

JAN 20 2012

A BILL FOR AN ACT

RELATING TO URBAN ART.

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

1 SECTION 1. This Act shall be known and may be cited as the
2 Urban Art Act of 2012. Throughout our State, graffiti is a
3 problem in most communities. Graffiti appears on public and
4 private property, causes visual blight, and results in unsightly
5 scenery. Individuals engaging in graffiti typically tag
6 buildings, walls, bus stops, bridges, underpasses, construction
7 sites, concrete columns, postal mail boxes, signs, trees,
8 vehicles, and other surfaces able to accommodate their marks and
9 messages. In some cases, taggers place themselves in dangerous
10 situations that could lead to injury or death. To date, the
11 problem persists despite community efforts to combat graffiti.

12 The legislature finds that if individuals are given an
13 opportunity to create certain types of urban art on public
14 property, these individuals may be less likely to illegally
15 create graffiti. The viaduct adjacent to Honolulu International
16 Airport could be a setting for urban art. At this location
17 beneath the H-1 freeway, there are hundreds of concrete columns
18 that could be used as canvasses for urban art. Artists could



1 showcase their talents by filling those blank canvasses with
2 images, representations, and other forms of artistic expression.

3 The purpose of this Act is to create a program that offers
4 an artistic outlet for individuals who would like to showcase
5 their artistic abilities on public property, as approved by the
6 appropriate authorities.

7 SECTION 2. The Hawaii Revised Statutes is amended by
8 adding a new chapter to be appropriately designated and to read
9 as follows:

10 **"CHAPTER**

11 **URBAN ART**

12 **§ -1 Short title.** This chapter shall be known and may
13 be cited as the Urban Art Act of 2012.

14 **§ -2 Definitions.** As used in this part, the following
15 terms shall have the following respective meanings, unless the
16 context requires otherwise:

17 "Director" or "director of a state department" means the
18 department head of any principal department established in
19 section 26-4.

20 "Graffiti" means any unauthorized drawing, inscription,
21 figure, or mark of any type intentionally created by paint, ink,
22 chalk, dye, or similar substances.



1 "Individual" means a natural person.

2 "State agency" means all executive departments, boards, and
3 commissions of the State and all public corporations created by
4 the legislature. Every board, commission, or public corporation
5 established or placed within a principal department for
6 administrative purposes or subject to the administrative control
7 or supervision of the head of the department shall be deemed a
8 state agency.

9 "State department" means any of the principal departments
10 listed in section 26-4, including the university of Hawaii.

11 "Urban art" means any painting or artistic work composed of
12 arrangements of color or white. Urban art includes mosaics,
13 murals, stencil art, and other art media and techniques. Urban
14 art excludes a painting or work placed on a structure that is
15 erected for the sole or primary purpose of signage.

16 § -3 **Urban art on state property authorized.** (a) A
17 director of a state department may permit an individual or
18 individuals to create urban art on property owned in fee simple
19 by the State that is under the jurisdiction of the director's
20 department, including but not limited to property under the
21 jurisdiction of a state agency that is administratively attached
22 to or placed within the department. From the date a director



1 permits an individual or individuals to create urban art, the
2 individual or individuals shall have six months to complete the
3 urban art.

4 (b) The director shall inform the individual or
5 individuals who receive permission to create urban art under
6 this section of the location and size of the area within which
7 paint, ink, chalk, dye, or other similar substances may be
8 applied. The individual or individuals may create the urban art
9 on concrete pillars, concrete walls, concrete columns, or other
10 similar areas.

11 (c) The application by an individual of any paint, ink,
12 chalk, dye, or similar substances to state property to create
13 urban art permitted under this section shall not constitute a
14 violation of part III of chapter 708 or graffiti for the
15 purposes of section 46-1.5, 577-3.5, or 708-823.6.

16 **§ -4 Selection of individuals; review and acceptance of**
17 **urban art.** (a) A director who authorizes urban art under
18 section -3, in consultation with the state foundation on
19 culture and the arts, shall select individuals to create urban
20 art. The director shall also review the design, creation, and
21 placement of the urban art.



1 (b) A director may, at any time, remove, alter, modify, or
2 distort urban art permitted under section -3 and any paint,
3 ink, chalk, dye, or other similar substances applied to state
4 property to create urban art permitted under section -3.

5 **§ -5 Rights to copyrights of urban art.** The State shall
6 be the owner of any copyright arising out of or resulting from
7 urban art permitted under section -3. An individual who
8 creates urban art permitted under section -3 forfeits all
9 rights to ownership of copyright in the urban art or any aspect
10 of the urban art.

11 **§ -6 Limitations on access to state property.** (a) The
12 department of accounting and general services, in consultation
13 with the director who authorizes the urban art, or the
14 director's designee, shall coordinate access to state property
15 for the individual or individuals permitted to create urban art.

16 (b) Nothing in this chapter shall be construed to limit
17 any right of action of the State arising from any property
18 damage or trespass.

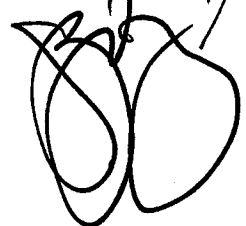
19 **§ -7 Supplies.** A state agency that is affected by urban
20 art may provide supplies for the creation of the urban art. The
21 supplies may include but are not limited to paint, ink, chalk,
22 dye, or other similar substances.



1 § -8 **Indemnification.** Every individual who enters onto
2 state property to create urban art shall indemnify and hold
3 harmless the state department that authorized creation of the
4 urban art and the State of Hawaii and its officers, agents, and
5 employees from and against any and all claims arising out of or
6 resulting from any activities associated with the urban art, and
7 procure sufficient insurance to provide this indemnification if
8 requested to do so by the affected state department or agency."

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

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S.B. NO. 2399

Report Title:

Urban Art; State Foundation on Culture and the Arts

Description:

Authorizes a director of a state department to permit an individual or individuals to create urban art on property owned in fee simple by the State that is under the jurisdiction of the director's department. Requires a director who authorizes urban art, in consultation with the state foundation on culture and the arts, to select individuals to create the urban art.

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

