

JAN 19 2007

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# A BILL FOR AN ACT

RELATING TO HISTORIC PRESERVATION.

**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 be appropriately designated and to  
3 read as follows:

4           "§6E- Demolition of historic property; review process;  
5 exceptions. (a) Before demolition of any historic property or  
6 property within a district designated for preservation  
7 commences, a private landowner, or agency or officer of the  
8 State or its political subdivisions shall notify, in writing,  
9 the Hawaii historic places review board or local government  
10 preservation review commission, where applicable, and allow the  
11 review board or commission an opportunity to review any effects  
12 the proposed demolition will have on the property. The proposed  
13 demolition of the historic property shall not commence without  
14 approval from the review board or commission.

15           (b) The issuance of a demolition permit for all or any  
16 part of a property proposed for demolition shall be delayed for  
17 a period of up to ninety days from the date on the demolition



1 permit application. During this period, a demolition permit  
2 shall not be issued unless accompanied by written approval of  
3 the review board or commission.

4 (c) The review board or commission shall review and  
5 determine the significance of the historic property by  
6 considering the integrity of the location, design, setting,  
7 materials, artisanship, feeling, cultural and historic  
8 association, and any of the following criteria:

9 (1) Has an association with events that has made an  
10 important contribution to the broad pattern of Hawaii  
11 history;

12 (2) Has an association with the lives of individuals  
13 important in the past;

14 (3) Embodies the distinctive characteristics of a type,  
15 period, or method of construction, represents the work  
16 of a master, or possesses high artistic value;

17 (4) Yields, or has the potential to yield, information  
18 important for research on prehistory or history; or

19 (5) Has an important value to native Hawaiians or to  
20 another ethnic group due to its association with:

21 (A) Cultural practices once or still being carried  
22 out at the property; or



1           (B) Traditional beliefs, events, or oral histories  
2           that are important to the group's history and  
3           cultural identity.

4           (d) In no event shall a demolition permit be issued until  
5           the review board or commission has designated and approved a  
6           replacement structure, unless the property proposed for  
7           demolition poses an imminent danger under subsection (f). If  
8           the application for demolition is approved, a replacement  
9           structure shall be a condition of the demolition approval. For  
10          purposes of this section, "replacement structure" means a  
11          primary structure for a use by right, except for surface parking  
12          and storage, which takes the place of a historic property  
13          designated for preservation.

14          (e) If the application for demolition is denied by the  
15          review board or commission, the landowner or agency may file for  
16          a demolition permit twelve months after the initial denial;  
17          provided that a replacement structure is approved by the state  
18          historic preservation division or local government preservation  
19          review commission, where applicable. During the delay period,  
20          the landowner or agency may work with the state historic  
21          preservation division or local government preservation review  
22          commission and other interested parties to develop an acceptable



1 alternative solution. If the application is denied, the  
2 landowner or agency may seek relief demonstrating economic  
3 hardship under subsection (g).

4 (f) If demolition of a historic property or property  
5 within a historic district designated for preservation is for  
6 the purpose of remedying conditions declared to be imminently  
7 dangerous to life, health, or property under an order or  
8 directive by the State or any of its political subdivisions,  
9 demolition may proceed without further delay; provided that the  
10 landowner or agency shall notify, in writing, the review board  
11 or commission prior to commencing demolition.

12 (g) Application to demonstrate economic hardship shall be  
13 made on a form prepared by the review board or commission.  
14 Notice of intent to initiate the procedure shall be given to the  
15 review board or commission within thirty days of the denial of  
16 the demolition permit application. The review board or  
17 commission may consult with appropriate organizations and  
18 agencies to aid in its determination. In making its  
19 determination, any of the following information may be  
20 considered by the review board or commission:

21 (1) The estimated cost of the proposed demolition and an  
22 estimate of any additional cost that will be incurred



- 1           to comply with the conditions of the demolition  
2           approval under this section;
- 3       (2) A report from a licensed engineer or architect with  
4           experience in rehabilitation as to the structural  
5           soundness of any structures on the property and their  
6           suitability for rehabilitation;
- 7       (3) The estimated market value of the property in its  
8           current condition, after rehabilitation, and after  
9           demolition for comparison, in addition to actual  
10          project costs;
- 11       (4) The amount paid for the property, the date of purchase  
12          or acquisition, and the name of the party from whom  
13          the property was purchased;
- 14       (5) All appraisals obtained within the previous two years  
15          by the owner in connection with the purchase,  
16          financing, or ownership of the property;
- 17       (6) Any listing of the property for sale or rent, price  
18          asked, and any written offers received within the  
19          previous two years;
- 20       (7) The actual or market value of the land and any  
21          improvements made on the land according to the most  
22          recent assessment;



- 1       (8) Real estate taxes for the previous two years;
- 2       (9) A proposal for a replacement structure for the
- 3               property and financial proof of the ability to
- 4               complete the replacement project; or
- 5       (10) For income producing property, the annual gross income
- 6               from the property and itemized operating and
- 7               maintenance expenses for the previous two years.

8 If the review board or commission approves the application for  
9 economic hardship, the proposed demolition may proceed without  
10 further delay imposed by reasons under this section. The review  
11 board or commission shall provide a written record of its  
12 decision.

13       (h) Any time limits set forth under this section may be  
14 extended by mutual consent of the review board or commission and  
15 the landowner or agency."

16       SECTION 2. Section 6E-5.5, Hawaii Revised Statutes, is  
17 amended by amending subsection (b) to read as follows:

18       "(b) The review board shall:

- 19               (1) Order and enter historic properties into the Hawaii
- 20                       register of historic places on the basis of their
- 21                       value to Hawaii's heritage;



- 1           (2) Evaluate and, when appropriate, recommend the  
2           nomination of historic properties to the national  
3           register of historic places;
- 4           (3) Review the state survey of historic properties  
5           undertaken in accordance with this chapter;
- 6           (4) Review the content of the state historic preservation  
7           plan developed in accordance with this chapter;
- 8           (5) Elect a chairperson and a vice-chairperson and adopt  
9           such rules as are necessary for the purposes of this  
10          section;
- 11          (6) Maintain the Hawaii register of historic places,  
12          including all those listed on the national register of  
13          historic places, and a program of notification and  
14          publication regarding properties on the registers[-];  
15          and
- 16          (7) Review all demolition permit applications for any  
17          historic property or property located within a  
18          district that is designated for preservation and  
19          approve or deny the permits."

20           SECTION 3. Statutory material to be repealed is bracketed  
21 and stricken. New statutory material is underscored.



# S.B. NO. 160

1 SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY: Carol Fukushima  
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**Report Title:**

Demolition; Historic Preservation

**Description:**

Requires all applications for demolition of historic properties to be reviewed and approved by the Hawaii historic places review board or local government preservation commission. Requires a replacement structure as a condition of demolition approval. Allows exceptions for imminent harm and economic hardship.

