

JAN 27 2021

A BILL FOR AN ACT

RELATING TO HISTORIC PRESERVATION.

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

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

4 ""Pre-contact historic property" means any building,
5 structure, object, district, area, or site, including but not
6 limited to heiau, unu, ahu, ko'a fishing shrine, loko i'a fishpond,
7 agricultural complex, habitation complex, salt pond complex, and
8 holua slide, that existed prior to 1779."

9 SECTION 2. Section 6E-3, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "~~S6E-3~~ **Historic preservation program.** There is
12 established within the department a division to administer a
13 comprehensive historic preservation program, which shall include
14 but not be limited to the following:

15 (1) Development of an ongoing program of historical,
16 architectural, and archaeological research and
17 development, including surveys, excavations,



1 scientific recording, interpretation, signage, and
2 publications on the State's historical and cultural
3 resources;

4 (2) Acquisition of historic or cultural properties, real
5 or personal, in fee or in any lesser interest, by
6 gift, purchase, condemnation, devise, bequest, land
7 exchange, or other means; preservation, restoration,
8 administration, or transference of the property; and
9 the charging of reasonable admissions to that
10 property;

11 (3) Development of a statewide survey and inventory to
12 identify and document historic properties, aviation
13 artifacts, and burial sites, including all those owned
14 by the State and the counties;

15 (4) Preparation of information for the Hawaii register of
16 historic places and listing on the national register
17 of historic places;

18 (5) Preparation, review, and revisions of a state historic
19 preservation plan, including budget requirements and
20 land use recommendations;



- 1 (6) Application for and receipt of gifts, grants,
2 technical assistance, and other funding from public
3 and private sources for the purposes of this chapter;
- 4 (7) Provision of technical and financial assistance and
5 consultation to the counties and public and private
6 agencies involved in historic preservation activities;
- 7 (8) Development, publication, and distribution to the
8 public of informational materials regarding statutory
9 protections for burials, historic sites, and
10 archaeological resources, including the process of
11 project reviews established by this chapter;
- 12 ~~(8)~~ (9) Coordination of activities of the counties in
13 accordance with the state plan for historic
14 preservation;
- 15 ~~(9)~~ (10) Stimulation of public interest in historic
16 preservation, including the development and
17 implementation of interpretive programs for historic
18 properties listed on or eligible for the Hawaii
19 register of historic places;
- 20 ~~(10)~~ (11) Coordination of the evaluation and management of
21 burial sites as provided in section 6E-43;



1 ~~(11)~~ (12) Acquisition of burial sites in fee or in any
2 lesser interest, by gift, purchase, condemnation,
3 devise, bequest, land exchange, or other means, to be
4 held in trust;

5 ~~(12)~~ (13) Submittal of an annual report to the governor
6 and legislature detailing the accomplishments of the
7 year, recommendations for changes in the state plan or
8 future programs relating to historic preservation, and
9 an accounting of all income, expenditures, and the
10 fund balance of the Hawaii historic preservation
11 special fund;

12 ~~(13)~~ (14) Regulation of archaeological activities
13 throughout the State;

14 ~~(14)~~ (15) Employment of sufficient professional and
15 technical staff for the purposes of this chapter which
16 shall be in accordance with chapter 76;

17 ~~(15)~~ (16) The charging of fees to be determined by the
18 department that are proportional to the nature and
19 complexity of the projects or services provided, and
20 adjusted from time to time to ensure that the
21 proceeds, together with all other fines, income, and



1 penalties collected under this chapter, do not surpass
 2 the annual operating costs of the comprehensive
 3 historic preservation program;

4 [~~16~~] (17) Adoption of rules in accordance with chapter 91,
 5 necessary to carry out the purposes of this chapter;
 6 and

7 [~~17~~] (18) Development and adoption, in consultation with
 8 the office of Hawaiian affairs native historic
 9 preservation council, of rules governing permits for
 10 access by native Hawaiians and Hawaiians to cultural,
 11 historic, and pre-contact sites and monuments."

12 SECTION 3. Section 6E-5.5, Hawaii Revised Statutes, is
 13 amended by amending subsections (a) and (b) to read as follows:

14 "(a) There is created a review board, to be designated the
 15 Hawaii historic places review board, for the Hawaii register of
 16 historic places and the national register of historic places
 17 which shall meet the requirements of federal law. The board
 18 shall be placed within the department of land and natural
 19 resources for administrative purposes and shall consist of ten
 20 members to be appointed and removed by the governor as provided
 21 in section 26-34. The board shall include one professionally



1 qualified member of each of the following disciplines:
2 archaeology, architecture, history, and sociology. In addition,
3 there shall be [~~one person~~] two people knowledgeable in
4 traditional Hawaiian society and culture.

5 (b) The review board shall:

- 6 (1) Order and enter historic properties into the Hawaii
7 register of historic places on the basis of their
8 value to Hawaii's heritage[+], including but not
9 limited to native Hawaiian culture and history;
- 10 (2) Evaluate and, when appropriate, recommend the
11 nomination of historic properties to the national
12 register of historic places;
- 13 (3) Review the state survey of historic properties
14 undertaken in accordance with this chapter;
- 15 (4) Review the content of the state historic preservation
16 plan developed in accordance with this chapter;
- 17 (5) Elect a chairperson and a vice-chairperson and adopt
18 such rules as are necessary for the purposes of this
19 section;
- 20 (6) Maintain the Hawaii register of historic places,
21 including all those listed on the national register of



1 historic places, and a program of notification and
2 publication regarding properties on the registers; and
3 (7) Develop policies on signage in historic districts."

4 SECTION 4. Section 6E-11, Hawaii Revised Statutes, is
5 amended by amending subsection (f) to read as follows:

6 "(f) Any person who violates this section shall be fined
7 not more than [~~\$10,000~~] \$20,000 for each separate violation. If
8 the violator directly or indirectly causes the loss of, or
9 damage to, any pre-contact historic property as determined by
10 the department in consultation with the office of Hawaiian
11 affairs, the violator shall be fined no more than \$30,000 for
12 each separate violation. If the violator directly or indirectly
13 has caused the loss of, or damage to, any historic property or
14 burial site, the violator shall be fined an additional amount
15 determined by the environmental court or an administrative
16 adjudicative authority to be equivalent to the value of the lost
17 or damaged historic property or burial site. Each day of
18 continued violation of this provision shall constitute a
19 distinct and separate violation for which the violator may be
20 punished. Any landowner or developer responsible for any
21 project where violations are found to have occurred shall



1 execute any mitigation and preservation measures ordered by the
2 department and shall be jointly and severally liable for any
3 costs of mitigation and preservation. Equipment used by a
4 violator for the taking, appropriation, excavation, injury,
5 destruction, or alteration of any historic property or burial
6 site, or for the transportation of the violator to or from the
7 historic property or burial site, shall be subject to seizure
8 and disposition by the State without compensation to its owner
9 or owners."

10 SECTION 5. Section 6E-11.5, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "**§6E-11.5 Civil penalties.** Except as provided in section
13 6E-11, any person who violates this chapter, or any rule adopted
14 pursuant to this chapter shall be fined not less than \$500 nor
15 more than [~~\$10,000~~] \$20,000 for each separate violation. If the
16 violator directly or indirectly causes the loss of, or damage
17 to, any pre-contact historic property as determined by the
18 department in consultation with the office of Hawaiian affairs,
19 the violator shall be fined no more than \$30,000 for each
20 separate violation. Each day of each violation constitutes a
21 separate violation."



1 SECTION 6. Section 6E-12, Hawaii Revised Statutes, is
2 amended by amending subsection (d) to read as follows:

3 "(d) Any person violating this section shall be fined no
4 more than [~~\$10,000.~~] \$25,000. Each historic object or part of a
5 prehistoric or historic human skeleton or associated burial good
6 offered for sale or trade or removed from the jurisdiction in
7 violation of this section shall constitute a distinct and
8 separate offense for which the offender may be punished."

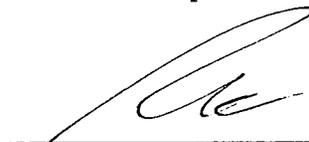
9 SECTION 7. This Act does not affect rights and duties that
10 matured, penalties that were incurred, and proceedings that were
11 begun before its effective date.

12 SECTION 8. Statutory material to be repealed is bracketed
13 and stricken. New statutory material is underscored.

14 SECTION 9. This Act shall take effect upon its approval.

15

INTRODUCED BY: _____



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S.B. NO. 1411

Report Title:

Historic Preservation Program; Pre-contact Historic Property; Duties; Hawaii Historic Places Review Board; Penalties

Description:

Defines "pre-contact historic property". Clarifies that the historic preservation program includes providing consultation to counties and public and private agencies involved in historic preservation and the development, publication, and distribution of materials about protections for burials, historic sites, and archaeological resources. Amends the composition and duties of the Hawaii historic places review board. Increases civil and administrative fines for certain violations of historic and preservation requirements and makes violators liable for costs associated with mitigation or restoration measures.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

