

JAN 17 2025

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# A BILL FOR AN ACT

RELATING TO AFFORDABLE HOUSING.

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

1           SECTION 1. The legislature finds that the cost and  
2 availability of housing in the State are significant challenges  
3 facing Hawai'i residents. According to the department of  
4 business, economic development, and tourism's December 2019  
5 report titled *Hawaii Housing Demand: 2022-2030*, the department  
6 projects that an additional 36,155 residential housing units  
7 need to be developed between 2020 and 2030, not including units  
8 under construction or already in the permitting process, to  
9 provide housing for all of Hawai'i's population. Although there  
10 is a severe need for development, considerations need to be made  
11 to preserve and protect the unique cultural history of the  
12 State.

13           The legislature also finds that under article IX, section  
14 7, of the Hawaii State Constitution, the State recognizes the  
15 value of conserving and developing the historic and cultural  
16 property within the State for the public good, and the  
17 legislature has declared that it is in the public interest to



1 engage in a comprehensive program of historic preservation at  
2 all levels of government to promote the use and conservation of  
3 historic and cultural property for the education, inspiration,  
4 pleasure, and enrichment of its citizens. Thus, the state  
5 historic preservation division of the department of land and  
6 natural resources was established to preserve and protect  
7 historically significant districts, sites, objects, structures,  
8 and buildings integral to Hawai'i's history. Under existing law,  
9 before issuing any permit or land use approval for any project  
10 that affects a historic property, state and local jurisdictions  
11 must refer the matter to the state historic preservation  
12 division for review and comment, and for public projects,  
13 written concurrence is required before proceeding.

14       However, the legislature finds that due to the current  
15 demand for the construction of affordable housing and other  
16 critical infrastructure, the state historic preservation  
17 division consistently receives more reports than they have time  
18 to review. According to a department of land and natural  
19 resources report to the legislature in October 2022, project  
20 reviews in the state historic preservation division's



1 archaeology branch face "a 6-month to 1-year backlog as the  
2 volume of permit and project submissions have risen . . ."

3       The legislature further finds that allowing the state  
4 historic preservation division to engage with third-party  
5 consultants could help expedite the review process so that more  
6 affordable housing units can be produced in a timely manner.  
7 Delegating review responsibilities will reduce the state  
8 historic preservation division's intake load and allow the  
9 division to focus on core historical review priorities.

10       Accordingly, the purpose of this Act is to:

11       (1) Require the department of land and natural resources,  
12       through the state historic preservation division, to  
13       contract its review of proposed state projects and  
14       projects affecting historic properties if the proposed  
15       project involves a development intended to be  
16       affordable housing, to third-party consultants, under  
17       certain conditions; and

18       (2) Appropriate funds to the state historic preservation  
19       division for the recruitment and retention of  
20       qualified third-party consultants to expedite review  
21       of proposed state affordable housing projects and



1           affordable housing projects affecting historic  
2           properties.

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

5           "**§6E-8 Review of effect of proposed state projects.** (a)

6 Before any agency or officer of the State or its political  
7 subdivisions commences any project [~~which~~] that may affect  
8 historic property, aviation artifact, or a burial site, the  
9 agency or officer shall advise the department and allow the  
10 department an opportunity for review of the effect of the  
11 proposed project on historic properties, aviation artifacts, or  
12 burial sites, consistent with section 6E-43, especially those  
13 listed on the Hawaii register of historic places. The proposed  
14 project shall not be commenced, or if it has already begun,  
15 continued, until the department has given its written  
16 concurrence. If:

- 17           (1) The proposed project consists of corridors or large  
18           land areas;
- 19           (2) Access to properties is restricted; or
- 20           (3) Circumstances dictate that construction be done in  
21           stages,



1 the department may give its written concurrence based on a  
2 phased review of the project; provided that there shall be a  
3 programmatic agreement between the department and the project  
4 applicant that identifies each phase and the estimated timelines  
5 for each phase.

6 The department shall provide written concurrence or non-  
7 concurrence within ninety days after the filing of a request  
8 with the department. The agency or officer seeking to proceed  
9 with the project, or any person, may appeal the department's  
10 concurrence or non-concurrence to the Hawaii historic places  
11 review board. An agency, officer, or other person who is  
12 dissatisfied with the decision of the review board may apply to  
13 the governor, who may take action as the governor deems best in  
14 overruling or sustaining the department.

15 (b) The department of Hawaiian home lands, [~~prior to~~]  
16 before any proposed project relating to lands under its  
17 jurisdiction, shall consult with the department regarding the  
18 effect of the project upon historic property or a burial site.

19 (c) The State, its political subdivisions, agencies, and  
20 officers shall report to the department the finding of any  
21 historic property during any project and shall cooperate with



1 the department in the investigation, recording, preservation,  
2 and salvage of the property.

3 (d) Whenever the proposed state project involves a  
4 development intended as affordable housing, as that term is  
5 defined under section 201H-57, the department shall retain a  
6 third-party consultant to conduct the review described under  
7 subsection (a) if, after an initial evaluation, the department  
8 determines that:

9 (1) The department will not be able to provide its written  
10 concurrence or non-concurrence within sixty days of  
11 the filing of the request with the department;

12 (2) The third-party consultant has the qualifications and  
13 experience pursuant to subsection (e) to conduct the  
14 review; and

15 (3) The contract with the third-party consultant requires  
16 the third-party consultant to provide a recommendation  
17 to the department within thirty days of the filing of  
18 the request with the department.

19 (e) Whenever the department retains any third-party  
20 consultant pursuant to subsection (d), including an architect,  
21 engineer, archaeologist, planner, or other, to review an



1 application for a permit, license, or approval, the third-party  
2 consultant shall meet the educational and experience standards  
3 as well as the qualifications for preservation professionals  
4 pursuant to rules adopted by the state historic preservation  
5 division.

6 (f) The project proponent shall pay for the reasonable fee  
7 requirements of the third-party consultant; provided that the  
8 project proponent may contract with or sponsor any county,  
9 housing authority, non-profit organization, or person, to meet  
10 the fee requirements.

11 ~~[(d)]~~ (g) The department shall adopt rules in accordance  
12 with chapter 91 to implement this section."

13 SECTION 3. Section 6E-42, Hawaii Revised Statutes, is  
14 amended to read as follows:

15 "**§6E-42 Review of proposed projects.** (a) Except as  
16 provided in section 6E-42.2, before any agency or officer of the  
17 State or its political subdivisions approves any project  
18 involving a permit, license, certificate, land use change,  
19 subdivision, or other entitlement for use [~~,- which~~] that may  
20 affect historic property, aviation artifacts, or a burial site,  
21 the agency or office shall advise the department and [~~prior to~~]



1 before any approval allow the department an opportunity for  
2 review and comment on the effect of the proposed project on  
3 historic properties, aviation artifacts, or burial sites,  
4 consistent with section 6E-43, including those listed in the  
5 Hawaii register of historic places. If:

6 (1) The proposed project consists of corridors or large  
7 land areas;

8 (2) Access to properties is restricted; or

9 (3) Circumstances dictate that construction be done in  
10 stages,

11 the department's review and comment may be based on a phased  
12 review of the project; provided that there shall be a  
13 programmatic agreement between the department and the project  
14 applicant that identifies each phase and the estimated timelines  
15 for each phase.

16 (b) The department shall inform the public of any project  
17 proposals submitted to it under this section that are not  
18 otherwise subject to the requirement of a public hearing or  
19 other public notification.

20 (c) Whenever the project involves a development intended  
21 as affordable housing, as that term is defined under section



1 201H-57, the department shall retain a third-party consultant to  
2 conduct the review and comment described under subsection (a)  
3 if, after an initial evaluation, the department determines that:

4 (1) The department will not be able to provide its review  
5 and comment within sixty days of being advised  
6 pursuant to subsection (a);

7 (2) The third-party consultant has the qualifications and  
8 experience required by subsection (d) to conduct the  
9 review; and

10 (3) The contract with the third-party consultant requires  
11 the third-party consultant to provide a recommendation  
12 to the department within thirty days of being advised  
13 pursuant to subsection (a).

14 (d) Whenever the department retains any third-party  
15 consultant, including any architect, engineer, archaeologist,  
16 planner, or other, to review an application for a permit,  
17 license, or approval under subsection (c), the third-party  
18 consultant shall meet the educational and experience standards  
19 as well as the qualifications for preservation professionals  
20 pursuant to rules adopted by the state historic preservation  
21 division.



1        (e) The project proponent shall pay for the reasonable fee  
2 requirements of the third-party consultant; provided that the  
3 project proponent may contract with or sponsor any county,  
4 housing authority, non-profit organization, or person, to meet  
5 the fee requirements.

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

8        SECTION 4. The department of land and natural resources  
9 shall publish on its website adopted rules implementing sections  
10 2 and 3 of this Act, within one year from the effective date of  
11 this Act. Thereafter, the department of land and natural  
12 resources shall, within one year, present its proposed final  
13 rules to the board of land and natural resources.

14        SECTION 5. There is appropriated out of the general  
15 revenues of the State of Hawaii the sum of \$                    or so  
16 much thereof as may be necessary for fiscal year 2025-2026 and  
17 the same sum or so much thereof as may be necessary for fiscal  
18 year 2026-2027 for the state historic preservation division's  
19 recruitment and retention of qualified third-party consultants.

20        The sums appropriated shall be expended by the department  
21 of land and natural resources for the purposes of this Act.



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 on July 1, 2025;  
7 provided that sections 2 and 3 of this Act shall take effect on  
8 July 1, 2027.

9

INTRODUCED BY:

A handwritten signature in black ink, appearing to be "D. Keen", is written over a horizontal line. The signature is stylized and cursive.

# S.B. NO. 1002

**Report Title:**

DLNR; SHPD; Review and Comment; Affordable Housing; Third-Party Consultants; Appropriations

**Description:**

Beginning 7/1/2027, requires the State Historic Preservation Division of the Department of Land and Natural Resources to contract its review of proposed state projects, and projects affecting historic properties to third-party consultants if the projects involve the development of affordable housing and the division, after an initial evaluation, determines it will not be able to complete its review within sixty days. Establishes requirements for qualified third-party consultants providing review services. Requires the project proponent to pay for the reasonable fee requirements of the third-party consultant. Allows the project proponent to contract or sponsor with any county, housing authority, non-profit organization, or person, to meet the third-party consultant fee requirement. Requires DLNR to publish a draft of its proposed rules within one year, and within one year thereafter, present its proposed final rules to the Board of Land and Natural Resources. Appropriates funds.

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

