

SB 1672

Proposed SD1

EDT

LINDA LINGLE
GOVERNOR OF HAWAII



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

**Testimony of
LAURA H. THIELEN
Chairperson**

**Before the Senate Committee on
ECONOMIC DEVELOPMENT AND TECHNOLOGY**

**Monday, March 2, 2009
1:15 PM
State Capitol, Conference Room 016**

**In consideration of
SENATE BILL 1672, PROPOSED SENATE DRAFT 1
RELATING TO HISTORIC STRUCTURES**

Senate Bill 1672, Proposed Senate Draft 1 would seek to do away with the requirement for archival photos, and allows photos in any format, and limit the photo requirements of Act 228, Session Laws of Hawaii 2008 (Act 228), to buildings already deemed eligible for the State or National Registers of Historic Places to those already deemed eligible through a state or county permitting process. This would include surveys done for environmental impacts and determinations made by the Department of Land and Natural Resources' (Department) State Historic Preservation Division for demolition and alteration permits. The Department supports this measure with amendments.

The intent of Act 228, Session Laws of Hawaii 2008, is to ensure that a quality record of historic buildings lives on even after the buildings are demolished. While the Department and its Historic Preservation Division acknowledges the benefit of creating an inventory of Hawaii's built environment, the Department is nonetheless concerned that this Act places a financial burden on owners of buildings over fifty years of age without considering the structure's condition or the type of work being done. In addition, while photographs are a valuable tool for the Historic Preservation Division when reviewing applications for eligibility for listing on the state or national register, the Department certainly does not need photographs for all buildings over 50 years old nor is there the capacity to maintain an inventory of this overly-broad category of buildings.

This bill addresses those concerns by allowing photos in any format and limiting the requirement to buildings that have already been deemed eligible for the State or National Registers of Historic Places. The Department supports these changes and believes they adequately address the concerns expressed by homeowners while remaining true to the intent of Act 228, which was to document important historic buildings. The Department also acknowledges that these changes will mean that we will not be able to document all significant historic buildings.

LAURA H. THIELEN
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

RUSSELL Y. TSUJI
FIRST DEPUTY

KEN C. KAWAHARA
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

The Department does have concerns regarding the language in Section 46-3.5, Hawaii Revised Statutes (HRS), in which photographic documentation is limited to “demolition or construction within a historic district.” for the following reasons:

1. Historic districts already go through scrutiny and through a nomination to the Hawaii Historic Places Review Board. Thus, we should already have a photo record on file.
2. Changes to historic districts should comply with the secretary of interior’s standards and should already fall under the review procedures in Section 6E-10, HRS.
3. Alterations are not included in the language and alterations could significantly change a structure within a historic district, changing the nature of that district. Alterations should comply with the Secretary of Interior’s Standards.

The Department’s recommendation is to change the language to read:

“or alteration of a building eligible for listing on the Hawaii or national register of historic places as defined in Chapter 13-198, Hawaii Administrative Rules, as a result of a previous environmental assessment, environmental impact statement, or other public action involving discretionary permit processes and county generated lists”

The Department also recommends that Act 228 language and language added by this bill be struck from Section 6E-8, HRS, relating to county buildings as the Department believes that language is already strong enough to ensure protection of county buildings.

In addition, while the Department agrees that 15 days should be sufficient to review a permit if all documentation and the alteration is relatively simple, not all single family homes are simple to review and some require extensive research on past alterations, house style and location. Fifteen days may not be an adequate time to review given the volume of work and level of staffing and therefore Department requests using 20 days for the required response.



Submitted Via Capitol Website

February 4, 2009

**Senate Committees on Economic Development and Technology &
Transportation, International and Intergovernmental Affairs
Hearing Date: Wednesday, February 4, 2009, 2:00 p.m. in CR 016**

Testimony in Opposition to SB 1672: Relating to Historic Structures

Chair Carol Fukunaga, Vice-Chair Rosalyn Baker and EDT Committee Members, and
Chair J. Kalani English, Vice-Chair Mike Gabbard and TIA Committee Members:

My name is Dave Arakawa, and I am the Executive Director of the Land Use Research Foundation of Hawaii (LURF), a private, non-profit research and trade association whose members include major Hawaii landowners, developers and a utility company. One of LURF's missions is to advocate for reasonable, rational and equitable land use planning, legislation and regulations that encourage well-planned economic growth and development, while safeguarding Hawai'i's significant natural and cultural resources and public health and safety.

LURF is in **opposition** to SB 1672 because it fails to clarify and address the questions and unintended consequences caused by passage of Act 228 (2008) regarding photograph requirements of all buildings or structures over fifty years old. While we support the changes in Bill 1672 which allow the required photographs to be submitted to the Department of Land and Natural Resources (DLNR) in any format, including electronic, and allow for a shorter review time, we are opposed to the other revisions and would respectfully recommend that the bill be revised to limit the photograph requirements only apply to buildings which are on the State or Federal Historic Registers, and those buildings which have been nominated to those registers.

SB 1672. This bill is proposing to amend language of Act 228 (2008) to allow required photographs submitted to DLNR to be in any format, including electronic, when engaging in a demolition or major alteration of a historic building eligible for listing on the Hawaii or national register of historic places.

- Section 1 of SB 1672 inserts a definition of "major alteration" to be added to Section 6E-2 to include: (1) an alteration to more than fifty percent of the original structure; or (2) a two-story addition to a single story structure.
- Section 2 requires the department to provide their response to the request within thirty days for commercial structures and fifteen days for residential single family dwellings, instead of the ninety days called for in Act 228 (2008).

- Section 3 includes adds a provision that requires that any “eligible [building] eligible for listing on the Hawaii or national register of historic places” be subject to the photo requirement.
- Section 4 adds more definitions to attempt to clarify references made in the proposed language.
- Section 5 allows DLNR to convene a task force that could spearhead an accounting of eligible buildings or structures.

Background. This bill is an attempt to correct the wrongs of Act 228 (2008). The original intent of Act 228 was to obtain photographs of building eligible for listing on the Hawaii or National Register of Historic Places. When it became law, there was much confusion because Act 228 was interpreted to apply to ALL buildings fifty years or older. The original purpose of the bill was to require owners of historic buildings to submit archival-quality photographs to DLNR prior to the issuance of a building-related permit.

A number of unintended consequences resulted from Act 228, including, but not limited to, the following:

- While certain buildings may be considered as eligible for listing on the Hawaii or National Register of Historic Places at 50 years of age, every building over fifty years of age is not eligible for listing on the State or National Register.
- The requirements of Act 228 was applied to ALL where structures over fifty years old (including standard subdivision tract homes) and reviews were extended to any type of excavation was taking place. This was not the usual practice relating to building permits pre-Act 228, where the only properties that were affected were those that were considered historic property (i.e. on the Federal or State register of Historic Places).
- Act 228 has resulted in financial burdens and permit delays for owners of buildings over fifty years of age, which could never qualify to be listed on the Hawaii or Federal Register of Historic Places; and
- In some cases, the buildings may be deteriorated to such a degree that it may not warrant the expense of the archival-quality documentation necessary under this bill to receive a permit seeking to improve the condition of the structure.

LURF’s Position.

- LURF **opposes** the proposal to apply the law to buildings “eligible” for listing on the Hawaii or Federal Register of Historic Places. SB 1672 fails to remedy the problems associated with Act 228 (2008), because this proposal will confusion and questions , as the term “eligible” is vague and ambiguous and still fails to clearly identify which buildings should be required to provide photographic documentation prior to any work being done.
- LURF **respectfully recommends** that the bill be revised to limit the photograph requirements only apply to buildings which are on the State or Federal Historic Registers, and those buildings which have been nominated to those registers.
- LURF **supports** the changes in Bill 1672 which allow the required photographs to be submitted to the Department of Land and Natural Resources in any format, including electronic, and the revisions which allow for a shorter review time.

Thank you for the opportunity to express our concerns on this matter.

Report Title:

Photographs; Historic Structures; Alterations; Permits

Description:

Allows required photographs submitted to the DLNR to be in any format, including electronic, when engaging in a demolition or major alteration of a historic building which is nominated for listing or is listed on the Hawaii or national register of historic.

THE SENATE
TWENTY-FIFTH LEGISLATURE, 2009
STATE OF HAWAII

S.B. NO. 1672
PROPOSED
SD2
LURF

A BILL FOR AN ACT

RELATING TO HISTORIC STRUCTURES.

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

SECTION 1. Section 6E-2, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

"Major alteration" means a modification of a structure that involves any of the following:

(1) An alteration to more than fifty per cent of the original structure's square footage; or

(2) A two story addition to a single story structure."

SECTION 2. Section 6E-8, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Before any agency or officer of the State or its political subdivisions commences any project which may affect historic property, an aviation artifact, or a burial site, the agency or officer shall advise the department and allow the department an opportunity for review of the effect of the proposed project on historic properties, aviation artifacts, or burial sites, consistent with section 6E-43, especially those listed on the Hawaii register of historic places. The proposed project shall not be commenced, or in the event it has already begun, continued, until the department shall have given its written concurrence. In the case of any building that is nominated ~~[eligible]~~ for listing or is listed on the Hawaii or national register of historic places, no ~~demolition[, construction, or other alteration]~~ or major alteration of the building shall occur until after the

responsible agency, officer, or county has transmitted ~~[archival quality black and white]~~ photographs of the historic building to the department.

The department is to provide written concurrence or non-concurrence within ~~[ninety days]~~ thirty days for commercial structures, or fifteen days for single family dwellings, after the filing of a request with the department. The agency or officer seeking to proceed with the project, or any person, may appeal the department's concurrence or non-concurrence to the Hawaii historic places review board. ~~[An agency, officer, or other person who is dissatisfied with the decision of the review board may apply to the governor, who may request the Hawaii advisory council on historic preservation to report or who may take action as the governor deems best in overruling or sustaining the department.] "~~

SECTION 3. Section 6E-10, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) In the case of any historic building ~~[ever fifty years old,]~~ nominated for listing or is listed on the Hawaii or national register of historic places as those registers are defined in chapter 13-198, Hawaii Administrative Rules, no demolition~~[, construction, or other alteration]~~ or major alteration of the building shall occur until after the owner has transmitted to the department, at the owner's expense, ~~[archival quality black and white]~~ photographs of the building."

SECTION 4. Section 46-3.5, Hawaii Revised Statutes, is amended to read as follows:

"~~[f]~~**§46-3.5**~~[t]~~ **Photographs of historic property.**
(a) Notwithstanding any other law to the contrary, each county agency that issues building, construction, or development-related permits shall not issue any permit allowing the demolition~~[, construction, or other alteration]~~ or major alteration of a ~~[historic]~~ building eligible for listing on the Hawaii or national register of historic places as those registers are defined in chapter 13-198, Hawaii Administrative Rules, until after a permit applicant provides proof of having provided the department of land and natural resources ~~[with archival quality black~~

~~and white]~~ photographs of the historic building, as required under chapter 6E.

(b) For the purposes of this section:

"Major alteration" means a modification of a structure that involves any of the following:

(1) An alteration to more than fifty per cent of the original structure's square footage; or

(2) A two story addition to a single story structure.

"Photographs" means dated pictures, taken not more than one month prior to applying for any building permit affecting the exterior of the historic structure in any clearly visible format, including electronic formats.

"Photographs of the historic building" means at the least, pictures of the building exterior, including window treatments, doors, roof line, and interesting architectural details, such as gables, finials, rock wall foundations, or porches."

SECTION 5. The department of land and natural resources and the counties may convene and establish a single task force that is responsible for the following:

(1) Inventorying structures that have previously been recognized for their historic value through publicly-reviewed environmental assessments or environmental impact statements from 1959 to present;

(2) Identifying structures that may otherwise be culturally or historically significant, but not individually distinctive enough to be separately registered on the Hawaii or national register; and

(3) Recommending a self-sufficient funding mechanism that will enable the state historic preservation division to help preserve a broader range of culturally or historically significant structures.

If a task force is convened before December 31, 2009, the task force shall report on its recommendations to the

legislature no later than ten days prior to the convening of the 2010 regular session.

SECTION 6. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 7. This Act shall take effect upon its approval.

INTRODUCED BY:



Submitted Via Capitol Website

March 2, 2009

**Senate Committees on Economic Development and Technology
Hearing Date: Monday, March 2, 1:15 p.m. in CR 016**

**Testimony in Opposition to SB 1672 – Proposed SD1
Relating to Historic Structures**

Chair Carol Fukunaga, Vice-Chair Rosalyn H. Baker
and members of the Economic Development and Technology Committee:

My name is Dave Arakawa, and I am the Executive Director of the Land Use Research Foundation of Hawaii (LURF), a private, non-profit research and trade association whose members include major Hawaii landowners, developers and a utility company. One of LURF's missions is to advocate for reasonable, rational and equitable land use planning, legislation and regulations that encourage well-planned economic growth and development, while safeguarding Hawaii's significant natural and cultural resources and public health and safety.

LURF is in **opposition to SB 1672, proposed SD1**, because it fails to clarify and address the questions and unintended consequences caused by passage of Act 228 (2008) regarding photograph requirements of all buildings or structures over fifty years old. Our position is summarized as follows:

- LURF **supports** the changes in Bill 1672, proposed SD1 which allow the required photographs to be submitted in any clearly visible format, including electronic, to the Department of Land and Natural Resources (DLNR);
- However, LURF is **opposed to the other proposed SD1 revisions** which would mandate the photo requirements for any building that is eligible for listing.....on the Hawaii or national register of historic places, as a result of a :
 - Previous environmental assessment
 - Previous environmental impact statement,
 - Other public action involving discretionary permit processes, and
 - Other county-generated lists;" and
- LURF would **respectfully recommend as SD2, which would limit the photograph requirements only apply to buildings which are already on the State or Federal Historic Registers, and those buildings which have been nominated to those registers.**

Background. If this bill is an attempt to correct the wrongs of Act 228 (2008) – it makes **it even more confusing, hard to enforce, and subject to even more delays.** The original purpose of the bill was to require owners of historic buildings to submit archival-quality photographs to DLNR prior to the issuance of a building-related permit. The original intent of Act 228 was to obtain photographs of building eligible for listing on the Hawaii or National Register of Historic Places. When it became law, there was much confusion because Act 228 was interpreted to apply to ALL buildings fifty years or older.

A number of unintended consequences resulted from Act 228, including, but not limited to, the following:

- While certain buildings may be considered as eligible for listing on the Hawaii or National Register of Historic Places at 50 years of age, every building over fifty years of age is not eligible for listing on the State or National Register.
- The requirements of Act 228 was applied to ALL where structures over fifty years old (including standard subdivision tract homes) and reviews were extended to any type of excavation was taking place. This was not the usual practice relating to building permits pre-Act 228, where the only properties that were affected were those that were considered historic property (i.e. on the Federal or State register of Historic Places).
- Act 228 has resulted in financial burdens and permit delays for owners of buildings over fifty years of age, which could never qualify to be listed on the Hawaii or Federal Register of Historic Places; and
- In some cases, the buildings may be deteriorated to such a degree that it may not warrant the expense of the archival-quality documentation necessary under this bill to receive a permit seeking to improve the condition of the structure.

LURF's Position.

- LURF **opposes** the proposed SD revisions to apply the law to buildings “eligible” for listing on the Hawaii or Federal Register of Historic Places. SB 1672 fails to remedy the problems associated with Act 228 (2008), because this proposal will confusion and questions , as the term “eligible” is vague and ambiguous and still fails to clearly identify which buildings should be required to provide photographic documentation prior to any work being done.
- LURF also **opposes the proposed SD1 revisions** which would mandate the photo requirements for any building that is eligible for listing.....on the Hawaii or national register of historic places, as a result of a
 - Previous environmental assessment,
 - Previous environmental impact statement,
 - Other public action involving discretionary permit processes, and
 - Other county-generated lists.
- The **multitude of questions, issues and problems created by this new proposed SD1 language**, include, but are not limited to the following:
 - **Previous environmental assessment (EA)** – This proposed SD1 requirement is not limited to the specific property applying for the permits.

- An EA is a “public disclosure document.” How does an EA “result in” a building becoming “eligible for listing on the Hawaii or national register of historic places?”
 - Is there a specific master list of all EAs that can identify the specific property which is applying for permits?
 - How many EAs have ever been done in the State of Hawaii?
 - Must all of the EAs ever done in the State of Hawaii be checked?
 - What government agency is supposed to check on every EA ever done in the State?
 - Is the permit applicant required to check on every EA ever done in the State?
- **Previous environmental impact statement (EIS)** - This proposed SD1 requirement is not limited to the specific property applying for the permits.
 - An EIS is a “public disclosure document.” How does an EIS “result in” a building becoming “eligible for listing on the Hawaii or national register of historic places?”
 - Is there a specific master list of all EIS’ that can identify the specific property which is applying for permits?
 - How many EIS’ have ever been done in the State of Hawaii?
 - Must all of the EIS’ ever done in the State of Hawaii be checked?
 - What government agency is supposed to check on every EIS ever done in the State?
 - Is the permit applicant required to check on every EIS ever done in the State?
- **Other public action involving discretionary permit processes** - This proposed SD1 requirement is not limited to the specific property applying for the permits.
 - What is the exact definition of “public action?”
 - Does it cover testimony of individuals and non-experts at public hearings?
 - Does it cover testimony of individuals and non-experts at Neighborhood Board meetings?
 - Is there a specific master list of all “public action involving discretionary permit processes” that can identify the specific property which is applying for permits?
 - How many public actions have ever been done in the State of Hawaii?
 - Must all of the public actions ever done in the State of Hawaii be checked?
 - What government agency is supposed to check on every public action ever done in the State?
 - Is the permit applicant required to check on every public action ever done in the State?
- **Other “county-generated lists”** - This requirement is not limited to the specific property applying for the permits.
 - What type of county-generated lists are intended to be covered by this requirement?

- Do each of the Counties have such lists or a master list identifying such lists? How many public actions have ever been done in the State of Hawaii?
 - Must all of the “county-generated lists” ever done be checked?
 - What government agency is supposed to check on every “county-generated list” ever done by the county?
 - Is the permit applicant required to check on every county-generated list” ever done by the county?
- LURF **respectfully recommends** that this bill be revised to limit the **photograph requirements only apply to buildings which are on the State or Federal Historic Registers, and those buildings which have been nominated to those registers.** This is can be an easily identifiable list of buildings. These revisions, along with others, are included in the attached copy of LURF’s proposed SD2, for your reference.
 - LURF **supports** the changes in Bill 1672, SD1, which allow the required photographs to be submitted to the DLNR in any clearly visible format, including electronic, and the revisions which allow for a shorter review time.

Based on the above, we respectfully request that SB 1672, proposed SD1 **be held** in the Senate Committee on Economic Development and Technology, and that the Committee **favorably consider and approve the attached SD2**, prepared by LURF.

Thank you for the opportunity to express our **opposition to SB 1672, proposed SD1**, and your review and **favorable consideration of LURF’s proposed SD2**.

Report Title:

Photographs; Historic Structures; Alterations; Permits

Description:

Allows required photographs submitted to the DLNR to be in any format, including electronic, when engaging in a demolition or major alteration of a historic building which is nominated for listing or is listed on the Hawaii or national register of historic.

THE SENATE
TWENTY-FIFTH LEGISLATURE, 2009
STATE OF HAWAII

S.B. NO. 1672
PROPOSED
SD2
LURF

A BILL FOR AN ACT

RELATING TO HISTORIC STRUCTURES.

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

SECTION 1. Section 6E-2, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

"Major alteration" means a modification of a structure that involves any of the following:

(1) An alteration to more than fifty per cent of the original structure's square footage; or

(2) A two story addition to a single story structure."

SECTION 2. Section 6E-8, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Before any agency or officer of the State or its political subdivisions commences any project which may affect historic property, an aviation artifact, or a burial site, the agency or officer shall advise the department and allow the department an opportunity for review of the effect of the proposed project on historic properties, aviation artifacts, or burial sites, consistent with section 6E-43, especially those listed on the Hawaii register of historic places. The proposed project shall not be commenced, or in the event it has already begun, continued, until the department shall have given its written concurrence. In the case of any building that is nominated [~~eligible~~] for listing or is listed on the Hawaii or national register of historic places, no demolition [~~, construction, or other alteration~~] or major alteration of the building shall occur until after the responsible agency, officer, or county has transmitted [~~archival quality black and white~~] photographs of the historic building to the department.

The department is to provide written concurrence or non-concurrence within [~~ninety days~~] thirty days for commercial structures, or fifteen days for single family

dwellings, after the filing of a request with the department. The agency or officer seeking to proceed with the project, or any person, may appeal the department's concurrence or non-concurrence to the Hawaii historic places review board. [~~An agency, officer, or other person who is dissatisfied with the decision of the review board may apply to the governor, who may request the Hawaii advisory council on historic preservation to report or who may take action as the governor deems best in overruling or sustaining the department.~~]"

SECTION 3. Section 6E-10, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) In the case of any historic building [~~over fifty years old,~~] nominated for listing or is listed on the Hawaii or national register of historic places as those registers are defined in chapter 13-198, Hawaii Administrative Rules, no demolition[~~, construction, or other alteration~~] or major alteration of the building shall occur until after the owner has transmitted to the department, at the owner's expense, [~~archival quality black and white~~] photographs of the building."

SECTION 4. Section 46-3.5, Hawaii Revised Statutes, is amended to read as follows:

"[~~§~~46-3.5] **Photographs of historic property.** (a) Notwithstanding any other law to the contrary, each county agency that issues building, construction, or development-related permits shall not issue any permit allowing the demolition[~~, construction, or other alteration~~] or major alteration of a [~~historic~~] building nominated for listing on the Hawaii or national register of historic places as those registers are defined in chapter 13-198, Hawaii Administrative Rules, until after a permit applicant provides proof of having provided the department of land and natural resources [~~with archival quality black and white~~] photographs of the historic building, as required under chapter 6E.

(b) For the purposes of this section:

"Major alteration" means a modification of a structure that involves any of the following:

(1) An alteration to more than fifty per cent of the original structure's square footage; or

(2) A two story addition to a single story structure.

SB 1672
Proposed SD2

Land Use Research Foundation
Page 4 of 4

"Photographs" means dated pictures, taken not more than one month prior to applying for any building permit affecting the exterior of the historic structure in any clearly visible format, including electronic formats.

"Photographs of the historic building" means at the least, pictures of the building exterior, including window treatments, doors, roof line, and interesting architectural details, such as gables, finials, rock wall foundations, or porches."

SECTION 5. The department of land and natural resources and the counties may convene and establish a single task force that is responsible for the following:

(1) Inventorying structures that have previously been recognized for their historic value through publicly-reviewed environmental assessments or environmental impact statements from 1959 to present;

(2) Identifying structures that may otherwise be culturally or historically significant, but not individually distinctive enough to be separately registered on the Hawaii or national register; and

(3) Recommending a self-sufficient funding mechanism that will enable the state historic preservation division to help preserve a broader range of culturally or historically significant structures.

If a task force is convened before December 31, 2009, the task force shall report on its recommendations to the legislature no later than ten days prior to the convening of the 2010 regular session.

SECTION 6. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 7. This Act shall take effect upon its approval.

INTRODUCED BY: _____

TO: Senator Carol Fukunaga
Chair, Senate Committee on Economic Development & Technology

FROM: Myoung Oh

DATE: March 1, 2009

RE: S.B. 1672 – Relating to Historic Preservation

Dear Senator Fukunaga:

As the primary sponsor in the Senate in addressing the many unintended consequences of Act 228, we are providing you with comments on behalf of the Hawaii Association of REALTORS®.

HAR is in support of the amendments proposed by the Land Use Research Foundation. We have provided brief comments as well as a suggested amendment based on LURF's proposed language below:

- 1) HAR believes "eligible for a listing" will continue to delay permit requests that are submitted to Department of Planning or Permitting (Oahu) and State Historic Preservation Division. We support recommendations to replace "eligible" with "nominated."

Page 3, last sentence, §46-3.5 Photographs of historic property.
It may have been an oversight but HAR humbly requests that "eligible" be removed and replaced with "nominated" for a listing.

- 2) Section 6E-10. HAR has no position as to retaining "fifty years old" as a trigger. However, we strongly support LURF's language as to both "nominated for listing or is listed." This will allow a combination of buildings both fifty years old and either nominated or listed on the Register.
- 3) HAR continues to support the application of the Act to properties that are either being demolished or planned for major alteration.

Thank you for your consideration. HAR looks forward to participating in further discussion on this measure.

Myoung Oh

Attachment

**Testimony before the Committee on Economic Development and Technology
Senate, Regular Session of 2009**

**by Philip Hauret
Senior Land Agent, Land & Rights of Way Department
Hawaiian Electric Company, Inc.**

March 2, 2009

Senate Bill 1672 SD1, Relating to Historic Structures

Chair Fukunaga and Members of the Committee:

My name is Phil Hauret and I am testifying on behalf of the Hawaiian Electric Company (HECO) and its subsidiaries, Hawaii Electric Light Company and Maui Electric Company.

We support the intent of SB 1672 SD1 to address the concerns relating to Act 228, but are recommending some amendments for the Committee's consideration.

As background, HECO was the only private party to express concerns last year about Act 228, which this bill attempts to amend. HECO owns and continues to operate a number of older buildings that were either affected by Act 228, or will soon be. We have also participated in the working group that was formed late last year to address the negative and unintended consequences of Act 228.

Of the bills that have been introduced this year to address the pitfalls of Act 228, we believe that SB 1672 has been the best vehicle for correcting them. However, we respectfully request that SD1 be amended to improve clarity and address practical implications as follows:

- The definition of "major alteration", found in the original draft of SB 1672, should be added to Sections 1, 2 and 3, so that they would read instead as "demolition or major alteration."
- We are concerned that the broader filtering definition of buildings found in SD1 ("...eligible for listing on the Hawaii or national register...county-generated lists") is still too imprecise to be practical. We question whether such a database exists, and believe that the prior language of "listed or nominated to be listed" would provide greater clarity and guidance to government agencies tasked with implementing these statutes.

Thank you for the opportunity to testify.

AIA Hawaii State Council

A Chapter of The American Institute of Architects



March 2, 2009

Honorable Carol Fukunaga, Chair
Senate Committee on Economic Development and Technology

RE: Senate Bill 1672 SD1
Relating to Historic Structures

Dear Chair Fukunaga and Members of the Committee:

The AIA Hawaii State Council wishes to express its support of Senate Draft 1 of the bill. We appreciate your efforts to address the problems in the previous language of the bill and feel the current language is a significant improvement over earlier versions of bills trying to address the problems created by Bill 228.

We would appreciate being notified of any changes being considered to the SD1 language.

Thank you

A handwritten signature in blue ink that reads "Glenn Mason". The signature is fluid and cursive, with a long horizontal stroke at the end.

Glenn Mason, AIA

cc. John Fullmer, President, AIA Hawaii State Council
Paul Louie, AIA
Dan Chun, FAIA