

ACT 228

H.B. NO. 2486

A Bill for an Act Relating to Historic Preservation.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 46, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§46- Photographs of historic property. Notwithstanding any other law to the contrary, each county agency that issues building, construction, or development-related permits shall not issue any permit allowing the demolition, construction, or other alteration of a historic building until after a permit applicant provides proof of having provided the department of land and natural resources with archival quality black and white photographs of the historic building, as required under chapter 6E.”

SECTION 2. Section 6E-8, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Before any agency or officer of the State or its political subdivisions commences any project which may affect historic property, aviation artifact, or a burial site, the agency or officer shall advise the department and allow the department an opportunity for review of the effect of the proposed project on historic properties, aviation artifacts, or burial sites, consistent with section 6E-43, especially those listed on the Hawaii register of historic places. The proposed project shall not be commenced, or in the event it has already begun, continued, until the department shall have given its written concurrence. In the case of any building that is eligible for listing or is listed on the Hawaii or national register of historic places, no demolition, construction, or other alteration of the building shall occur until after the responsible agency, officer, or county has transmitted archival quality black and white photographs of the historic building to the department.

The department is to provide written concurrence or non-concurrence within ninety days after the filing of a request with the department. The agency or officer seeking to proceed with the project, or any person, may appeal the department’s concurrence or non-concurrence to the Hawaii historic places review board. An agency, officer, or other person who is dissatisfied with the decision of the review board may apply to the governor, who may request the Hawaii advisory council on historic preservation to report or who may take action as the governor deems best in overruling or sustaining the department.”

SECTION 3. 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 which will affect an 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 opportunity for review of the effect of the proposed construction, alteration, disposition, or improvement of any nature on the historic property. The proposed construction, alteration, disposition, or improvement of any nature shall not be commenced, or in the event it has already begun, continue, until the department shall have given its concurrence or ninety days have elapsed. Within ninety days after notification, the department shall:

- (1) Commence condemnation proceedings for the purchase of the historic property if the department and property owner do not agree upon an appropriate course of 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) In the case of any building over fifty years old, no demolition, construction, or other alteration of the building shall occur until after the owner has transmitted to the department, at the owner's expense, archival quality black and white photographs of the building.

~~(b)~~ (c) Nothing in this section shall be construed to prevent the ordinary maintenance or repair of any feature in or on an historic property that does not involve a change in design, material, or outer appearance or change in those characteristics which qualified the historic property for entry onto the Hawaii register of historic places.

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

~~(d)~~ (e) If funds for the acquisition of needed property are not available, the governor may, upon the recommendation of the department allocate from the contingency fund an amount sufficient to acquire an option on the property or for the immediate acquisition, preservation, restoration, or operation of the property.

~~(e)~~ (f) The department may enter, solely in performance of its official duties and only at reasonable times, upon private lands for examination or survey thereof. Whenever any member of the department duly authorized to conduct investigations and surveys of an historic or cultural nature determines that entry onto private lands for examination or survey of historic or cultural finding is required, the department shall give written notice of the finding to the owner or occupant of such property at least five days prior to entry. If entry is refused, the member may make a complaint to the district court in the circuit in which such land is located. The district court may thereupon issue a warrant, directed to any police officer of the circuit, commanding the officer to take sufficient aid, and, being accompanied by a member of the department, between the hours of sunrise and sunset, allow the member of the department to examine or survey the historic or cultural property.”

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

SECTION 5. This Act shall take effect on July 1, 2008.

(Became law on July 8, 2008, without the Governor's signature, pursuant to Art. III, §16, State Constitution.)

Note

1. Edited pursuant to HRS §23G-16.5.