

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

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KAIHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

**Department of Land and Natural Resources
Testimony Transmittal Cover Sheet**

Date Submitted: Tuesday, February 01, 2011

Testifier's Name/Title: Pua Aiu, Historic Preservation Division Administrator

Committee Name: HOUSE COMMITTEE ON HAWAIIAN AFFAIRS (HAW)

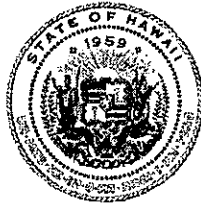
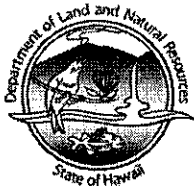
Day and Date: Wednesday, February 02, 2011

Time/Location: 8:30 AM, Conference Room 329

Measure Number: HB 225 -- RELATING TO HISTORIC PRESERVATION.

Requested Copies: 3 (including original) to Room 313 in the State Capitol.

LINDA LINGLE
GOVERNOR OF HAWAII



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

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HONOLULU, HAWAII 96809

**Testimony of
WILLIAM J. AILA, JR.
Chairperson**

**Before the House Committee on
HAWAIIAN AFFAIRS**

**Wednesday, February 2, 2011
8:30 AM
State Capitol, Conference Room 329**

**In consideration of
HOUSE BILL 225
RELATING TO HISTORIC PRESERVATION**

House Bill 225 proposes to require archaeological surveys be done at the point of sale or the long term lease of undeveloped property. The Department of Land and Natural Resources (Department) is opposed to this measure as the Department believes this would put an undue burden on its State Historic Preservation Division (SHPD) to review an unknown number of additional archaeological surveys at a time when it is struggling to ensure adequate staff to review existing permits and meet federal guidelines.

Current law requires an Archaeological Inventory Survey (AIS) at the point of impact, usually at the point of permitting. Sale of land is a paper transaction, which may or may not have an effect on historic resources. For example, sale of pasture land for continued use as pasture land would not warrant an AIS.

House Bill 225 requires an AIS for any property with infrastructure to be demolished. The City and County of Honolulu alone has over 500 demolitions per year, of which about 200 are the demolition of historic properties. If the Department had an additional 500 archaeological inventory surveys to review, it would need at least two additional archaeological positions, in addition to filling the current vacancies and hiring staff to meet Federal requirements (Librarian, Geographic Information System Specialist). The Department would also need additional support staff and operational funds. This is not counting the additional work for the sale of undeveloped land.

The bill also does not distinguish between land that has already had an AIS done or enough ground disturbance to warrant a "no effect" on historic properties determination. For example, most of Mililani has been sufficiently graded and disturbed so that an AIS should not be required.

Laura H. Thielen
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Board of Land and Natural Resources
Commission on Water Resource Management

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Forestry and Wildlife
Historic Preservation
Kahooolawe Island Reserve Commission
Land
State Parks

While the Department agrees that archaeological surveys should be done as early in the development process as possible, it is not necessary for all properties. Furthermore, the Department believes this bill has the potential to cause more confusion because it does not clarify if an archaeological survey done prior to a sale effectively meets the landowners and state and county agencies requirements to protect historic sites under Sections 6E-8, 6E-10 and 6E-42, Hawaii Revised Statutes, or whether those statutes still require review at the point of development. This confusion is likely to substantially increase the workload of SHPD negatively impacting its ability to provide timely reviews, and in the process, slowing land sales.



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February 1, 2011

The Honorable Faye P. Hanohano, Chair
House Committee on Hawaiian Affairs
State Capitol, Room 329
Honolulu, Hawaii 96813

RE: H.B. 225 Relating to Historic Preservation

HEARING: Wednesday, February 2, 2011 at 8:30 a.m.

Aloha Chair Hanohano, Vice-Chair Lee and Members of the Committee:

I am Myoung Oh, Government Affairs Director, here to testify on behalf of the Hawai'i Association of REALTORS® ("HAR"), the voice of real estate in Hawai'i, and its 8,500 members. HAR **opposes** H.B. 225, which requires an archaeological inventory survey prior to the sale or lease in excess of ten years of any undeveloped land in the State.

This bill would require an archaeological inventory survey prior to the sale or lease in excess of ten years of undeveloped real property. The bill seeks to create an additional requirement for many types of properties, including vacant land and tear-downs of private state, and county lands, regardless of size and location.

Presently, the county planning and permitting agencies are required by rule to flag potential historic preservation issues to the State Historic Preservation Division. This bill effectively shifts the burden of determining whether such issues exist to property owners, by requiring them to bear the expense of an archaeological inventory survey. Unfortunately, for owners of vacant lands who may not be able to afford the added expenses, this would ultimately impact the economic viability of these properties.

These additional requirements on sellers and lessors will create unintended consequences for the real estate industry, including the possibility of additional delays and costs.

HAR also notes that a lessor could potentially avoid the archaeological survey by entering into leases that are for periods less than ten years.

For the above reasons, we respectfully oppose this bill and ask that it be held in committee.

Mahalo for the opportunity to testify.



HISTORIC HAWAII FOUNDATION

VIA EMAIL: HAWtestimony@capitol.hawaii.gov

To: Rep. Faye Hanohano, Chair
 Rep. Chris Lee, Vice Chair
 Committee on Hawaiian Affairs

From: Kiersten Faulkner
 Executive Director, Historic Hawai'i Foundation

Committee Date: Wednesday, February 2, 2011
 8:30 am
 Conference Room 329

Subject: **HB225, Relating to Historic Preservation**

On behalf of Historic Hawai'i Foundation (HHF), I am writing with comments about HB225, which requires an archaeology inventory survey prior to the sale or offer of sale or long-term lease of any undeveloped property in the state.

Since 1974, Historic Hawai'i Foundation has been a statewide leader for historic preservation. HHF's 850 members and numerous additional supporters work to preserve Hawai'i's unique architectural and cultural heritage and believe that historic preservation is an important element in the present and future quality of life, economic viability and environmental sustainability of the state.

Historic Hawai'i Foundation supports the intent of the bill, which appears to be an attempt to improve the process to identify and disclose the presence of potentially significant historic and cultural sites in a timely way, in order to allow the planning and development process to provide for their protection, and to provide for consumer protection by ensuring that property owners are informed about historic preservation responsibilities and restrictions. A process that provides for the discovery, documentation, evaluation and preservation of significant historic properties is in the best interest of all stakeholders, including property owners, developers, and the greater community. Providing for better knowledge of potential sites early in the planning process would help eliminate conflicts and misunderstandings prior to significant investment of time and money.

However, it is unclear how the new requirement to conduct an archaeology inventory survey at the time of sale or lease would be integrated with other planning and permitting functions of the state and county governments. The state historic preservation division (SHPD) already has a mandate to conduct historic surveys and inventories; the county governments should also be including that level of analysis in their general plans and community development plans. Both SHPD and county permitting departments are supposed to require and review archaeology inventory surveys (AIS) prior to issuing grubbing and grading permits. The bill appears either to add another level of

analysis and review, or to shift the responsibility to the time of sale rather than the time of planning and/or development.

HHF strongly supports all efforts to identify and protect significant historic properties, and to have full disclosure of the rights and responsibilities that come with ownership and management of historic properties. However, the mechanism offered by the bill raises several questions. Will the AIS be repeated each time the property changes hands or will the initial survey be sufficient? Will the AIS be repeated at the time of planning, development and permitting or does it replace that later review? If SHPD's recommendations for preservation and/or reclassification are not implemented, what is the remedy? How will these recommendations be integrated with other community plans and land use codes? How will the information be made available? How will the measure be enforced and which agency will carry out enforcement?

HHF is also concerned that the state historic preservation division would be charged with another mandate without commensurate staffing and financial support, and that the new mandate would be layered onto existing duties without being fully aligned or integrated with them. We believe that a comprehensive review of the state's historic preservation program, including the management and regulatory structure, is necessary. Rather than address these issues ad hoc, we would like to see a thoughtful and deliberate approach that includes recommendations for planning, regulations, incentives, education, integration with federal and county processes, and use of best practices in the preservation industry.

Therefore, HHF recommends that HB225 be deferred, and that the legislature direct the department of land and natural resources to convene a review of best practices and models for good preservation systems that can be implemented comprehensively, with recommendations to be submitted to the legislature next year.