
A BILL FOR AN ACT

RELATING TO HISTORIC PRESERVATION.

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

SECTION 1. Section 6E-10, Hawaii Revised Statutes, is amended to read as follows:

"§6E-10 **Privately owned historic property.** (a) Before any construction, alteration, disposition, or improvement of any nature, by, for, or permitted by a private landowner may be commenced that will affect a historic property on the Hawaii register of historic places, the landowner shall notify the department of the construction, alteration, disposition, or improvement of any nature and allow the department the opportunity to review the effect of the proposed construction, alteration, disposition, or improvement of any nature on the historic property. If:

(1) The proposed construction, alteration, disposition, or improvement consists of corridors or large land areas;

(2) Access to the property or properties is restricted; or

(3) Circumstances dictate that construction, alteration, disposition, or improvement be done in stages,



1 the department's review may be based on a phased review of the
2 project; provided that there shall be an agreement between the
3 department and the property owner that identifies each phase and
4 the estimated timeline of each phase.

5 (b) The department shall provide written concurrence or
6 non-concurrence within ninety days, or within thirty calendar
7 days if no historical properties are impacted by the proposed
8 construction, alteration, disposition, or improvement, after the
9 department has processed a complete submittal filed by the
10 property owner. The department shall process a complete
11 submittal within five business days of its filing. The proposed
12 construction, alteration, disposition, or improvement of any
13 nature shall not be commenced, or in the event it has already
14 begun, continue, until the department has given its [concurrence
15 or ninety days have elapsed. Within ninety days after
16 notification, the department shall:

17 ~~(1) Commence condemnation proceedings for the purchase of~~
18 ~~the historic property if the department and property~~
19 ~~owner do not agree upon an appropriate course of~~
20 ~~action;~~



~~(2) Permit the owner to proceed with the owner's
construction, alteration, or improvement; or~~

~~(3) In coordination with the owner, undertake or permit
the investigation, recording, preservation, and
salvage of any historical information deemed necessary
to preserve Hawaiian history, by any qualified agency
for this purpose.~~

~~(b)] written concurrence or non-concurrence. If the
department fails to provide written concurrence or non-
concurrence within ninety days, or within thirty calendar days
if no historical properties are impacted by the proposed
project, after receiving and processing a true and complete
submittal from the property owner, the property owner may assume
the department's concurrence for the proposed project.~~

~~(c) The property owner shall ensure any application filed
by the property owner for the proposed construction, alteration,
disposition, or improvement is complete and accurate. If the
department:~~

~~(1) Determines the application is not a complete
submittal;~~



1 (2) Requires additional information or clarification
2 regarding the physical scope of work; or

3 (3) Requires an archaeological survey or reconnaissance
4 level survey for architectural resources,

5 the department shall notify the property owner and specify the
6 additional information needed to meet the requirements for a
7 complete submittal. The review period for the proposed project
8 shall cease until a complete submittal is made to the
9 department. Once the department has received a complete
10 submittal, the applicable review period shall restart.

11 (d) Once the department has provided written concurrence
12 or fails to timely provide non-concurrence on the project effect
13 determination and any necessary mitigation measures have been
14 identified and agreed upon for a proposed project, the property
15 owner may commence the project, and the project shall be exempt
16 from further review by the department unless there is a change
17 to the project's physical scope of work or project area or
18 unless additional historic properties, aviation artifacts, or
19 burial sites are identified within the project area; provided
20 that:



1 (1) If there is a change in the project's physical scope
2 of work or project area or if additional historic
3 properties or aviation artifacts are identified within
4 the project area post-review, the property owner shall
5 notify the department within forty-eight hours of the
6 discovery. The notification shall include a
7 description of the historic property or aviation
8 artifact and propose actions to avoid, minimize, or
9 mitigate adverse effects. The department shall
10 respond within five business days of the notification
11 with an assessment of the historic property or
12 aviation artifact and shall provide concurrence or
13 non-concurrence with the actions proposed to avoid,
14 minimize, or mitigate adverse effects. The property
15 owner shall provide the department with a report of
16 the agreed upon actions when they are completed; and

17 (2) If a burial site is inadvertently discovered, the
18 property owner shall proceed pursuant to section 6E-43
19 or 6E-43.6, or both, as appropriate.

20 ~~[(e)]~~ (e) Nothing in this section shall be construed to
21 prevent the ordinary maintenance or repair of any feature in or



1 on a historic property that does not involve a change in design,
2 material, or outer appearance or change in those characteristics
3 that qualified the historic property for entry onto the Hawaii
4 register of historic places.

5 ~~[(d)]~~ (f) Any person, natural or corporate, who violates
6 the provisions of this section shall be fined not more than
7 \$1,000, and each day of continued violation shall constitute a
8 distinct and separate offense under this section for which the
9 offender may be punished.

10 ~~[(e)]~~ (g) If funds for the acquisition of needed property
11 are not available, the governor may, upon the recommendation of
12 the department, allocate from the contingency fund an amount
13 sufficient to acquire an option on the property or for the
14 immediate acquisition, preservation, restoration, or operation
15 of the property.

16 ~~[(f)]~~ (h) The department may enter, solely in performance
17 of its official duties and only at reasonable times, upon
18 private lands for examination or survey thereof. Whenever any
19 member of the department duly authorized to conduct
20 investigations and surveys of a historic or cultural nature
21 determines that entry onto private lands for examination or



1 survey of historic or cultural finding is required, the
2 department shall give written notice of the finding to the owner
3 or occupant of the property at least five days before entry. If
4 entry is refused, the member may make a complaint to the
5 district environmental court in the circuit in which the land is
6 located. The district environmental court may thereupon issue a
7 warrant, directed to any police officer of the circuit,
8 commanding the officer to take sufficient aid, and, being
9 accompanied by a member of the department, between the hours of
10 sunrise and sunset, allow the member of the department to
11 examine or survey the historic or cultural property."

12 SECTION 2. Section 6E-42, Hawaii Revised Statutes, is
13 amended to read as follows:

14 **"§6E-42 Review of proposed projects.** (a) Except as
15 provided in section 6E-42.2, before any agency or officer of the
16 State or its political subdivisions approves any project
17 involving a permit, license, certificate, land use change,
18 subdivision, or other entitlement for use, which may affect
19 historic property, aviation artifacts, or a burial site, the
20 agency or officer shall advise the department and, before any
21 approval, allow the department an opportunity for review and



1 comment on the effect of the proposed project on historic
2 properties, aviation artifacts, or burial sites, consistent with
3 section 6E-43, including those listed in the Hawaii register of
4 historic places. If:

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

7 (2) Access to properties is restricted; or

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

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

15 (b) The department shall provide written concurrence or
16 non-concurrence within ninety days, or within thirty calendar
17 days if no historical properties are impacted by the proposed
18 project, after the filing of a request with the department. If
19 the department fails to provide written concurrence or non-
20 concurrence with a project effect determination within ninety
21 days, or within thirty calendar days if no historic properties



1 are to be affected, of receiving a true and complete submittal
2 for a project, the lead agency may assume the department's
3 concurrence and the project may move to the next step in the
4 compliance process.

5 (c) The project applicant shall ensure that its
6 application is complete and accurate. If the department:

7 (1) Determines the application is not a complete
8 submittal;

9 (2) Requires additional information or clarification
10 regarding the physical scope of work; or

11 (3) Requires an archaeological survey or reconnaissance
12 level survey for architectural resources,

13 the department shall notify the applicant and specify the
14 additional information needed to meet the requirements for a
15 complete submittal. The review period for the proposed project
16 shall cease until a complete submittal is made to the
17 department. Once the department has received a complete
18 submittal, the applicable review period shall restart.

19 ~~[(b)]~~ (d) Once the department has provided written
20 concurrence or fails to timely provide non-concurrence on the
21 project effect determination and any necessary mitigation



1 measures have been identified and agreed upon for a proposed
2 project, the appropriate agency or officer of the State or any
3 of its political subdivisions may commence the project, and the
4 project shall be exempt from further review by the department
5 unless there is a change to the project's physical scope of work
6 or project area or unless additional historic properties,
7 aviation artifacts, or burial sites are identified within the
8 project area; provided that:

9 (1) If there is a change in the project's physical scope
10 of work or project area or if additional historic
11 properties or aviation artifacts are identified within
12 the project area post-review, the appropriate agency
13 or officer of the State or any of its political
14 subdivisions shall notify the department within forty-
15 eight hours of the discovery. The notification shall
16 include a description of the historic property or
17 aviation artifact and propose actions to avoid,
18 minimize, or mitigate adverse effects. The department
19 shall respond within five business days of the
20 notification with an assessment of the historic
21 property or aviation artifact and shall provide



1 concurrence or non-concurrence with the actions
2 proposed to avoid, minimize, or mitigate adverse
3 effects. The appropriate agency or officer of the
4 State or any of its political subdivisions shall
5 provide the department with a report of the agreed
6 upon actions when they are completed; and

7 (2) If a burial site is inadvertently discovered, the
8 appropriate agency or officer of the State or any of
9 its political subdivisions shall proceed pursuant to
10 section 6E-43 or 6E-43.6, or both, as appropriate.

11 ~~[(e)]~~ (e) The department shall inform the public of any
12 project proposals submitted to the department under this section
13 that are not otherwise subject to the requirement of a public
14 hearing or other public notification.

15 ~~[(d)]~~ (f) Counties deriving and expending revenues on mass
16 transit stations pursuant to section 46-16.8 may request
17 programmatic review by the department for a majority-residential
18 mixed-use transit-oriented development or residential transit-
19 oriented development where a permit, license, certificate, land
20 use change, subdivision, or other entitlement may be required.



1 [~~(e)~~] (g) No later than January 1, 2026, the counties and
2 the Hawaii community development authority shall work with the
3 department to identify and submit to the department specific
4 parcels and rights-of-way in proximity to mass transit stations
5 where a majority-residential mixed-use transit-oriented
6 development, a residential transit-oriented development, or
7 infrastructure is specifically consistent with a comprehensive
8 general plan adopted pursuant to section 46-4; provided that the
9 counties and Hawaii community development authority shall:

10 (1) First consult with the department and agree through
11 memorandum on the mass transit stations, and specific
12 transit-oriented development parcels and rights-of-
13 way, scoping the potential area for initiating
14 programmatic review; and

15 (2) Then solicit requests and consent from non-county
16 landowners to have their parcels and rights-of-way
17 within the scoped area of the memorandum initiating
18 programmatic review to proceed with the programmatic
19 review process.

20 [~~(f)~~] (h) The department shall review all parcels and
21 rights-of-way submitted by the counties and the Hawaii community



1 development authority pursuant to the scoping memorandum and
2 classify each parcel and right-of-way, within six months of
3 submittal, according to the risk that a majority-residential
4 mixed-use transit-oriented development or residential transit-
5 oriented development may pose to historic properties. The
6 classification shall be categorized into three categories, in
7 order of potential effect level from high to low, in the
8 categories of architecture, archaeology, and history and
9 culture; provided that:

10 (1) All county and non-county and Hawaii community
11 development authority parcels and [rights-of-way] for
12 programmatic review shall include the county's or the
13 Hawaii community development authority's assessment of
14 whether development on each parcel or right-of-way may
15 affect historic property, aviation artifacts, or a
16 burial site; and

17 (2) The assessment is based on:

18 (A) The Hawaii or national register of historic
19 places;

20 (B) The age of above-surface structures;



- 1 (C) Any existing archaeological inventory surveys
- 2 previously accepted by the department;
- 3 (D) Any burial treatment plans accepted by the
- 4 department;
- 5 (E) The type of substrate known to typically contain
- 6 burials;
- 7 (F) Consultation with the:
- 8 (i) Relevant island burial council; and
- 9 (ii) Office of Hawaiian affairs; and
- 10 (G) Any other literary review relevant to the area.
- 11 ~~[(g)]~~ (i) The department shall work with the county that
- 12 made the submittal and the Hawaii community development
- 13 authority to develop and agree on permitting memoranda within
- 14 three months of classification regarding development best
- 15 practices, including continued identification, addressing levels
- 16 of risk for the lower two effect levels in each of the
- 17 categories, including but not limited to creating photo
- 18 inventories, conducting an archaeological field survey,
- 19 archaeological excavation, or onsite archaeological monitoring,
- 20 and the presence of onsite archaeological monitoring, and



1 consider these best practices as standardized for activities
2 conducted under this section.

3 A county and the Hawaii community development authority
4 shall incorporate by reference these best practices as
5 conditions of approval for any project involving a permit,
6 license, certificate, land use change, subdivision, or other
7 entitlement for use.

8 ~~[(h)]~~ (j) Parcels and rights-of-way identified by the
9 department where all categories are rated in the lower two
10 effect levels shall be considered to comply with ~~[subsections]~~
11 subsection (a) or ~~[(b)]~~ (d) or section 6E-8 regarding state or
12 county lands or projects, and any subsequent permit, license,
13 certificate, land use change, subdivision, or other entitlement
14 for use shall not require referral to or written concurrence
15 from the department on project effect determination and
16 mitigation measures; provided that:

17 (1) The project is or includes infrastructure to support
18 the development of:

19 (A) A majority-residential mixed-use transit-oriented
20 development; or

21 (B) A residential transit-oriented development;



1 (2) The project has reached substantial construction by
2 June 30, 2036; and

3 (3) Development activities have commenced consistent with
4 best practices to address the applicable level of
5 risk.

6 ~~[(i)]~~ (k) Any parcels or rights-of-way characterized as
7 highest risk shall require referral to the department pursuant
8 to subsection (a).

9 ~~[(j)]~~ (l) Section 6E-43.6 shall apply in the event of an
10 inadvertent discovery of a burial site.

11 ~~[(k)]~~ (m) The Hawaii housing finance and development
12 corporation may submit to the department any additional parcels
13 or rights-of-way for programmatic review if the counties do not
14 provide a submittal pursuant to subsection ~~[(e)]~~ (g); provided
15 that the same analysis shall be conducted pursuant to subsection
16 ~~[(f)]~~ (h), and the department shall classify the submittal
17 within six months of receipt.

18 ~~[(l)]~~ (n) The Hawaii community development authority may
19 submit parcels or rights-of-way within its jurisdiction to the
20 department for review, and any parcels or rights-of-way
21 identified by the department for which all categories are rated



1 in the lower two effect levels shall be considered to comply
2 with [~~subsections~~] subsection (a) or [~~(b)~~] (d) or section 6E-8
3 regarding state or county lands or projects, and any subsequent
4 permit, license, certificate, land use change, subdivision, or
5 other entitlement for use shall not require referral to the
6 department; provided that:

7 (1) The project is or includes infrastructure to support
8 the development of:

9 (A) A majority-residential mixed-use transit-oriented
10 development; or

11 (B) A residential transit-oriented development;

12 (2) The project has reached substantial construction by
13 June 30, 2036;

14 (3) Development activities have commenced consistent with
15 best practices to address the applicable level of
16 risk; and

17 (4) The department shall classify the submittal within six
18 months of receipt.

19 [~~(m)~~] (o) The department shall adopt rules in accordance
20 with chapter 91 to implement this section.



1 [~~n~~] (p) For the purposes of this section, "majority-
2 residential mixed-use transit-oriented development" means a
3 mixed-use transit-oriented development project where the
4 majority of the project is residential and may include off-site
5 infrastructure."

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

8 **"§6E-42 Review of proposed projects.** (a) Except as
9 provided in section 6E-42.2, before any agency or officer of the
10 State or its political subdivisions approves any project
11 involving a permit, license, certificate, land use change,
12 subdivision, or other entitlement for use that may affect
13 historic property, aviation artifacts, or a burial site, the
14 agency or officer shall advise the department and, before any
15 approval, allow the department an opportunity for review and
16 comment on the effect of the proposed project on historic
17 properties, aviation artifacts, or burial sites, consistent with
18 section 6E-43, including those listed in the Hawaii register of
19 historic places. If:

- 20 (1) The proposed project consists of corridors or large
21 land areas;



1 (2) Access to properties is restricted; or

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

4 the department's review and comment may be based on a phased
5 review of the project; provided that there shall be a
6 programmatic agreement between the department and the project
7 applicant that identifies each phase and the estimated timelines
8 for each phase.

9 **(b) The department shall provide written concurrence or**
10 **non-concurrence within ninety days, or within thirty calendar**
11 **days if no historical properties are impacted by the proposed**
12 **project, after the filing of a request with the department. If**
13 **the department fails to provide a written concurrence or non-**
14 **concurrence with a project effect determination within ninety**
15 **days, or within thirty calendar days if no historic properties**
16 **are to be affected, of receiving a true and complete submittal**
17 **for a project, the lead agency may assume the department's**
18 **concurrence and the project may move to the next step in the**
19 **compliance process.**

20 **(c) The project applicant shall ensure that its**
21 **application is complete and accurate. If the department:**



1 (1) Determines the application is not a complete
2 submittal;

3 (2) Requires additional information or clarification
4 regarding the physical scope of work; or

5 (3) Requires an archaeological survey or reconnaissance
6 level survey for architectural resources,

7 the department shall notify the applicant and specify the
8 additional information needed to meet the requirements for a
9 complete submittal. The review period for the proposed project
10 shall cease until a complete submittal is made to the
11 department. Once the department has received a complete
12 submittal, the applicable review period shall restart.

13 ~~[(b)]~~ (d) Once the department has provided written
14 concurrence on the project effect determination and any
15 necessary mitigation measures have been identified and agreed
16 upon for a proposed project, the appropriate agency or officer
17 of the State or any of its political subdivisions may commence
18 the project, and the project shall be exempt from further review
19 by the department unless there is a change to the project's
20 physical scope of work or project area or unless additional



1 historic properties, aviation artifacts, or burial sites are
2 identified within the project area; provided that:

3 (1) If there is a change in the project's physical scope
4 of work or project area or if additional historic
5 properties or aviation artifacts are identified within
6 the project area post-review, the appropriate agency
7 or officer of the State or any of its political
8 subdivisions shall notify the department within forty-
9 eight hours of the discovery. The notification shall
10 include a description of the historic property or
11 aviation artifact and propose actions to avoid,
12 minimize, or mitigate adverse effects. The department
13 shall respond within five business days of the
14 notification with an assessment of the historic
15 property or aviation artifact and shall provide
16 concurrence or non-concurrence with the actions
17 proposed to avoid, minimize, or mitigate adverse
18 effects. The appropriate agency or officer of the
19 State or any of its political subdivisions shall
20 provide the department with a report of the agreed
21 upon actions when they are completed; and



1 (2) If a burial site is inadvertently discovered, the
2 appropriate agency or officer of the State or any of
3 its political subdivisions shall proceed pursuant to
4 section 6E-43 or 6E-43.6, or both, as appropriate.

5 ~~[(e)]~~ (e) The department shall inform the public of any
6 project proposals submitted to the department under this section
7 that are not otherwise subject to the requirement of a public
8 hearing or other public notification.

9 ~~[(d)]~~ (f) Whenever the project involves the development
10 of residential units or mixed-use development, as long as a
11 majority of the mixed-use development is residential, and after
12 an initial evaluation, the department determines that:

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

16 (2) The third-party consultant has the qualifications and
17 experience required by subsection ~~[(e)]~~ (g) to
18 conduct the review; and

19 (3) The contract with the third-party consultant:

20 (A) Requires the third-party consultant to provide a
21 recommendation to the department within thirty



1 days of the date that the consultant is retained
2 to conduct the review and comment; and

3 (B) Allows the department to reserve the right to
4 determine whether use of a third-party consultant
5 was appropriate and terminate the contract if the
6 third-party consultant:

7 (i) Has evidenced insufficient compliance with
8 the state historic preservation laws and
9 rules; or

10 (ii) Has not completed assigned historic
11 preservation reviews accurately,

12 then the department may retain a third-party consultant to
13 conduct the review and comment described under subsection (a) no
14 later than sixty days after being advised pursuant to subsection
15 (a); provided that this subsection shall not apply to projects
16 that trigger section 106 of the National Historic Preservation
17 Act of 1966, as amended.

18 ~~[(e)]~~ (g) Whenever the department retains any third-
19 party consultant, including any architect, engineer,
20 archaeologist, planner, or other professional, to review an



1 application for a permit, license, or approval under subsection
2 ~~[(d)]~~ (f), the third-party consultant shall:

3 (1) Meet the educational and experience standards as well
4 as the qualifications for preservation professionals
5 pursuant to rules adopted by the state historic
6 preservation division;

7 (2) Follow state ethics rules; and

8 (3) Not review any project that the third-party consultant
9 or the consultant's employer has previously worked on.

10 ~~[(f)]~~ (h) The project proponent shall pay the reasonable
11 fee requirements of the third-party consultant; provided that
12 the project proponent may contract with or sponsor any county,
13 housing authority, non-profit organization, or person to meet
14 the fee requirements.

15 ~~[(g)]~~ (i) Counties deriving and expending revenues on
16 mass transit stations pursuant to section 46-16.8 may request
17 programmatic review by the department for a majority-residential
18 mixed-use transit-oriented development or residential transit-
19 oriented development where a permit, license, certificate, land
20 use change, subdivision, or other entitlement may be required.



1 ~~[(h)]~~ (j) No later than January 1, 2026, the counties
2 and the Hawaii community development authority shall work with
3 the department to identify and submit to the department specific
4 parcels and rights-of-way in proximity to mass transit stations
5 where a majority-residential mixed-use transit-oriented
6 development, a residential transit-oriented development, or
7 infrastructure is specifically consistent with a comprehensive
8 general plan adopted pursuant to section 46-4; provided that the
9 counties and Hawaii community development authority shall:

10 (1) First consult with the department and agree through
11 memorandum on the mass transit stations, and specific
12 transit-oriented development parcels and rights-of-
13 way, scoping the potential area for initiating
14 programmatic review; and

15 (2) Then solicit requests and consent from non-county
16 landowners to have their parcels and rights-of-way
17 within the scoped area of the memorandum initiating
18 programmatic review to proceed with the programmatic
19 review process.

20 ~~[(i)]~~ (k) The department shall review all parcels and
21 rights-of-way submitted by the counties and the Hawaii community



1 development authority pursuant to the scoping memorandum and
2 classify each parcel and right-of-way, within six months of
3 submittal, according to the risk that a majority-residential
4 mixed-use transit-oriented development or residential transit-
5 oriented development may pose to historic properties. The
6 classification shall be categorized into three categories, in
7 order of potential effect level from high to low, in the
8 categories of architecture, archaeology, and history and
9 culture; provided that:

10 (1) All county and non-county and Hawaii community
11 development authority parcels and [±]rights-of-way[±]
12 for programmatic review shall include the county's or
13 the Hawaii community development authority's
14 assessment of whether development on each parcel or
15 right-of-way may affect historic property, aviation
16 artifacts, or a burial site; and

17 (2) The assessment is based on:

18 (A) The Hawaii or national register of historic
19 places;

20 (B) The age of above-surface structures;



(C) Any existing archaeological inventory surveys previously accepted by the department;

(D) Any burial treatment plans accepted by the department;

(E) The type of substrate known to typically contain burials;

(F) Consultation with the:

(i) Relevant island burial council; and

(ii) Office of Hawaiian affairs; and

(G) Any other literary review relevant to the area.

~~[(+j)+]~~ (1) The department shall work with the county that made the submittal and the Hawaii community development authority to develop and agree on permitting memoranda within three months of classification regarding development best practices, including continued identification, addressing levels of risk for the lower two effect levels in each of the categories, including but not limited to creating photo inventories, conducting an archaeological field survey, archaeological excavation, or onsite archaeological monitoring, and the presence of onsite archaeological monitoring, and



1 consider these best practices as standardized for activities
2 conducted under this section.

3 A county and the Hawaii community development authority
4 shall incorporate by reference these best practices as
5 conditions of approval for any project involving a permit,
6 license, certificate, land use change, subdivision, or other
7 entitlement for use.

8 ~~[(k)]~~ (m) Parcels and rights-of-way identified by the
9 department where all categories are rated in the lower two
10 effect levels shall be considered to comply with ~~[subsections]~~
11 subsection (a) or ~~[(b)]~~ (d) or section 6E-8 regarding state or
12 county lands or projects, and any subsequent permit, license,
13 certificate, land use change, subdivision, or other entitlement
14 for use shall not require referral to or written concurrence
15 from the department on project effect determination and
16 mitigation measures; provided that:

17 (1) The project is or includes infrastructure to support
18 the development of:

19 (A) A majority-residential mixed-use transit-oriented
20 development; or

21 (B) A residential transit-oriented development;



1 (2) The project has reached substantial construction by
2 June 30, 2036; and

3 (3) Development activities have commenced consistent with
4 best practices to address the applicable level of
5 risk.

6 ~~[(1)]~~ (n) Any parcels or rights-of-way characterized as
7 highest risk shall require referral to the department pursuant
8 to subsection (a).

9 ~~[(m)]~~ (o) Section 6E-43.6 shall apply in the event of an
10 inadvertent discovery of a burial site.

11 ~~[(n)]~~ (p) The Hawaii housing finance and development
12 corporation may submit to the department any additional parcels
13 or rights-of-way for programmatic review if the counties do not
14 provide a submittal pursuant to subsection ~~[(h)]~~ (j);
15 provided that the same analysis shall be conducted pursuant to
16 subsection ~~[(i)]~~ (k), and the department shall classify the
17 submittal within six months of receipt.

18 ~~[(o)]~~ (q) The Hawaii community development authority may
19 submit parcels or rights-of-way within its jurisdiction to the
20 department for review, and any parcels or rights-of-way
21 identified by the department for which all categories are rated



1 in the lower two effect levels shall be considered to comply
2 with [~~subsections~~] subsection (a) or [~~(b)~~] (d) or section 6E-8
3 regarding state or county lands or projects, and any subsequent
4 permit, license, certificate, land use change, subdivision, or
5 other entitlement for use shall not require referral to the
6 department; provided that:

7 (1) The project is or includes infrastructure to support
8 the development of:

9 (A) A majority-residential mixed-use transit-oriented
10 development; or

11 (B) A residential transit-oriented development;

12 (2) The project has reached substantial construction by
13 June 30, 2036;

14 (3) Development activities have commenced consistent with
15 best practices to address the applicable level of
16 risk; and

17 (4) The department shall classify the submittal within six
18 months of receipt.

19 [~~(p)~~] (r) The department shall adopt rules in accordance
20 with chapter 91 to implement this section.



1 ~~[(a)]~~ (s) For the purposes of this section, "majority-
2 residential mixed-use transit-oriented development" means a
3 mixed-use transit-oriented development project where the
4 majority of the project is residential and may include off-site
5 infrastructure."

6 SECTION 4. This Act does not affect rights and duties that
7 matured, penalties that were incurred, and proceedings that were
8 begun before its effective date.

9 SECTION 5. Statutory material to be repealed is bracketed
10 and stricken. New statutory material is underscored.

11 SECTION 6. This Act shall take effect on July 1, 2026,
12 after the amendments made by Act 306, Session Laws of Hawaii
13 2025, to section 6E-42, Hawaii Revised Statutes, take effect;
14 provided that section 3 of this Act shall be repealed on June
15 30, 2030, and section 6E-42, Hawaii Revised Statutes, shall be
16 reenacted in the form in which it read on the day prior to the
17 effective date of Act 306, Session Laws of Hawaii 2025.



H.B. NO. 1710

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INTRODUCED BY: *Jason Miyake*
JAN 20 2026



H.B. NO. 1710

Report Title:

Historic Preservation; State Historic Preservation Division
Review; Historic Properties; Private Properties; Project Review;
Review Period

Description:

Authorizes SHPD to conduct a phased review of a proposed project on private property under certain circumstances. Amends the process and deadlines by which SHPD must provide written concurrence or non-concurrence for a proposed project on private property or other project that requires entitlement for use, after which concurrence may be assumed and the project may proceed.

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

