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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-    Attorney's fees and costs. (a) In any action  
5 brought under this chapter, upon a specific finding that a non-  
6 prevailing party's claim or defense is frivolous, including that  
7 of the department, the court shall assess against the non-  
8 prevailing party and award to the prevailing party and enter as  
9 part of its order or judgment, a reasonable sum for costs and  
10 expenses incurred, including reasonable attorney's fees.

11           (b) In any action brought under this chapter in which  
12 there is no finding by the court that the claims pled or  
13 defenses asserted were frivolous, the court may award to a  
14 prevailing party and enter as a part of its order or judgment, a  
15 reasonable sum for costs and expenses incurred, including  
16 reasonable attorney's fees.

17           (c) If the department does not prevail in any action  
18 brought under this chapter, the court may assess costs,



1 expenses, and reasonable attorney's fees against the department  
2 if the court finds all of the following:

3 (1) The litigation led to the vindication of a public  
4 policy of societal importance;


5 (2) The litigation for private enforcement was necessary  
6 and resulted in a burden on the plaintiff; and

7 (3) A broad number of people benefited from the decision."

8 SECTION 2. New statutory material is underscored.

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

10

INTRODUCED BY: 

JAN 26 2011



**Report Title:**

Historic Preservation

**Description:**

Clarifies litigation rights and rights to attorney's fees in litigation involving historic preservation.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

