

---

---

## A BILL FOR AN ACT

RELATING TO RESIDENTIAL PROPERTY.

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

1           SECTION 1. According to the United States Census Bureau  
2 and the department of business, economic development, and  
3 tourism, nearly forty per cent of the existing private  
4 residences on Oahu were built before 1970. In certain census  
5 tracts, this number is as high as eighty-five per cent.

6           Hawaii law provides that any building, structure, object,  
7 district, area, or site over fifty years old is considered  
8 historic property. Further, current application of historic  
9 preservation law requires review by the state historic  
10 preservation division of the department of land and natural  
11 resources prior to the granting of permits for proposed projects  
12 on historic properties. This requirement, in certain instances,  
13 has delayed the granting of permits for a period of many months,  
14 which has had a negative impact on the construction industry.  
15 As nearly forty per cent of private residences on Oahu have  
16 reached or are approaching fifty years of age, it is prudent for  
17 the State to re-examine the current processes and procedures  
18 regarding historic properties.



1 The purpose of this Act is to:

2 (1) Except from the definition of historic property any  
3 private residence that has not been entered, or  
4 nominated by the owner of the residence for entry,  
5 onto the Hawaii register of historic places; and

6 (2) Clarify that nothing in chapter 6E, Hawaii Revised  
7 Statutes, shall be construed to require a review by  
8 the department of land and natural resources for a  
9 private residence that has not been entered, or  
10 nominated by the owner of the residence for entry,  
11 onto the Hawaii register of historic places.

12 SECTION 2. Section 6E-2, Hawaii Revised Statutes, is  
13 amended by amending the definition of "historic property" to  
14 read as follows:

15 "§6E-2 Definitions. As used in this chapter:

16 "Historic property" means any building, structure, object,  
17 district, area, or site, including heiau and underwater site,  
18 [which] that is over fifty years old[-]; provided that historic  
19 property shall not include any private residence that has not  
20 been entered, or nominated by the owner of the residence for  
21 entry, onto the Hawaii register of historic places."

1 SECTION 3. Section 6E-10, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "§6E-10 Privately owned historic property. (a) Before  
4 any construction, alteration, disposition or improvement of any  
5 nature, by, for, or permitted by a private landowner may be  
6 commenced [~~which~~] that will affect an historic property on the  
7 Hawaii register of historic places, the landowner shall notify  
8 the department of the construction, alteration, disposition, or  
9 improvement of any nature and allow the department opportunity  
10 for review of the effect of the proposed construction,  
11 alteration, disposition, or improvement of any nature on the  
12 historic property. The proposed construction, alteration,  
13 disposition, or improvement of any nature shall not be  
14 commenced, or in the event it has already begun, continue, until  
15 the department shall have given its concurrence or ninety days  
16 have elapsed. Within ninety days after notification, the  
17 department shall:

18 (1) Commence condemnation proceedings for the purchase of  
19 the historic property if the department and property  
20 owner do not agree upon an appropriate course of  
21 action;



1 (2) Permit the owner to proceed with the owner's  
2 construction, alteration, or improvement; or

3 (3) In coordination with the owner, undertake or permit  
4 the investigation, recording, preservation, and  
5 salvage of any historical information deemed necessary  
6 to preserve Hawaiian history, by any qualified agency  
7 for this purpose.

8 (b) Nothing in this section shall be construed to prevent  
9 the ordinary maintenance or repair of any feature in or on an  
10 historic property that does not involve a change in design,  
11 material, or outer appearance or change in those characteristics  
12 [~~which~~] that qualified the historic property for entry onto the  
13 Hawaii register of historic places.

14 (c) Any person, natural or corporate, who violates the  
15 provisions of this section shall be fined not more than \$1,000,  
16 and each day of continued violation shall constitute a distinct  
17 and separate offense under this section for which the offender  
18 may be punished.

19 (d) If funds for the acquisition of needed property are  
20 not available, the governor may, upon the recommendation of the  
21 department allocate from the contingency fund an amount  
22 sufficient to acquire an option on the property or for the



1 immediate acquisition, preservation, restoration, or operation  
2 of the property.

3 (e) The department may enter, solely in performance of its  
4 official duties and only at reasonable times, upon private lands  
5 for examination or survey thereof. Whenever any member of the  
6 department duly authorized to conduct investigations and surveys  
7 of an historic or cultural nature determines that entry onto  
8 private lands for examination or survey of historic or cultural  
9 finding is required, the department shall give written notice of  
10 the finding to the owner or occupant of [such] the property at  
11 least five days prior to entry. If entry is refused, the member  
12 may make a complaint to the district court in the circuit in  
13 which [such] the land is located. The district court may  
14 thereupon issue a warrant, directed to any police officer of the  
15 circuit, commanding the officer to take sufficient aid, and,  
16 being accompanied by a member of the department, between the  
17 hours of sunrise and sunset, allow the member of the department  
18 to examine or survey the historic or cultural property.

19 (f) Nothing in this chapter shall be construed to require  
20 the department to review any proposed construction, alteration,  
21 disposition, or improvement of a private residence that has not



1 been entered, or nominated by the owner of the residence for  
2 entry, onto the Hawaii register of historic places."

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

5 SECTION 5. This Act shall take effect upon its approval.  
6

INTRODUCED BY:

James Colby

BTJ

George Takayama

Birendra Kalyan

Scott S. Sun

Oh

[Signature]

Cathy Evans

Guthrie Hickel

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]



# H.B. NO. 2143

**Report Title:**

DLNR; Historic Preservation; Review; Private Residence

**Description:**

Exempts from the definition of "historic property" any private residence that has not been entered, or nominated by the owner of the residence for entry, onto the Hawaii register of historic places. Clarifies that nothing in chapter 6E, HRS, shall be construed to require a review by the DLNR for any private residence exempted under the new "historic property" definition.

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

