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# A BILL FOR AN ACT

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RELATING TO HISTORIC PRESERVATION REVIEWS OF STATE AFFORDABLE  
HOUSING PROJECTS.

**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-       Determination as to effect of proposed state  
5 affordable housing projects; historic review requirements. (a)  
6 Notwithstanding section 6E-8, before any agency or officer of  
7 the State or its political subdivisions commences any affordable  
8 housing project that may affect a historic property, an aviation  
9 artifact, or a burial site, the agency or officer shall advise  
10 the department and allow the department to make a determination  
11 for the proposed project as to the effect of the project on the  
12 historic property, aviation artifact, or burial site; provided  
13 that soil type, geographical location, and previous  
14 identification efforts are taken into consideration. The  
15 project shall not be commenced, or if it has already begun,  
16 continued, until the department has made its determination.



1        (b) If the department determines that the proposed project  
2 is located in a:

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

16        (2) Moderately sensitive area in which no significant  
17 historic properties have been previously identified,  
18 the department may allow the project to proceed under  
19 an archaeological monitoring program in accordance  
20 with rules adopted by the department; and



1       (3) 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 identified,  
7       the department may allow the project to proceed  
8       without further review under this section.

9       (c) The department shall provide its written determination  
10      under subsection (a) within ninety days after the filing of a  
11      complete and accurate project request with the department. The  
12      department's determinations may be appealed to the Hawaii  
13      historic places review board.

14      (d) The agency or officer of the State or its political  
15      subdivisions shall obtain state inventory of historic places  
16      numbers for all historic properties identified within the  
17      affordable housing project area during the archaeological  
18      inventory survey, if an archaeological inventory survey is  
19      conducted, before the start of construction, and for all  
20      historic properties identified within the affordable housing



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

3 (e) Before any agency or officer of the State or its  
4 political subdivisions commences any affordable housing project  
5 that may adversely affect a significant historic property, the  
6 agency or officer shall make a reasonable and good faith effort  
7 to avoid or minimize any effect to significant historic  
8 properties. If an adverse effect cannot reasonably be avoided,  
9 the agency or officer shall mitigate the adverse effect.

10 Mitigation may take different forms, including but not limited  
11 to preservation, archaeological data recovery, burial treatment,  
12 ethnographic documentation, historic data recovery, and  
13 architectural recordation. The terms under which mitigation  
14 will be implemented shall be approved by the department before  
15 the agency or officer commences the affordable housing project.

16 (f) If human remains are identified during archaeological  
17 monitoring or affordable housing project construction, all work  
18 within a twenty-foot radius of the finding and within a twenty-  
19 foot radius of the back-dirt pile containing the soil removed  
20 during excavation in proximity of the remains shall be stopped  
21 and both areas shall be securely covered and protected from the



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

4 (g) If historic property is identified during  
5 archaeological monitoring or affordable housing project  
6 construction, all work within a twenty-foot radius of the  
7 finding shall be stopped and the agency or officer shall contact  
8 the state historic preservation division.

9 (h) The department of Hawaiian home lands, before any  
10 proposed project relating to lands under its jurisdiction  
11 commences, shall consult with the department regarding the  
12 effect of the project upon historic property or a burial site.

13 (i) The department shall adopt rules in accordance with  
14 chapter 91 to implement this section.

15 (j) For the purposes of this section, an "affordable  
16 housing project" or "project" means a housing project in which  
17 greater than fifty per cent of the units are affordable to  
18 households with incomes at or below one hundred forty per cent  
19 of the area median income amounts published by the United States  
20 Department of Housing and Urban Development applicable to the  
21 location of the project."



- 1 SECTION 2. New statutory material is underscored.
- 2 SECTION 3. This Act shall take effect on July 1, 3000.



**Report Title:**

DLNR; Review of Proposed State Affordable Housing Projects;  
Request for Determination; Historic Review Requirements

**Description:**

Requires the Department of Land and Natural Resources to determine the effect of any proposed State affordable housing project within ninety days of a request for determination. Bases the historic review requirements on the project area's known or likely density of historic, cultural, and archaeological resources or previous identification of no significant historic properties. Effective 7/1/3000. (HD2)

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