
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
7 fishpond, agricultural complex, habitation complex, salt pond
8 complex, and holua slide, that existed prior to 1778."

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

11 **"§6E-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 to the
5 counties and public and private agencies involved in
6 historic preservation activities;
- 7 (8) Development, publication, and distribution to the
8 public and developers of informational materials
9 regarding statutory protections for burials, historic
10 sites, and archaeological resources, including the
11 process of project reviews established by this
12 chapter, and consultation services on the
13 informational materials;
- 14 ~~[(8)]~~ (9) Coordination of activities of the counties in
15 accordance with the state plan for historic
16 preservation;
- 17 ~~[(9)]~~ (10) Stimulation of public interest in historic
18 preservation, including the development and
19 implementation of interpretive programs for historic
20 properties listed on or eligible for the Hawaii
21 register of historic places;



- 1 [~~(10)~~] (11) Coordination of the evaluation and management of
2 burial sites as provided in section 6E-43;
- 3 [~~(11)~~] (12) Acquisition of burial sites in fee or in any
4 lesser interest, by gift, purchase, condemnation,
5 devise, bequest, land exchange, or other means, to be
6 held in trust;
- 7 [~~(12)~~] (13) Submittal of an annual report to the governor
8 and legislature detailing the accomplishments of the
9 year, recommendations for changes in the state plan or
10 future programs relating to historic preservation, and
11 an accounting of all income, expenditures, and the
12 fund balance of the Hawaii historic preservation
13 special fund;
- 14 [~~(13)~~] (14) Regulation of archaeological activities
15 throughout the State;
- 16 [~~(14)~~] (15) Employment of sufficient professional and
17 technical staff for the purposes of this chapter,
18 which shall be in accordance with chapter 76;
- 19 [~~(15)~~] (16) The charging of fees to be determined by the
20 department that are proportional to the nature and
21 complexity of the projects or services provided, and



1 adjusted from time to time to ensure that the
2 proceeds, together with all other fines, income, and
3 penalties collected under this chapter, do not surpass
4 the annual operating costs of the comprehensive
5 historic preservation program;

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

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

14 SECTION 3. Section 6E-11, Hawaii Revised Statutes, is
15 amended by amending subsection (f) to read as follows:

16 "(f) Any person who violates this section shall be fined
17 not more than ~~[\$10,000]~~ \$25,000 for each separate violation. If
18 the violator directly or indirectly causes the loss of, or
19 damage to, any pre-contact historic property as determined by
20 the department the violator shall be fined no more than \$30,000
21 for each separate violation; provided that when making a



1 determination of loss or damage, the department may consult with
2 the office of Hawaiian affairs. If the violator directly or
3 indirectly has caused the loss of, or damage to, any historic
4 property or burial site, the violator shall be fined an
5 additional amount determined by the environmental court or an
6 administrative adjudicative authority to be equivalent to the
7 value of the lost or damaged historic property or burial site.
8 Each day of continued violation of this provision shall
9 constitute a distinct and separate violation for which the
10 violator may be punished. Any landowner or developer
11 responsible for any project where violations are found to have
12 occurred shall execute any mitigation and preservation measures
13 ordered by the department and shall be jointly and severally
14 liable for any costs of mitigation and preservation. Equipment
15 used by a violator for the taking, appropriation, excavation,
16 injury, destruction, or alteration of any historic property or
17 burial site, or for the transportation of the violator to or
18 from the historic property or burial site, shall be subject to
19 seizure and disposition by the State without compensation to its
20 owner or owners."



SECTION 4. Section 6E-11.5, Hawaii Revised Statutes, is amended to read as follows:

"§6E-11.5 Civil penalties. Except as provided in section 6E-11, any person who violates this chapter, or any rule adopted pursuant to this chapter shall be fined not less than \$500 nor more than [~~\$10,000~~] \$25,000 for each separate violation. If the violator directly or indirectly causes the loss of, or damage to, any pre-contact historic property as determined by the department the violator shall be fined no more than \$30,000 for each separate violation; provided that when making a determination of loss or damage, the department may consult with the office of Hawaiian affairs. Each day of each violation constitutes a separate violation."

SECTION 5. Section 6E-12, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

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



H.B. NO. 2489

1 SECTION 6. This Act does not affect rights and duties that
2 matured, penalties that were incurred, and proceedings that were
3 begun before its effective date.

4 SECTION 7. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 8. This Act shall take effect upon its approval.

7

INTRODUCED BY:



JAN 26 2022



H.B. NO. 2489

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 the development, publication, and distribution of materials and consultation services about protections for burials, historic sites, and archaeological resources. 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.

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