

H.B. NO. 1136

A BILL FOR AN ACT

RELATING TO PHOTOGRAPHS OF HISTORIC BUILDINGS.

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

1 SECTION 1. Section 6E-8, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

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

1 ~~quality black and white~~] photographs of the historic building to
2 the department.

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

13 SECTION 2. Section 6E-10, Hawaii Revised Statutes, is
14 amended by amending subsection (b) to read as follows:

15 "(b) In the case of any building over fifty years old[~~7~~]
16 and eligible for listing on the Hawaii or national register of
17 historic places as defined in title 13, subtitle 8, chapter 198,
18 Hawaii administrative rules, no demolition, construction, or
19 other alteration of the building shall occur until after the
20 owner has transmitted to the department, at the owner's expense,
21 [~~archival quality black and white~~] photographs of the building."

22 SECTION 3. Section 46-3.5, Hawaii Revised Statutes, is

1 amended to read as follows:

2 "~~+~~§46-3.5~~+~~ **Photographs of historic property.** (a)

3 Notwithstanding any other law to the contrary, each county

4 agency that issues building, construction, or development-

5 related permits shall not issue any permit allowing the

6 demolition, construction, or other alteration of a ~~[historic]~~

7 building eligible for listing on the Hawaii or national register

8 of historic places as defined in chapter 13-198, Hawaii

9 administrative rules, until after a permit applicant provides

10 proof of having provided the department of land and natural

11 resources ~~[with archival quality black and white]~~ photographs of

12 the historic building, as required under chapter 6E.

13 (b) For the purposes of this section:

14 "Eligible for listing on the Hawaii or national register of

15 historic places" means that a property meets the significance

16 criteria for the national register as defined by the Secretary

17 of the Interior's Standards and Guidelines for Evaluation or

18 meets the significance criteria for listing on the Hawaii

19 register as defined in chapter 13-284, Hawaii administrative

20 rules, or both. A person meeting professional qualifications

21 listed in chapter 13-281, Hawaii administrative rules, shall

22 make the significance determination.

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1 "Photographs" means dated pictures, not taken more than one
2 month prior to applying for any building permit affecting the
3 exterior of the historic structure in any clearly visible
4 format, including electronic formats.

5 "Photographs of the historic building" means, at the least,
6 pictures of the building exterior, including window treatments,
7 doors, roof line, and interesting architectural details, such as
8 gables, finials, rock wall foundations, or porches."

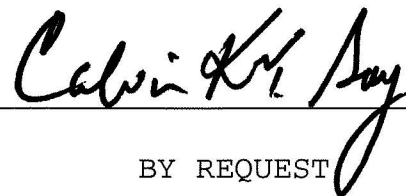
9 SECTION 4. Statutory material to be repealed is bracketed
10 and stricken. New statutory material is underscored.

11 SECTION 5. This Act shall take effect upon its approval.

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INTRODUCED BY:



14

BY REQUEST

JAN 26 2009

Report Title:

Historic Preservation; Historic Property; Photographs

Description:

Changes the requirement for archival photographs for permits allowing the demolition, construction, or other alteration of a historic building to photographs in any format, including electronic, for buildings eligible for listing on the Hawaii or National Register of Historic Places.

JUSTIFICATION SHEET

DEPARTMENT: Land and Natural Resources

TITLE: A BILL FOR AN ACT RELATING TO PHOTOGRAPHS OF HISTORIC BUILDINGS.

PURPOSE: To change the requirement for archival photographs for permits allowing the demolition, construction, or other alteration of a historic building to photographs in any format, including electronic for buildings eligible for listing on the Hawaii or National Register of Historic Places.

MEANS: Amend sections 6E-8(a), 6E-10(b), and 46-3.5, Hawaii Revised Statutes.

JUSTIFICATION: As a result of Act 228, Session Laws of Hawaii (SLH) 2008, owners of historic buildings are required to submit archival-quality photographs to the Department prior to the issuance of a building-related permit. The provisions in this Act apply to all privately owned and public buildings that are at least fifty years old.

While fifty years is usually the age at which a building may be considered as eligible for listing on the Hawaii or National Register of Historic Places, every building over fifty years of age is not eligible for listing on the State or National Register. A structure must possess historic integrity in terms of its setting, design, materials, workmanship, location, and association in order to be eligible for listing on these registers.

While the intent of Act 228, SLH 2008, is to ensure that a quality record of historic buildings lives on even after the buildings are demolished, the Department is nonetheless concerned that this Act places a

financial burden on owners of buildings over fifty years of age without considering the structure's condition. In some cases, a building may be deteriorated to such a degree that it may not warrant the expense of the archival-quality documentation or a standard photograph for that matter, in order to receive a permit seeking to improve the condition of the structure.

This bill proposes to change the requirement for archival photographs for permits allowing the demolition, construction, or other alteration of a historic building to photographs in any format, including electronic for buildings eligible for listing on the Hawaii or National Register of Historic Places

Impact on the public: Would remove unnecessary and additional financial burden on the applicant since archival photographs are very costly. If the applicant is unable to afford the necessary documentation, they may be less likely to seek out permits for alteration, construction, and demolition of historic buildings.

Impact on the department and other agencies: Would remove unnecessary burden on having to retain photographs of structures 50 years or older which have no historic integrity.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: LNR 802.

OTHER AFFECTED
AGENCIES: None.

EFFECTIVE DATE: Upon approval.