
A BILL FOR AN ACT

RELATING TO HOUSING.

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

1 SECTION 1. Section 6E-2, Hawaii Revised Statutes, is
2 amended by amending the definition of "historic property" to
3 read as follows:

4 ""Historic property" means any building, structure, object,
5 district, area, or site, including heiau and underwater site[~~7~~
6 ~~which~~] that is over [~~fifty~~] one hundred years old."

7 SECTION 2. Section 6E-8, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "**§6E-8 Review of effect of proposed state projects.** (a)
10 Before any agency or officer of the State or its political
11 subdivisions commences any project [~~which~~] that may affect
12 historic property, aviation artifact, or a burial site, the
13 agency or officer shall advise the department and allow the
14 department an opportunity for review of the effect of the
15 proposed project on historic properties, aviation artifacts, or
16 burial sites, consistent with section 6E-43, especially those
17 listed on the Hawaii register of historic places. The proposed



1 project shall not be commenced, or if it has already begun,
2 continued, until the department has given its written
3 concurrence. If:

- 4 (1) The proposed project consists of corridors or large
5 land areas;
- 6 (2) Access to properties is restricted; or
- 7 (3) Circumstances dictate that construction be done in
8 stages,

9 the department may give its written concurrence based on a
10 phased review of the project; provided that there shall be a
11 programmatic agreement between the department and the project
12 applicant that identifies each phase and the estimated timelines
13 for each phase.

14 The department shall provide written concurrence or non-
15 concurrence within ninety days after the filing of a request
16 with the department. The agency or officer seeking to proceed
17 with the project, or any person, may appeal the department's
18 concurrence or non-concurrence to the Hawaii historic places
19 review board. An agency, officer, or other person who is
20 dissatisfied with the decision of the review board may apply to



1 the governor, who may take action as the governor deems best in
2 overruling or sustaining the department.

3 (b) The department of Hawaiian home lands, prior to any
4 proposed project relating to lands under its jurisdiction, shall
5 consult with the department regarding the effect of the project
6 upon historic property or a burial site.

7 (c) The State, its political subdivisions, agencies, and
8 officers shall report to the department the finding of any
9 historic property during any project and shall cooperate with
10 the department in the investigation, recording, preservation,
11 and salvage of the property.

12 (d) The department may retain a third-party consultant to
13 conduct the review described under subsection (a) if, after an
14 initial evaluation, the department determines that:

15 (1) It is not able to provide its written concurrence or
16 non-concurrence within sixty days of the filing of the
17 request with the department;

18 (2) The third-party consultant has the qualifications and
19 experience required pursuant to subsection (e) to
20 conduct the review; and



1 (3) The third-party consultant will be required by
2 contract to provide a recommendation to the department
3 within thirty days of the filing of the request with
4 the department.

5 The department shall obtain the approval of the appropriate
6 island burial council and aha moku council prior to retaining
7 the services of the third-party consultant.

8 (e) Whenever the department retains any third party,
9 including an architect, engineer, archaeologist, planner, or
10 other person to review an application for a permit, license, or
11 approval under subsection (d), the third party shall meet the
12 educational and experience standards and the qualifications for
13 preservation professionals established pursuant to rules adopted
14 by the state historic preservation division.

15 ~~[(d)]~~ (f) The department shall adopt rules in accordance
16 with chapter 91 to implement this section."

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

19 "**§6E-10 Privately owned historic property.** (a) Before
20 any construction, alteration, disposition, or improvement of any
21 nature, by, for, or permitted by a private landowner may be



1 commenced [~~which~~] that will affect [~~an~~] a historic property on
2 the Hawaii register of historic places, the landowner shall
3 notify the department of the construction, alteration,
4 disposition, or improvement of any nature and allow the
5 department opportunity for review of the effect of the proposed
6 construction, alteration, disposition, or improvement of any
7 nature on the historic property. The proposed construction,
8 alteration, disposition, or improvement of any nature shall not
9 be commenced, or in the event it has already begun, continue,
10 until the department shall have given its concurrence or ninety
11 days have elapsed. Within ninety days after notification, the
12 department shall:

13 (1) Commence condemnation proceedings for the purchase of
14 the historic property if the department and property
15 owner do not agree upon an appropriate course of
16 action;

17 (2) Permit the owner to proceed with the owner's
18 construction, alteration, or improvement; or

19 (3) In coordination with the owner, undertake or permit
20 the investigation, recording, preservation, and
21 salvage of any historical information deemed necessary



1 to preserve Hawaiian history, by any qualified agency
2 for this purpose.

3 (b) Nothing in this section shall be construed to prevent
4 the ordinary maintenance or repair of any feature in or on an
5 historic property that does not involve a change in design,
6 material, or outer appearance or change in those characteristics
7 [~~which~~] that qualified the historic property for entry onto the
8 Hawaii register of historic places.

9 (c) Any person, natural or corporate, who violates the
10 provisions of this section shall be fined not more than \$1,000,
11 and each day of continued violation shall constitute a distinct
12 and separate offense under this section for which the offender
13 may be punished.

14 (d) If funds for the acquisition of needed property are
15 not available, the governor may, upon the recommendation of the
16 department, allocate from the contingency fund an amount
17 sufficient to acquire an option on the property or for the
18 immediate acquisition, preservation, restoration, or operation
19 of the property.



1 (e) The department may retain a third-party consultant to
2 conduct the review described under subsection (a) if, after an
3 initial evaluation, the department determines that:

4 (1) It is not able to provide its written concurrence or
5 non-concurrence within sixty days of the landowner's
6 notification of construction, alteration, disposition,
7 or improvement;

8 (2) The third-party consultant has the qualifications and
9 experience required pursuant to subsection (f) to
10 conduct the review; and

11 (3) The third-party consultant will be required by
12 contract to provide a recommendation to the department
13 within thirty days of the landowner's notification of
14 construction, alteration, disposition, or improvement.

15 The department shall obtain the approval of the appropriate
16 island burial council and aha moku council prior to contracting
17 to retain the services of the third-party consultant.

18 (f) Whenever the department retains any third party,
19 including an architect, engineer, archaeologist, planner, or
20 other person, to review an application for a permit, license, or
21 approval under subsection (e), the third party shall meet the



1 educational and experience standards as well as the
2 qualifications for preservation professionals established
3 pursuant to rules adopted by the state historic preservation
4 division.

5 ~~[(e)]~~ (g) The department or third-party consultant, as
6 applicable, may enter, solely in performance of ~~[its]~~ the
7 department's official duties and only at reasonable times, upon
8 private lands for examination or survey thereof. Whenever any
9 member of the department or the department's third-party
10 consultant, as applicable, who is duly authorized to conduct
11 investigations and surveys of ~~[an]~~ a historic or cultural nature
12 determines that entry onto private lands for examination or
13 survey of historic or cultural finding is required, the
14 department or the department's third-party consultant, as
15 applicable, shall give written notice of the finding to the
16 owner or occupant of such property at least five days prior to
17 entry. If entry is refused, the member or the department's
18 third-party consultant, as applicable, may make a complaint to
19 the district environmental court in the circuit in which such
20 land is located. The district environmental court may thereupon
21 issue a warrant, directed to any police officer of the circuit,



1 commanding the officer to take sufficient aid, and, being
2 accompanied by a member of the department[7] or the department's
3 third-party consultant, as applicable, between the hours of
4 sunrise and sunset, allow the member of the department or the
5 department's third-party consultant, as applicable, to examine
6 or survey the historic or cultural property."

7 SECTION 4. Section 6E-42, Hawaii Revised Statutes, is
8 amended to read as follows:

9 **"§6E-42 Review of proposed projects.** (a) Except as
10 provided in section 6E-42.2, before any agency or officer of the
11 State or its political subdivisions approves any project
12 involving a permit, license, certificate, land use change,
13 subdivision, or other entitlement for use[7-which] that may
14 affect historic property, aviation artifacts, or a burial site,
15 the agency or office shall advise the department, and prior to
16 any approval, allow the department an opportunity for review and
17 comment on the effect of the proposed project on historic
18 properties, aviation artifacts, or burial sites, consistent with
19 section 6E-43, including those listed in the Hawaii register of
20 historic places. If:



1 (1) The proposed project consists of corridors or large
2 land areas;
3 (2) Access to properties is restricted; or
4 (3) Circumstances dictate that construction be done in
5 stages,
6 the department's review and comment may be based on a phased
7 review of the project; provided that there shall be a
8 programmatic agreement between the department and the project
9 applicant that identifies each phase and the estimated timelines
10 for each phase.

11 (b) The department shall inform the public of any project
12 proposals submitted to it under this section that are not
13 otherwise subject to the requirement of a public hearing or
14 other public notification.

15 (c) The department may retain a third-party consultant to
16 conduct the review described under subsection (a) if, after an
17 initial evaluation, the department determines that:

18 (1) It is not able to provide its written concurrence or
19 non-concurrence within sixty days of being advised of
20 the project pursuant to subsection (a);



1 (2) The third-party consultant has the qualifications and
2 experience required pursuant to subsection (d) to
3 conduct the review; and

4 (3) The third-party consultant will be required by
5 contract to provide a recommendation to the department
6 within thirty days of being advised of the project
7 pursuant to subsection (a).

8 The department shall obtain the approval of the appropriate
9 island burial council and aha moku council prior to contracting
10 to retain the services of the third-party consultant.

11 (d) Whenever the department retains any third party,
12 including an architect, engineer, archaeologist, planner, or
13 other person to review an application for a permit, license, or
14 approval under subsection (c), the third party shall meet the
15 educational and experience standards and the qualifications for
16 preservation professionals established pursuant to rules adopted
17 by the state historic preservation division.

18 ~~[(e)]~~ (e) The department shall adopt rules in accordance
19 with chapter 91 to implement this section."



1 SECTION 5. 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 6. Statutory material to be repealed is bracketed
5 and stricken. New material is underscored.

6 SECTION 7. This Act shall take effect on June 30, 3000,
7 and shall be repealed on July 1, 2028, and sections 6E-8, 6E-10,
8 and 6E-42, Hawaii Revised Statutes, shall be reenacted in the
9 form in which they read on the day before the effective date of
10 this Act.



Report Title:

Historic Preservation; Historic Property; State Historic
Preservation Division; Third-party Review

Description:

Amends the definition of "historic property" under the State's
historic preservation program from fifty to one hundred years.
Temporarily allows the State Historic Preservation Division to
contract out for third-party reviews of application and
notifications. Sunsets 7/1/2028. Effective 6/30/3000. (HD1)

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

