

SB

1672

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Submitted Via Capitol Website

February 4, 2009

**Senate Committees on Economic Development and Technology &
Transportation, International and Intergovernmental Affairs
Hearing Date: Wednesday, February 4, 2009, 2:00 p.m. in CR 016**

Testimony in Opposition to SB 1672: Relating to Historic Structures

Chair Carol Fukunaga, Vice-Chair Rosalyn Baker and EDT Committee Members, and
Chair J. Kalani English, Vice-Chair Mike Gabbard and TIA Committee Members:

My name is Dave Arakawa, and I am the Executive Director of the Land Use Research Foundation of Hawaii (LURF), a private, non-profit research and trade association whose members include major Hawaii landowners, developers and a utility company. One of LURF's missions is to advocate for reasonable, rational and equitable land use planning, legislation and regulations that encourage well-planned economic growth and development, while safeguarding Hawaii's significant natural and cultural resources and public health and safety.

LURF is in **opposition** to SB 1672 because it fails to clarify and address the questions and unintended consequences caused by passage of Act 228 (2008) regarding photograph requirements of all buildings or structures over fifty years old. While we support the changes in Bill 1672 which allow the required photographs to be submitted to the Department of Land and Natural Resources (DLNR) in any format, including electronic, and allow for a shorter review time, we are opposed to the other revisions and would respectfully recommend that the bill be revised to limit the photograph requirements only apply to buildings which are on the State or Federal Historic Registers, and those buildings which have been nominated to those registers.

SB 1672. This bill is proposing to amend language of Act 228 (2008) to allow required photographs submitted to DLNR to be in any format, including electronic, when engaging in a demolition or major alteration of a historic building eligible for listing on the Hawaii or national register of historic places.

- Section 1 of SB 1672 inserts a definition of "major alteration" to be added to Section 6E-2 to include: (1) an alteration to more than fifty percent of the original structure; or (2) a two-story addition to a single story structure.
- Section 2 requires the department to provide their response to the request within thirty days for commercial structures and fifteen days for residential single family dwellings, instead of the ninety days called for in Act 228 (2008).

- Section 3 includes adds a provision that requires that any “eligible [building] eligible for listing on the Hawaii or national register of historic places” be subject to the photo requirement.
- Section 4 adds more definitions to attempt to clarify references made in the proposed language.
- Section 5 allows DLNR to convene a task force that could spearhead an accounting of eligible buildings or structures.

Background. This bill is an attempt to correct the wrongs of Act 228 (2008). The original intent of Act 228 was to obtain photographs of building eligible for listing on the Hawaii or National Register of Historic Places. When it became law, there was much confusion because Act 228 was interpreted to apply to ALL buildings fifty years or older. The original purpose of the bill was to require owners of historic buildings to submit archival-quality photographs to DLNR prior to the issuance of a building-related permit.

A number of unintended consequences resulted from Act 228, including, but not limited to, the following:

- While certain buildings may be considered as eligible for listing on the Hawaii or National Register of Historic Places at 50 years of age, every building over fifty years of age is not eligible for listing on the State or National Register.
- The requirements of Act 228 was applied to ALL where structures over fifty years old (including standard subdivision tract homes) and reviews were extended to any type of excavation was taking place. This was not the usual practice relating to building permits pre-Act 228, where the only properties that were affected were those that were considered historic property (i.e. on the Federal or State register of Historic Places).
- Act 228 has resulted in financial burdens and permit delays for owners of buildings over fifty years of age, which could never qualify to be listed on the Hawaii or Federal Register of Historic Places; and
- In some cases, the buildings may be deteriorated to such a degree that it may not warrant the expense of the archival-quality documentation necessary under this bill to receive a permit seeking to improve the condition of the structure.

LURF’s Position.

- LURF **opposes** the proposal to apply the law to buildings “eligible” for listing on the Hawaii or Federal Register of Historic Places. SB 1672 fails to remedy the problems associated with Act 228 (2008), because this proposal will confusion and questions , as the term “eligible” is vague and ambiguous and still fails to clearly identify which buildings should be required to provide photographic documentation prior to any work being done.
- LURF **respectfully recommends that the bill be revised to limit the photograph requirements only apply to buildings which are on the State or Federal Historic Registers, and those buildings which have been nominated to those registers.**
- LURF **supports** the changes in Bill 1672 which allow the required photographs to be submitted to the Department of Land and Natural Resources in any format, including electronic, and the revisions which allow for a shorter review time.

Thank you for the opportunity to express our concerns on this matter.