

A Bill for an Act Relating to Historic Preservation Reviews.

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

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

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

- (1) If the department determines that the proposed project is in a:
 - (A) Highly sensitive area known to include a high density of historic, cultural, or archaeological resources, or in an area that is likely to contain a high density of historic, cultural, or archaeological resources, the department shall require an archaeological inventory survey in accordance with rules adopted by the department unless an archaeological inventory survey has already been previously reviewed and accepted by the department for the same or a substantially similar project located in the same project area, in which case the department may allow the project to proceed under an archaeological monitoring program pursuant to rules adopted by the department;
 - (B) Moderately sensitive area where an archaeological inventory survey has already been previously reviewed and accepted by the department and no significant historic properties have been previously identified, the department may authorize the project to proceed under an archaeological monitoring program in accordance with rules adopted by the department; or
 - (C) Nominally sensitive area known to include a low density of historic, cultural, or archaeological resources, or where the project area has been substantially disturbed by previous excavation or other ground disturbing work and no significant historic properties have been previously identified, the department may authorize the project to proceed without further review under this section; and
- (2) The department's determination shall be based on:
 - (A) The Hawaii or national register of historic places;
 - (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.

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

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

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

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

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

- (1) Discovery; and
- (2) Back-dirt pile containing the soil removed during excavation in proximity of the discovery,

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

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

The notification shall include:

- (1) A historic properties assessment that documents the historic, cultural, or archaeological resource and determines its significance;
- (2) An assessment of effect that shall detail any impacts the project has had or will have on the historic, cultural, or archaeological resource; and
- (3) Proposed actions that may be taken to avoid, minimize, or mitigate any adverse effects the project may have on the historic, cultural, or archaeological resource.

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

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

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

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

SECTION 2. New statutory material is underscored.¹

SECTION 3. This Act shall take effect upon its approval.

(Approved July 9, 2025.)

Note

1. Edited pursuant to HRS §23G-16.5.