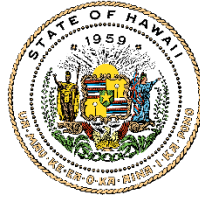


JOSH GREEN, M.D.  
GOVERNOR | KE KIA'ĀINA

SYLVIA LUKE  
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA



STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAII'  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
KA 'OIHANA KUMUWAIWAI 'ĀINA

P.O. BOX 621  
HONOLULU, HAWAII 96809

DAWN N.S. CHANG  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE  
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FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

Testimony of  
DAWN N.S. CHANG  
Chairperson

Before the Senate Committee on  
WATER AND LAND

Monday, March 13, 2023  
1:00 PM

State Capitol, Conference Room 229, Via Videoconference

In consideration of  
HOUSE BILL 201, HOUSE DRAFT 2  
RELATING TO HISTORIC PRESERVATION

House Bill 201, House Draft 2 proposes to amend the definition of “historic property” in Section 6E-2, Hawaii Revised Statutes (HRS), by requiring that a property be eligible for inclusion in the Hawaii Register of Historic Places (Hawaii Register) and 50-years old, or 100-years old. **The Department of Land and Natural Resources (Department) supports this measure, and recommends an important amendment.**

The Department agrees that the current definition of historic property which relies entirely on age alone to define what is or is not historic is flawed. In prior sessions, the Department has supported measures to amend the definition. The Department appreciates that the House Committee on Water and Land amended this measure to include the requirement that a property be both 50-years old and eligible for inclusion in the Hawaii Register. The Department believes that this is entirely appropriate and will allow for appropriate consideration of properties that are truly historic rather than simply old. The Department believes that defining historic property by age alone is the problem. Historical value is a reflection of age *and* association with events, people, architectural distinction, or valuable historic, scientific, or cultural information. House Bill 201, House Draft 2 defines historic property based on both age and historical association.

The Department believes that even properties that are 100-years old or older should still have to qualify for inclusion in the Hawaii Register to be considered historic. Without the additional requirement of historic association, many poor-quality structures without historic significance to Hawai'i could be included in the Hawaii Register. This inappropriate inclusion could have unforeseen negative consequences as Hawai'i grapples with many other issues such as sea level rise, more frequent storm events and flooding, and the need for low-income and affordable housing. Accordingly, the Department

recommends that SECTION 1 of House Bill 201, House Draft 2 be amended (highlighted in gray) on line 5, line 15, and all of line 16 as follows:

""Historic property" means any building, structure, object, district, area, or site, including a heiau ~~and~~ or an underwater site, ~~which~~ that is ~~over~~:

(1) Over fifty years old[-] and meets the criteria to be placed onto the Hawaii register of historic places or has important value to Native Hawaiians or other ethnic groups of the State due to associations with cultural practices once carried out, or still being carried out, at the property or due to associations with traditional beliefs, events, or oral accounts that are important to the group's history, traditional practices, and cultural identity[; or

~~(2) Over one hundred years old].~~

Mahalo for the opportunity to provide testimony in support of this measure with the proposed amendments.

March 13, 2023

**The Honorable Lorraine R. Inouye, Chair**

Senate Committee on Water and Land

State Capitol, Conference Room 229 & Videoconference

**RE: House Bill 201, HD2, Relating to Historic Preservation**

**HEARING: Monday, March 13, 2023, at 1:00 p.m.**

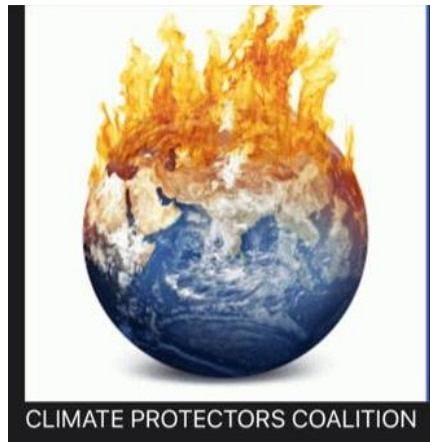
Aloha Chair Inouye, Vice Chair Elefante, and Members of the Committee:

My name is Lyndsey Garcia, Director of Advocacy, testifying on behalf of the Hawai'i Association of REALTORS® ("HAR"), the voice of real estate in Hawai'i and its over 11,000 members. HAR **supports** House Bill 201, HD2, which expands the definition of "historic property" for purposes of the historic preservation program. Effective 6/30/3000.

Currently, Hawai'i Revised Statutes Chapter 6E, defines a historic property as, "any building, structure, object, district, area or site, including heiau and under water site, which is over fifty years old. With the current definition, the number of homes and buildings that qualify has continued to increase. This can be challenging for homeowners that must comply with the historic preservation review process for permits, even when their properties have no historical significance. For example, homes in Mililani were built in 1968, and homes there can be over 55 years old.

Furthermore, current law can also be challenging for the State Historic Preservation Division, as they will have to review properties simply because the property is over 50 years old, even without historical significance. As such, amending the definition of a historic property to either properties that are over 100 years old or 50 years old that meet the criteria to be placed onto the Hawai'i Register of Historic Places or has important value to Native Hawaiians or other ethnic groups may help address these challenges.

For the foregoing reasons, Hawai'i REALTORS® supports this measure. Mahalo for the opportunity to testify.



To: The Honorable Chair Lorraine Inouye and Vice-chair Brandon Elefante, and members of the Senate Committee on Water and Land

From: Climate Protectors Hawai'i (by Ted Bohlen)

Re: Hearing HB201 HD2 **RELATING TO HISTORIC PRESERVATION**

Hearing: Monday, March 13, 2023, 1:00 p.m. CR229

Aloha Chair Inouye, Vice Chair Elefante, and members of the Committee:

The Climate Protectors Hawai'i seeks to educate and engage the local community in climate change action, to help Hawai'i show the world the way back to a safe and stable climate.

**Protecting historic properties is a climate issue.** Homes and buildings account for about 40% of greenhouse gas emissions. Tearing down old buildings and constructing new ones increases greenhouse gas emissions, especially when very carbon intensive materials such as concrete and steel are used or trees that are sequestering carbon are cut down to provide lumber for buildings. As Carl Elefante, President of the American Institute of Architects said: **"The greenest building is the one that already exists."**

**The Climate Protectors Hawai'i OPPOSES HB 201 HD 2** as currently written, with recommendations for amendments.

Currently, HRS §6E-2 defines “historic property” as “any building, structure, object, district, area, or site, including heiau and underwater site, which is over 50 years old.” This definition has the advantage of being simple to understand and simple to evaluate, as it relies only on the age of construction. However, this definition is also unnecessarily broad and assumes that age is equivalent to historic importance.

The bill would amend the definition of “historic property” to include **only those properties that are over 100 years of age or to those that are over 50 years of age that also meet the criteria to be listed in the Hawai‘i register of historic places or that have value to Native Hawaiians or other ethnic groups due to associations with cultural practices.** Changing the age threshold to 100 years would eliminate protection of numerous sites that are important to the history and culture of Hawai‘i. The Climate Protectors Hawai‘i **recommends that the phrase “over 100 years old” be deleted.**

A second problem with the proposed definition is that it would likely introduce ambiguities and difficulties regarding whether or not a specific property meets the criteria based on information beyond the age of construction. When making determinations regarding specific properties, preservation professionals with appropriate education and experience will need to apply the criteria for evaluating historic significance and integrity. Professional judgment is needed to understand and apply the criteria to different property types, including buildings, structures, objects, sites and districts, including those properties to which Native Hawaiians and other ethnic and cultural groups of the State attach religious and cultural significance.

Adding this additional layer of knowledge, skill and experience to the determination of whether or not a property is “historic,” and not merely relying on age of construction, will make it more difficult for property owners, developers, permitting and planning agencies and the general public to know if a property will be subject to the State Historic Preservation Division’s requirement to identify, evaluate and resolve potential effects that may be caused by a proposed project. The revised definition therefore will complicate the initial step of knowing whether the statute applies at all. This runs counter to the bill’s evident purpose of expediting determinations.

**The Climate Protectors Hawai'i recommends that instead of adopting the proposed definition, the department should be authorized to promulgate administrative rules to address the issues of who will make the determinations whether or not a property is "historic," based on which established criteria and standards, subject to qualified personnel concurrence, and at what stage of the process.**

Please amend the bill as follows:

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

"Historic property" means any building, structure, object, district, area, or site, including a heiau and an underwater site, ~~[which]~~ that is over fifty years old[-] and meets the criteria to be placed onto the Hawaii register of historic places or has important value to Native Hawaiians or other ethnic groups of the State due to associations with cultural practices once carried out, or still being carried out, at the property or due to associations with traditional beliefs, events, or oral accounts that are important to the group's history, traditional practices, and cultural identity [;  
or (2) One hundred years old."]

The department is authorized to promulgate administrative rules to address the issues of who will make the determinations whether or not a property is "historic," based on which established criteria and standards, subject to qualified personnel concurrence, and at what stage of the process."

Mahalo!

Climate Protectors Hawai'i (by Ted Bohlen)

**HB-201-HD-2**

Submitted on: 3/12/2023 9:56:04 AM

Testimony for WTL on 3/13/2023 1:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
David Z. Arakawa	Testifying for Land Use Research Foundation of Hawaii	Support	Written Testimony Only

Comments:

The Land Use Research Foundation of Hawaii (LURF) is a private, non-profit research and trade association whose members include major Hawaii landowners, developers, and utility companies. LURF’s mission 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 **supports HB 201, HD2**, which expands the definition of "historic property" for purposes of the State’s historic preservation program.

The current definition of “historic property”, is based solely on the age of the property, and as a result, requires SHPD review of some projects and improvements that are not historically or culturally significant. This bill amends the definition of “historic property” to reflect that historical value is based on age as well as other considerations, and hopefully will address the backlog of historic reviews by narrowing the scope of projects that require review.

LURF **supports HB 201, HD2**, and respectfully urges your favorable consideration.

Thank you for the opportunity to present testimony regarding this measure.



# HISTORIC HAWAI'I FOUNDATION

**TO:** Senator Lorraine R. Inouye, Chair  
Senator Brandon J.C. Elefante, Vice Chair  
Committee on Water and Land (WTL)

**FROM:** Kiersten Faulkner, Executive Director  
Historic Hawai'i Foundation

**Committee:** Monday, March 13, 2023  
1:00 p.m.  
Via Video Conference and Conference Room 229

**RE: HB 201 HD2, Relating to Historic Preservation**

On behalf of Historic Hawaii Foundation (HHF), I am writing in **opposition to HB 201 HD 2 as currently written, with recommendations for amendments.** The bill would amend Hawai'i Revised Statutes §6E-2 to revise the definition of "historic property" to include only those properties that are over 100 years of age or to those that are 50 years of age that also meet the criteria to be listed in the Hawai'i register of historic places or that have value to Native Hawaiians or other ethnic groups due to associations with cultural practices.

HHF finds the proposed definition to be convoluted and believes it will introduce ambiguities and difficulty for applying to the State's historic preservation program. **HHF recommends that the phrase "over 100 years old" be deleted.**

HHF appreciates the intent of the additional proposed language, that a historic property is that which is "over fifty years old and meets the criteria to be placed onto the Hawaii register of historic places or has important value to Native Hawaiians or other ethnic groups of the State due to associations with cultural practices once carried out, or still being carried out, at the property or due to associations with traditional beliefs, events, or oral accounts that are important to the group's history, traditional practices, and cultural identity."

## HISTORIC HAWAI'I FOUNDATION COMMENTS

Currently, HRS §6E-2 defines historic properties as any building, structure, object, district, area, or site, including heiau and underwater site, which is over 50 years old. HHF is concerned that changing the age threshold to 100 years will disadvantage numerous sites that are important to the history and culture of Hawai'i.

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680 Iwilei Road Suite 690 • Honolulu, HI 96817 • Tel: 808-523-2900 • [preservation@historichawaii.org](mailto:preservation@historichawaii.org) • [www.historichawaii.org](http://www.historichawaii.org)

Historic Hawai'i Foundation is a statewide nonprofit organization established in 1974 to encourage the preservation of historic buildings, sites, structures, objects and districts on all the islands of Hawai'i. As the statewide leader for historic preservation, HHF works to preserve Hawai'i's unique architectural and cultural heritage and believes that historic preservation is an important element in the present and future quality of life, environmental sustainability and economic viability of the state.

The Constitution of the State of Hawai'i recognizes the value of conserving and developing the historic and cultural property within the State for the public good, and the Legislature has declared that it is in the public interest to engage in a comprehensive program of historic preservation at all levels of government to promote the use and conservation of such property for the education, inspiration, pleasure and enrichment of its citizens.

In order to meet this mandate and to ensure that the historic and cultural resources of Hawai'i are treated appropriately, it is necessary to have a framework based on criteria and standards to define and differentiate which properties are subject to the state's historic preservation program.

Currently, HRS §6E-2 defines historic properties as any building, structure, object, district, area or site, including heiau and underwater site, which is over 50 years old. This definition has the advantage of being simple to understand and simple to evaluate, as it relies on a single piece of data: age of construction. However, that definition is also unnecessarily broad, and assumes that age is equivalent to historic importance.

Within the discipline and practice of historic preservation, there are two additional criteria used to screen properties: *historic significance* and *integrity*. The criteria for being entered into the State of Hawai'i Register of Historic Places address these additional aspects and are appropriate to add to the State's definition of "historic property."

Historic Hawai'i Foundation supports amending HRS §6E-2 to include the requirement that properties meet the criteria for being entered into the state register of historic places, but is also concerned that some cultural sites or features may have been significantly altered over time, thus affecting their historic integrity. HHF agrees that the definition needs to include these sites and appreciates the explicit inclusion in the proposed definition.

Although HHF supports the clarification in the definition of "historic property," we also note that this amendment introduces a new requirement for the statewide preservation program: the task of determining whether or not a specific property meets the criteria based on more information than age of construction.

When making determinations regarding specific properties, preservation professionals with appropriate education and experience will need to apply the criteria for evaluating historic significance and integrity. Professional judgment is needed to understand and apply the criteria to different property types, including buildings, structures, objects, sites and districts, including those properties to which Native Hawaiians and other ethnic and cultural groups of the State attach religious and cultural significance.

By adding this additional layer of knowledge, skill and experience to the determining whether or not a property is "historic," and not merely relying on age of construction, it will be more difficult for property owners, developers, permitting and planning agencies and the general public to know if a

property will be subject to the State Historic Preservation Division's requirement to identify, evaluate and resolve potential effects that may be caused by a proposed project.

HHF believes that the revised definition would make the assessment and resolution of effects more efficient and effective, but will complicate the initial step of knowing whether the statute applies at all. We caution about unintended consequences that could be caused by a seemingly straightforward change.

**HHF recommends that the department promulgate administrative rules to address the issue of who will make the determinations, based on established criteria and standards, subject to qualified personnel concurrence and at what stage of the process.**

Thank you for the opportunity to comment.



**Hawai'i YIMBY**  
Honolulu, HI 96814

[hawaiiyimby.com](http://hawaiiyimby.com)  
[admin@hawaiiyimby.com](mailto:admin@hawaiiyimby.com)

Monday, March 13, 2023

Senate Committee on Water and Land  
Hawai'i State Capitol  
Honolulu, HI 96813

**RE: SUPPORT for HB 201 HD2 - RELATING TO HISTORIC PRESERVATION**

Aloha Chair Inouye, Vice Chair Elefante, and Members of the Committee,

On behalf of Hawai'i YIMBY, I'm writing to support HB 201 HD2, which would narrow the requirements for historic preservation consideration to sites that are either a century old or qualify under the criteria for the register of historic places or have important Native Hawaiian cultural value.

Currently a wide range of sites over fifty years old qualify for historic preservation, a range that now encompasses the construction boom of the 1960s. Because historic preservation status confers coveted tax breaks, the State Historic Preservation Division is hopelessly overwhelmed by a tidal wave of 2,400-2,700 requests per year.

This overwhelm has real consequences. In a cruel twist of irony, our current historic preservation policies actually imperil our ability to preserve historic sites. As state historic preservation administrator Alan Downer said last year, the immense volume of applications means "There is no question in my view we don't have enough resources to do enough proactive preservation stuff". The need for proactive preservation was made painfully clear when the Boyd-Irwin-Hedemann Estate, a former retreat for King David



**Hawai'i YIMBY**  
Honolulu, HI 96814

hawaiiyimby.com  
admin@hawaiiyimby.com

Kalakaua and Queen Liliuokalani and the “the oldest intact country estate associated with Hawaiian alii on Oahu”, burned down last year as a result of neglect.

Other bills introduced this session are aimed at whittling down the backlog of outstanding applications. They are necessary but not sufficient. We also need to narrow the funnel of sites considered, to ensure that those sites considered for preservation status are truly those deserving of consideration for historic preservation. The thoughtful changes in this bill, ensuring either truly historic age, outstanding historic value fit for the register of historic places, or Native Hawaiian cultural importance, are an ideal way to narrow this funnel to truly deserving sites.

Hawai'i YIMBY (*Yes In My Backyard*) is a new and rapidly growing grassroots advocacy organization dedicated to working to advance bold and effective solutions for Hawai'i's devastating housing crisis. Our members are deeply concerned about Hawai'i's chronic and worsening housing shortage, which has caused home prices to rise much faster than incomes and pushes thousands of kama'āina out to the mainland or into homelessness every single year.

We urge your support for this bill. Thank you for the opportunity to testify.

Sincerely,

Matt Popovich

Co-Lead, Hawai'i YIMBY

