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# A BILL FOR AN ACT

RELATING TO HISTORIC PRESERVATION REVIEWS.

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

1           SECTION 1. Chapter 6E, Hawaii Revised Statutes, is amended  
2 by adding a new section to part I to be appropriately designated  
3 and to read as follows:

4           "§6E-     Proposed state housing projects; historic review  
5 requirements. (a) Notwithstanding section 6E-8, before any  
6 agency or officer of the State or its political subdivisions  
7 commences any housing project that may affect a historic  
8 property, an aviation artifact, or a burial site, the agency or  
9 officer shall advise and authorize the department to make a  
10 determination for the proposed project as to the effect of the  
11 project on the historic property, aviation artifact, or burial  
12 site. The project shall not commence or continue until the  
13 department has made its determination; provided that if the  
14 department determines that the proposed project is in a:  
15           (1) Highly sensitive area known to include a high density  
16           of historic, cultural, or archaeological resources, or  
17           in an area that is likely to contain a high density of



1 historic, cultural, or archaeological resources, the  
2 department shall require an archaeological inventory  
3 survey in accordance with rules adopted by the  
4 department unless an archaeological inventory survey  
5 has already been previously reviewed and accepted by  
6 the department for the same or a substantially similar  
7 project located in the same project area, in which  
8 case the department may allow the project to proceed  
9 under an archaeological monitoring program pursuant to  
10 rules adopted by the department;

11 (2) Moderately sensitive area where an archaeological  
12 inventory survey has already been previously reviewed  
13 and accepted by the department and no significant  
14 historic properties have been previously identified,  
15 the department may authorize the project to proceed  
16 under an archaeological monitoring program in  
17 accordance with rules adopted by the department; or

18 (3) Nominally sensitive area known to include a low  
19 density of historic, cultural, or archaeological  
20 resources, or where the project area has been  
21 substantially disturbed by previous excavation or



1           other ground disturbing work and no significant  
2           historic properties have been previously identified,  
3           the department may authorize the project to proceed  
4           without further review under this section.

5           The department shall provide its written determination  
6           within ninety days after the filing of a complete and accurate  
7           project request with the department; provided that the  
8           department's determination may be appealed to the Hawaii  
9           historic places review board.

10           (b) The department shall confirm that housing projects  
11           have state inventory of historic places numbers for all historic  
12           properties located within the housing project area before the  
13           start of construction.

14           (c) A project proponent shall obtain state inventory of  
15           historic places numbers from the state historic preservation  
16           division for all historic properties within a housing project  
17           area if an archaeological or architectural survey is conducted  
18           as part of the historic preservation review process. If an  
19           archaeological inventory survey is conducted before the start of  
20           construction, the project proponent shall obtain state inventory  
21           of historic places numbers for each historic property identified



1 within the housing project area during archaeological monitoring  
2 before completion of construction.

3 (d) Before any agency or officer of the State or its  
4 political subdivisions commences any housing project that may  
5 adversely affect a significant historic property, the agency or  
6 officer shall make a reasonable and good faith effort to avoid  
7 or minimize any effect to the significant historic property. If  
8 any adverse effect cannot reasonably be avoided, the agency or  
9 officer shall mitigate the adverse effect. Mitigation includes  
10 but is not limited to preservation, archaeological data  
11 recovery, burial treatment, ethnographic documentation, historic  
12 data recovery, and architectural recordation. Mitigation shall  
13 be implemented pursuant to terms approved by the department.

14 (e) If previously unidentified human remains are  
15 inadvertently discovered during archaeological monitoring or  
16 housing project construction, all work within a twenty-foot  
17 radius of the:

18 (1) Discovery; and

19 (2) Back-dirt pile containing the soil removed during  
20 excavation in proximity of the discovery,



1 shall be stopped and both areas shall be securely covered and  
2 protected from the natural elements and adjacent activities;  
3 provided that work in other areas of the project may continue  
4 and may only proceed in accordance with section 6E-43.6.

5 (f) If a previously unidentified historic property is  
6 identified or previously unanticipated effects are found after  
7 the historic preservation review process has concluded during  
8 archaeological monitoring or housing project construction, all  
9 work within a twenty-foot radius of the discovery shall cease  
10 and the agency or officer shall notify the state historic  
11 preservation division within forty-eight hours of the discovery.

12 The notification shall include:

13 (1) A historic properties assessment that documents the  
14 historic or cultural resource and determines its  
15 significance;

16 (2) An assessment of effect that shall detail any impacts  
17 the project has had or will have on the historic or  
18 cultural resource; and

19 (3) Proposed actions that may be taken to avoid, minimize,  
20 or mitigate any adverse effects the project may have  
21 on the historic or cultural resource.



1       The state historic preservation division shall respond to  
2 the notification within two working days.

3       (g) Upon completion of any identified avoidance,  
4 minimization, and mitigation measures, the agency or officer  
5 shall submit a report to the state historic preservation  
6 division documenting the actions taken.

7       (h) The department shall adopt rules in accordance with  
8 chapter 91 to implement this section.

9       (i) For the purposes of this section, "housing project" or  
10 "project" means a housing project that is developed by,  
11 receiving financing from, or situated on land owned by the State  
12 or a county."

13       SECTION 2. New statutory material is underscored.

14       SECTION 3. This Act shall take effect on July 1, 3000.



**Report Title:**

DLNR; DHHH; Housing Projects; Historic Review; Historic, Cultural, and Archaeological Resources

**Description:**

Requires the Department of Land and Natural Resources to determine the effect of any proposed housing projects that may affect a historical property, an aviation artifact, or a burial site within ninety days of a request for determination. Establishes historic review requirements based on the project area's known historic, cultural, and archaeological resources. Establishes procedures and notification requirements if previously unidentified human remains or previously unidentified historic or cultural resources are discovered. Effective 7/1/3000. (HD1)

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

