

---

---

# 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 or county housing projects;  
5 historic review requirements. (a) Notwithstanding section 6E-  
6 8, before any agency or officer of the State or its political  
7 subdivisions commences any housing project that may affect a  
8 historic property, an aviation artifact, or a burial site, the  
9 agency or officer shall advise and authorize the department to  
10 make a determination for the proposed project as to the effect  
11 of the project on the historic property, aviation artifact, or  
12 burial site. The project shall not commence or continue until  
13 the department has made its determination; provided that:

14           (1) If the department determines that the proposed project  
15           is in a:

16           (A) Highly sensitive area known to include a high  
17           density of historic, cultural, or archaeological



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

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



- 1           (C) Nominally sensitive area known to include a low
- 2           density of historic, cultural, or archaeological
- 3           resources, or where the project area has been
- 4           substantially disturbed by previous excavation or
- 5           other ground disturbing work and no significant
- 6           historic properties have been previously
- 7           identified, the department may authorize the
- 8           project to proceed without further review under
- 9           this section; and
  
- 10          (2) The department's determination shall be based on:
- 11           (A) The Hawaii or national register of historic
- 12           places;
- 13           (B) The age of above-surface structures;
- 14           (C) Any existing archaeological inventory surveys
- 15           previously accepted by the department;
- 16           (D) Any burial treatment plans accepted by the
- 17           department;
- 18           (E) The type of substrate known to typically contain
- 19           burials;
- 20           (F) Consultation with the:
- 21           (i) Relevant island burial council; and



1                   (ii) Office of Hawaiian affairs; and  
2                   (G) Any other literary review relevant to the area.

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

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

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



1        (d) Before any agency or officer of the State or its  
2 political subdivisions commences any housing project that may  
3 adversely affect a significant historic property, the agency or  
4 officer shall make a reasonable and good faith effort to avoid  
5 or minimize any effect to the significant historic property. If  
6 any adverse effect cannot reasonably be avoided, the agency or  
7 officer shall mitigate the adverse effect. Mitigation includes  
8 but is not limited to preservation, archaeological data  
9 recovery, burial treatment, ethnographic documentation, historic  
10 data recovery, and architectural recordation. Mitigation shall  
11 be implemented pursuant to terms approved by the department or  
12 the relevant island burial council pursuant to section 6E-43.

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

17        (1) Discovery; and  
18        (2) Back-dirt pile containing the soil removed during  
19        excavation in proximity of the discovery,  
20 shall cease and both areas shall be securely covered and  
21 protected from the natural elements and adjacent activities;



1 provided that work in other areas of the project may continue  
2 and may only proceed in accordance with section 6E-43.6.

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

10 The notification shall include:

11 (1) A historic properties assessment that documents the  
12 historic, cultural, or archaeological resource and  
13 determines its significance;

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

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

20 The state historic preservation division shall respond to  
21 the notification within two working days.



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

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

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

11        SECTION 2. New statutory material is underscored.

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



**Report Title:**

DLNR; DHHL; 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 state or county 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 property are discovered. Effective 7/1/3000. (HD2)

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

