

JAN 17 2014

A BILL FOR AN ACT

RELATING TO RESIDENTIAL PROPERTY.

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

1 SECTION 1. The legislature finds that according to the
2 United States Census Bureau and the department of business,
3 economic development, and tourism, nearly forty per cent of
4 private residences on Oahu were built in 1969 or earlier. In
5 certain census tracts, this number is as high as eighty-five per
6 cent.

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



1 the State to reexamine the current processes and procedures
2 regarding historic properties.

3 The purpose of this Act is to:

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

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

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

17 "Historic property" means any building, structure, object,
18 district, area, or site, including heiau and underwater site,
19 [which] that is over fifty years old[-]; provided that historic
20 property shall not include any private residence that has not
21 been entered, or nominated by the owner of the residence for
22 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 section shall be construed to require
20 a review by the department for a project on a private residence
21 that has not been entered, or nominated by the owner of the



1 residence for entry, onto the Hawaii register of historic
2 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.

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INTRODUCED BY:

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S.B. NO. 2672

Report Title:

DLNR; Historic Preservation; Review; Private Residence

Description:

Excepts 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, Hawaii Revised Statutes, shall be construed to require a review by the Department of Land and Natural Resources for a private residence fifty or more years old that has not been entered, or nominated by the owner of the residence for entry, onto the Hawaii register of historic places.

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

