shrine, or any other manmade feature  
20 that is consistent in design and construction materials to  
21 features built by native Hawaiians before 1850, and for which



1 there is no credible evidence demonstrating that it was built  
2 after 1850."

3 SECTION 4. New statutory material is underscored.

4 SECTION 5. This Act shall take effect on January 1, 2025.



**Report Title:**

Native Hawaiian Historical Sites; Landowner; Private Property

**Description:**

Prohibits a landowner from removing, excavating, injuring, or destroying a potential native Hawaiian historic site on private property, unless the landowner has notified the Department of Land and Natural Resources of the proposed action; specifies procedures for landowners regarding the potential native Hawaiian historic sites. (HB1169 HD1)

