

# SB877 SD1

# TESTIMONY

**Measure Title:** RELATING TO HISTORIC PRESERVATION.

**Report Title:** Department of Land and Natural Resources; Historic Property; Definition

**Description:** Requires that 50-year-old privately owned single-family residences be considered historic properties for purposes of chapter 6E, HRS, only if they are listed or nominated for listing on the Hawaii register of historic places or located in a historic district. Exempts properties not included or eligible for listing on the Hawaii register of historic places from review under section 6E-42, HRS, and directs the counties to not submit projects affecting such properties for historic review. Effective 7/1/2050. (SD1)

**Companion:** [HB465](#)

**Package:** None

**Current Referral:** WTL, HEA

**Introducer(s):** ENGLISH, CHUN OAKLAND, DELA CRUZ, GREEN, KEITH-AGARAN, KOUCHI, RIVIERE, Baker, Espero, Gabbard, Inouye, Ruderman, Shimabukuro, Slom

DAVID Y. IGE  
GOVERNOR OF HAWAII



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

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**Testimony of**  
**CARTY S. CHANG**  
**Interim Chairperson**

**Before the Senate Committee on**  
**HIGHER EDUCATION AND THE ARTS**

**Thursday, February 26, 2015**  
**02:45 PM**  
**State Capitol, Conference Room 224**

**In consideration of**  
**SENATE BILL 877, SENATE DRAFT 1**  
**RELATING TO HISTORIC PRESERVATION**

Senate Bill 877, Senate Draft 1 proposes to amend the definition of historic property so that privately owned residences would be excluded unless they are listed in or nominated by the owner for inclusion in the Hawaii Register of Historic Places (Hawaii Register) or are located in a historic district. The stated purpose of this amendment is to eliminate review of permits by the Department of Land and Natural Resources (Department) under §6E-42, Hawaii Revised Statutes (HRS), for projects that affect privately owned residences which are historic solely because they are fifty-years old. SECTION 3 of Senate Bill 877, Senate Draft 1 states that “properties” not listed in or eligible for inclusion in the Hawaii register would not be subject to §6E-42, HRS, review and that the counties shall not submit them to the department for such review. **The Department appreciates the intent of this measure and offers the following comments.**

The Department believes that Senate Bill 877, Senate Draft 1, as currently drafted does not meet the express intent as clearly set forth in SECTION 1. It is also unclear what relationship SECTION 3, Senate Bill 877, Senate Draft 1 bears to §6E-42, HRS. SECTION 3 expressly exempts private residences from §6E-42, HRS, review, but it doesn’t expressly amend §6E-42, HRS. More problematic, SECTION 3, Senate Bill 877, Senate Draft 1, exempts all *properties* not already listed or eligible for the Hawaii register from §6E-42, HRS, review. This expands the exemption far beyond private residences. It exempts all projects not affecting a Hawaii Register listed or eligible property.

Very few archaeological sites are listed in the Hawaii Register. Even though the Department is aware of the locations of many archaeological sites, few are listed in the Hawaii Register. Protection of archaeological resources depends on proactive identification efforts that are

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INTERIM CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

**DANIEL S. QUINN**  
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ACTING DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
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KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

undertaken by project developers as part of project planning for projects subject to county permit requirements. As SECTION 3 is currently written, such identification efforts will no longer be necessary. This will lead inevitably to damage and destruction of many of Hawai'i's archaeological resources.

Furthermore, as currently drafted, the Department believes that this will lead to disturbance and damage to innumerable iwi kupuna during project development. Nearly all Native Hawaiian burials are identified during archaeological inventories required for §6E-42, HRS, review. Since such surveys would very rarely be required, Native Hawaiian burials would not be identified and protected during the planning phase of project development and will inevitably be disturbed during construction.

The Department notes that Senate Bill 504, Senate Draft 1, addresses the issue of unnecessary residential permit reviews under §6E-42, HRS, more comprehensively. The Department has a strong preference for that Bill.

Finally, if this Committee wishes to move Senate Bill 877, Senate Draft 1, considerable revision is necessary to ensure that the substantive language matches the express intent expressed in SECTION 1 of the bill.



**SB877 SD1**  
**RELATING TO HISTORIC PRESERVATION**  
Senate Committee on Higher Education and The Arts

February 26, 2015

1:30 p.m.

Room 224

The Office of Hawaiian Affairs (OHA) **OPPOSES** SB877 SD1, which seeks to exempt improvement projects on most private residences from historic preservation review. As drafted, SB877 SD1 would change the definition of historic property thereby complicating the review process and the application of the administrative rules. In addition, the bill includes a sweeping exemption for all private properties, beyond the narrow residential issue this bill seeks to address, which may have far-reaching and unintended consequences for Native Hawaiian historic and cultural resources.

To the extent that SB877 is intended to address an alleged backlog of permits and land use applications for improvements to old homes, OHA notes that protecting historic architecture is not central to our mission. OHA does not oppose the attempt to develop a more efficient process to reduce the number of old homes required to undergo historic review, where appropriate. However, OHA generally is concerned over any statutory amendments that could potentially weaken procedural protections for bona fide historic sites provided by HRS Chapter 6E. SB877 SD1, as drafted, may unintentionally reduce protections for truly historic properties, cultural sites, and iwi kūpuna.

Accordingly, in order to uphold the intent of this measure, while also minimizing any inadvertent weakening of protections for important historic sites, OHA suggests the Committee's consideration of the following:

First, in order to ensure that the exemption sought by this measure is sufficiently narrow to avoid threatening protections for bona fide cultural sites and iwi kūpuna, **OHA recommends leaving the statutory definition of "historic property" intact and, instead, including an exemption in HRS Section 6E-42.** Section 6E-42 pertains to historic preservation review of private projects, such as those involving privately-owned residences, and is therefore the most appropriate place to specifically exempt these projects from review. We recommend adding a new subsection (b) to HRS Section 6E-42 as follows:

(b) notwithstanding any other law to the contrary, this section shall not apply to privately owned single-family residences fifty years or older unless the residence is listed on the Hawaii register of historic places, is nominated for listing on the Hawaii register of historic places, or is located in a historic district.

Second, Section 3 of SB877 SD1 appears to create a sweeping exemption from historic preservation review for *all* private properties—not only private residences—that are not listed in or eligible for the historic register. Such an exemption would require the counties to make determinations on eligibility for the register which is a function outside of their subject matter expertise. It would also eliminate the express consideration of a property’s significance to Native Hawaiians and other ethnic groups since the historic register does not include the critical “criterion E” among its eligibility criteria whereas the current historic preservation review process does. This vast exemption could render the historic preservation review process established for projects on private properties virtually null. We do not believe this is the intent of this measure as this language would not further the attempt to address perceived issues related to permitting for residential developments. Instead, it undermines the critical procedural protections for historic sites and burials on private property intended by HRS 6E. As such, we recommend removing Section 3 entirely.

Without these changes, SB877 SD1 may greatly threaten the few cultural and historic Native Hawaiian resources remaining. Therefore, OHA urges the Committee to **HOLD** SB877 SD1 or amend as described. Mahalo for the opportunity to testify on this important measure.

# HISTORIC HAWAII FOUNDATION

**TO:** Senator Brian T. Taniguchi, Chair  
Senator Lorraine R. Inouye, Vice Chair  
Committee on Higher Education & Arts

**FROM:** Kiersten Faulkner, Executive Director  
Historic Hawaii Foundation

**Committee:** Thursday, February 26, 2015  
1:30 p.m.  
Conference Room 224

**RE: SB 877 SD1, Relating to Historic Preservation**

On behalf of Historic Hawaii Foundation (HHF), I am writing in **strong opposition to SB 877 SD 1**. The bill would amend Hawai'i Revised Statutes §6E to redefine historic property to exclude privately owned single-family residences over 50 years of age unless they are listed or nominated for listing on the Hawaii register of historic places or located in a historic district. The bill would also exempt all historic properties—not only residential buildings—that are not included on or eligible for listing on the Hawaii register of historic places from review under section 6E-42, HRS, and directs the counties to not submit projects affecting such properties for historic review.

**By summarily dismissing all residential property from even considering and evaluating potential historic significance, SB877 SD1 would inevitably lead to the destruction or damage to significant historic properties, and would be to the overall detriment of Hawaii's cultural heritage.**

**By excluding all property types from historic preservation review, additional cultural resources and artifacts will be lost.**

The historic and cultural resources of Hawai'i are a great legacy and irreplaceable treasures. Historic properties, including the homes and neighborhoods of Hawai'i depict the architectural, social and economic history of the Islands. The natural beauty of Hawai'i is complemented by its neighborhoods, small towns, vernacular architecture, blend of indoor and outdoor design features, and other characteristics of the distinctive built environment of these islands. The houses, commercial buildings, cultural landscapes, archaeological sites, and historic objects of Hawai'i are a reflection of its physical setting and social history.

Historic Hawai'i Foundation notes that the previous version of the bill was not as sweeping in its proposed exclusions, and was more targeted in proposing adjustments to the historic preservation review triggers and process. The prior committee adopted an SD1 that eliminated the elements of the bill that would identify categories of projects which have a low likelihood to adversely affect the historic property's historic integrity or character, and which therefore should not be referred to SHPD for review and comment. Instead, the current SD1 opted for a generalized and overly broad exclusion of any project of any scope or potential for

harm to the resource, unless the property is listed on or eligible for designation on the register of historic places.

The previous draft of the bill had also included a directive for the State Historic Preservation Division to develop a plan to conduct inventories and surveys to identify historic properties. This mandate has been removed from the SD1, leaving a gap in the attempt to initiate and actively identify eligible properties.

Historic Hawai'i Foundation feels that there are more appropriate mechanisms to ensure the protection of historic properties through focusing the department's review and comment process on those projects which have the potential to inflict harm on historic resources. HHF recommends that SB 877 be amended to an SD2 that would include:

1. Do not alter the current definition of "historic property" in HRS 6E-2, but keep it in the current form:

"Historic property means any building, structure, object, district, area, or site, including heiau and underwater site, which is over fifty years old."
2. Amend HRS 6E-2 to add definitions for "categorical exclusion" and "dwelling."
  - "Categorical exclusion" means any type of construction, alteration, disposition, improvement, repair or ordinary maintenance activity to an existing building that does not represent a change in design, material, outer appearance or other characteristic which might otherwise qualify that building for the Hawaii register of historic places.
  - "Dwelling" means a building or portion thereof designed or used exclusively for residential occupancy and having all necessary facilities for permanent residency such as living, sleeping, cooking, eating and sanitation. A single-family detached dwelling is an individual, freestanding, unattached dwelling unit, typically built on a lot larger than the structure itself, resulting in an area surrounding the house.
3. Add a new subsection to 6E-42 Review of Proposed Projects  
**6E-42-\_\_ Categorical exclusions for privately-owned, single-family detached dwellings.**
  - (a) The department shall maintain and publish an inventory of dwellings that are designated on or determined eligible for designation on the state register of historic places, including contributing resources within a historic district. The eligibility of a dwelling for the register of historic places may be determined or re-determined, with notice to the county in which the property is located, as new information becomes available.
  - (b) The department shall maintain and publish a list of categorical exclusions that apply solely to privately-owned dwellings that are not designated on or eligible for the state register of historic places, including contributing resources in a historic district.
  - (c) Applications for activities contained on the list of categorical exclusions shall be exempt from historic preservation review by the department.
  - (d) This list of categorical exclusions shall be provided to officers and agencies of the State and any of its political subdivisions on an annual basis.

- (e) The department shall conduct a review of the list of categorical exclusions annually and provide an opportunity for public review and comment on any proposed revisions to the list.
- (f) The department shall adopt rules in accordance with Chapter 91 to implement this section.

Since 1974, Historic Hawai'i Foundation has been a statewide leader for historic preservation and works to preserve Hawaii's unique architectural and cultural heritage.

**Therefore, Historic Hawai'i Foundation opposes SB 877 SD1 and respectfully asks the committee either to amend the bill as described above, or to hold the bill in committee.**





**Testimony to the Senate Committee on Higher Education and the Arts  
Thursday, February 26, 2015 at 1:30 P.M.  
Conference Room 224, State Capitol**

**RE: SENATE BILL 877 SD1 RELATING TO HISTORIC PRESERVATION**

Chair Taniguchi, Vice Chair Inouye, and Members of the Committee:

The Chamber **supports** S.B. 877 S.D. 1, which requires that 50-year-old privately owned single-family residences be considered historic properties for purposes of chapter 6E, HRS, only if they are listed or nominated for listing on the Hawaii register of historic places or located in a historic district and exempts properties not included or eligible for listing on the Hawaii register of historic places from review under section 6E-42, HRS, and directs the counties to not submit projects affecting such properties for historic review. Effective 7/1/2050.

The Chamber is the largest business organization in Hawaii, representing about 1,000 businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the “Voice of Business” in Hawaii, the organization works on behalf of its members, which employ more than 200,000 individuals, to improve the state’s economic climate and to foster positive action on issues of common concern.

We recognize that there are many unique residences that are older than 50 years old and architecturally worthy of preservation. The property owners of these structures have the opportunity to secure real property tax relief if they voluntarily place their homes on the register. However, there are also large subdivisions of tract homes around Oahu (i.e. Kaneohe, Hawaii Kai, Halawa, Aiea, Pearl City, Waipahu, etc.) built in the 1960’s that are, or will be, older than 50 years old. Subjecting homeowners in these tract subdivisions to a building permit review by the State Historic Preservation Division simply because of the age of their home seems to be unnecessary and unreasonable, delays the granting of permits for needed renovation or repair, and departs from the original intent of the law.

S.B. 877, S.D. 1, addresses these concerns and, thus, we support this measure.

Thank you for the opportunity to express our views on this matter.

# BIA-HAWAII

BUILDING INDUSTRY ASSOCIATION

THE VOICE OF THE CONSTRUCTION INDUSTRY

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## Testimony to the Senate Committee on Higher Education and the Arts

Thursday, February 26, 2015

1:30 p.m.

State Capitol - Conference Room 224

### **RE: SENATE BILL 877 S.D.1, RELATING TO HISTORIC PRESERVATION**

Dear Chair Taniguchi, Vice-Chair Inouye, and members of the Committee:

My name is Gladys Marrone, Chief Executive Officer for the Building Industry Association of Hawaii (BIA-Hawaii), the Voice of the Construction Industry. We promote our members through advocacy and education, and provide community outreach programs to enhance the quality of life for the people of Hawaii. BIA-Hawaii is a not-for-profit professional trade organization chartered in 1955, and affiliated with the National Association of Home Builders.

BIA-Hawaii **supports** S.B. 877 S.D. 1, which requires that 50-year-old privately owned single-family residences be considered historic properties for purposes of chapter 6E, HRS, only if they are listed or nominated for listing on the Hawaii register of historic places or located in a historic district. Exempts properties not included or eligible for listing on the Hawaii register of historic places from review under section 6E-42, HRS, and directs the counties to not submit projects affecting such properties for historic review. Effective 7/1/2050.

We recognize that there are many unique residences that are older than 50 years old and architecturally worthy of preservation. The property owners of these structures have the opportunity to secure real property tax relief if they voluntarily place their homes on the register. However, there are also large subdivisions of tract homes around Oahu (i.e. Kaneohe, Hawaii Kai, Halawa, Aiea, Pearl City, Waipahu, etc.) built in the 1960's that are, or will be, older than 50 years old. Subjecting homeowners in these tract subdivisions to a building permit review by the State Historic Preservation Division simply because of the age of their home seems to be unnecessary and unreasonable, delays the granting of permits for needed renovation or repair, and departs from the original intent of the law.

S.B. 877, S.D. 1, addresses these concerns and, thus, we support this measure.

Thank you for the opportunity to express our views on this matter.



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February 24, 2015

**Testimony to the Senate Committee on Higher Education  
and the Arts  
Thursday, February 26, 2015  
1:30 p.m.  
State Capitol - Conference Room 224**

**RE: SENATE BILL 877 S.D.1, RELATING TO HISTORIC PRESERVATION**

Dear Chair Taniguchi, Vice-Chair Inouye, and members of the Committee,

I am Greg Thielen, President and RME of Complete Construction Services. I am a Small Business Owner and have over 20 years experience in the Construction Industry. I am also a Past President of BIA Hawaii and serve as the Hawaii State Representative to the National Association of Home Builders.

I am writing to **support** S.B. 877 S.D. 1, which requires that 50-year-old privately owned single-family residences be considered historic properties for purposes of chapter 6E, HRS, only if they are listed or nominated for listing on the Hawaii register of historic places or located in a historic district. Exempts properties not included or eligible for listing on the Hawaii register of historic places from review under section 6E-42, HRS, and directs the counties to not submit projects affecting such properties for historic review. Effective 7/1/2050.

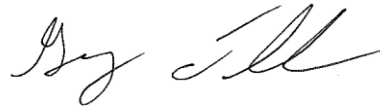
I recognize that there are many unique residences that are older than 50 years old and architecturally worthy of preservation. The property owners of these structures have the opportunity to secure real property tax relief if they voluntarily place their homes on the register. However, there are also large subdivisions of tract homes around Oahu (i.e. Kaneohe, Hawaii Kai, Halawa, Aiea, Pearl City, Waipahu, etc.) built in the 1960's that are, or will be, older than 50 years old. Subjecting homeowners in these tract subdivisions to a building permit review by the State Historic Preservation Division simply because of

the age of their home seems to be unnecessary and unreasonable, delays the granting of permits for needed renovation or repair, and departs from the original intent of the law.

S.B. 877, S.D. 1, addresses these concerns and, thus, I support this measure.

Thank you for the opportunity to provide this testimony.

Sincerely,

A handwritten signature in black ink, appearing to read "Greg Thielen". The signature is fluid and cursive, with the first name "Greg" being more prominent than the last name "Thielen".

Greg Thielen  
President/RME

February 26, 2015

**The Honorable Brian T. Taniguchi, Chair**

Senate Committee on Higher Education and the Arts  
State Capitol, Room 224  
Honolulu, Hawaii 96813

**RE: S.B. 877, S.D.1, Relating to Historic Preservation**

**HEARING: Thursday, February 26, 2015, at 1:30 p.m.**

Aloha Chair Taniguchi, Vice Chair Inouye 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 8,400 members. HAR **strongly supports** S.B. 877, S.D.1 which requires that 50-year-old privately owned single-family residences be considered historic properties for purposes of chapter 6E, HRS, only if they are listed or nominated for listing on the Hawaii register of historic places or located in a historic district. It also exempts properties not included or eligible for listing on the Hawaii register of historic places from review under section 6E-42, HRS, and directs the counties to not submit projects affecting such properties for historic review.

According to the Department of Business, Economic Development, and Tourism's State of Hawai'i Databook 2013, nearly 40% of private residences on Oahu were built in 1969 or earlier. As the number of residences that are 50 years old or older increase over time, it is prudent for the State to reexamine the current processes and procedures regarding historic properties.

Under Hawaii Revised Statutes (“HRS”), §6E-2, historic property is defined as, “any building, structure, object, area or site, including heiau and underwater site, which is over fifty years old.”

Additionally, under HRS §6E-42, prior to approval of any project involving a permit, license, certificate, land use change, subdivision, or other entitlement for use, which may affect historic property, the State Historic Preservation Division (SHPD) is to be advised.

Prior to any approval, SHPD must be allowed an opportunity for review and comment on the effect of the proposed project on the historic property. Also, SHPD must inform the public of any project proposals submitted to it that are not otherwise subject to the requirement of a public hearing or other public notification.

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HAR believes that the definition of historic property of 50 years old or older is overly broad, and includes far too many homes that have no qualities that would qualify it for inclusion on the Hawaii Register of Historic Places. By only including buildings, structures, objects, districts, areas, or sites that are significant in Hawaii's history, architecture, archeology, engineering, or culture in the definition of "historic property" the list of historic properties will be streamlined while still protecting the most significant properties.

For the foregoing reasons, we believe this measure is in the right direction and support its passage.

Mahalo for the opportunity to testify.

TO: Senator Brian T. Taniguchi, Chair  
Senator Lorraine R. Inouye, Vice-Chair  
Senate Committee on Higher Education and the Arts

HEARING: February 26, 2015, 1:30 PM, Room 224

SUBJECT: Testimony in STRONG OPPOSITION to SB 877 SD 1 (Relating to Historic Preservation)

I am Dr. Sara Collins, President of the Society for Hawaiian Archaeology (SHA). We have over 150 members that include professional archaeologists and advocates of historic preservation in general. On behalf of SHA, I am providing testimony in STRONG OPPOSITION to SB 877 SD 1 (Relating to Historic Preservation).

SB 877 SD 1 has two substantive elements. Section 2 of SB 877 SD 1 would amend the existing definition of "historic property" in Section 6E-2 to read as follows:

""Historic property" means any building, structure, object, district, area, or site, including heiau and underwater site, which is over fifty years old[-]; provided that privately owned single-family residences fifty years or older shall only be considered historic properties for the purposes of this chapter if the residence is listed on the Hawaii register of historic places, is nominated for listing on the Hawaii register of historic places, or is located in a historic district."

Section 3 of SB 877 SD 1 (curiously, not intended to be codified in Hawaii Revised States, even though it would apparently have permanent effect) declares that:

"Properties not included or eligible for listing on the Hawaii register of historic places shall not be subject to review under section 6E-42, Hawaii Revised Statutes, and the counties shall not submit projects affecting such properties to the department for review under section 6E-42, Hawaii Revised Statutes."

The preamble of SB 877 CD1 states that the "purpose of this Act is to exclude certain single-family residences from the definition of historic property for purposes of historic preservation reviews." The preamble further states that the problem SB 877 SD1 is intended to address is delays in the permitting of projects regarding existing single-family residences that fall within the current definition of "historic property" in Section 6E-2 because they were constructed more than fifty years ago.

Previous testimony by DLNR on this and other related bills indicates that the Department's State Historic Preservation Division (SHPD) has instituted internal administrative reforms that have already or soon will substantially resolve these problems. Currently, SHPD reports that the average turnaround time for the review of residential permits is now five (5) days and the mode is three (3) days. Nonetheless, we recognize that a narrowly written modification to the definition of "historic property" may be desirable to alleviate this problem. Consequently, we can accept the amendment to the definition of "historic property" in Section 6E-2, which we believe is an appropriate and narrowly targeted fix to the problem of delays in permitting of projects involving existing single-family residences fifty years or more in age.

Unfortunately, Section 3 of SB 877 SD1 is not narrowly written and would have broad effects on historic properties that are not the existing single-family residences that are said to be the intended subject of this legislation. The provisions of Section 3, if enacted, would seriously weaken existing protections for historic sites and, in particular, burial sites, that have absolutely no connection to existing single-family residences. We note that the exemption to be created by the proposed Section 3 language would apply to all private properties not included or eligible for listing on the Hawaii Register of Historic Places, not merely existing single-family residences, and would provide that projects not meeting the criteria for listing on the Register need not be referred to SHPD for review. This means that the initial decision of whether or not an affected property meets the criteria for listing would be made by the various county permitting agencies rather than SHPD. Unfortunately, the counties simply lack the in-house expertise to make these determinations, and thus projects newly exempted from pre-construction review by SHPD would be much more likely to run into delays during the course of construction, including litigation-related delays, when previously unknown burial sites and other historic cultural resources are encountered. More likely, these important burial sites and other resources would simply be destroyed. This is unacceptable.

For these reasons, then, we strongly oppose the inclusion of the additional non-codified language in Section 3 of SB 877 SD1, which has the potential to create what would in effect be a broad across the board exemption from Section 6E-42 for ALL private projects, not merely those involving existing single-family residences, from the historic preservation review process, thus drastically weakening existing protections for historic sites, including important archaeological sites and Native Hawaiian burial sites, located on private land. Accordingly, we recommend that if this legislation is to be enacted into law the language contained in Section 3 of HB 877 SD1 should be deleted in its entirety.

Mahalo for considering our comments. Ultimately, we respectfully ask that this bill be HELD due to its many problems. Should SB 877 SD1 be passed on we request the opportunity to work with other stakeholders and interested parties to address the issues raised. Should you have any questions, please feel free to contact me at the above email address.





LAND USE RESEARCH  
FOUNDATION OF HAWAII

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February 25, 2015

Senator Brian T. Taniguchi, Chair  
Senator Lorraine R. Inouye, Vice Chair  
Senate Committee on Higher Education and the Arts

**Comments and Support of the Intent of SB 877, SD1 Relating to Historic Preservation (Requires that fifty-year-old privately owned single-family residences be considered historic properties for purposes of Chapter 6E, HRS, only if they are listed or nominated for listing on the Hawaii Register of Historic Places or located in a historic district. Exempts properties not included or eligible for listing on the Hawaii Register of Historic Places from review under Section 6E-42, HRS, and directs the counties to not submit projects affecting such properties for historic review. [SD1])**

**HEA Hearing: Thursday, February 26, 2015, 1:30 p.m., in Conference Room 224**

The Land Use Research Foundation of Hawaii (LURF) is a private, non-profit research and trade association whose members include major Hawaii landowners, developers and a utility company. One of LURF's missions is to advocate for reasonable, rational and equitable land use planning, legislation and regulations that encourage well-planned economic growth and development, while safeguarding Hawaii's significant natural and cultural resources and public health and safety.

LURF appreciates the opportunity to express its **support of the intent of SB 877, SD1, and its comments in support of further funding for the Historic Preservation Division of the Department of Land and Natural Resources (DLNR) to create a list of types of residential properties that are likely to eligible for inclusion in the Hawaii Register of Historic Places and to conduct a comprehensive survey of Hawaii's buildings, structures and residences which could be eligible for inclusion in the Hawaii Register.**

**SB 877, SD1.** This bill clarifies the definition of a "Historic property" which is required to be reviewed by the DLNR, to be "*privately owned single family residences fifty years or older...if the residence is listed on the Hawaii Register of Historic Places, is nominated for listing on the Hawaii Register of Historic Places, or is located in a historic district.*"

The purpose of this measure is to provide an exemption from DLNR historic preservation permit reviews under Section 6E-42, Hawaii Revised Statutes (HRS) for certain single-family residences which are not historically significant based on the above the definition of "Historic Property" In addition to the exemption from DLNR review, this measure directs the counties to not submit projects affecting such exempted properties for historic review. The effective date of this measure is July 1, 2050.

**LURF's Position.** LURF members recognize the value of preserving and maintaining historic and cultural property within the State and have taken affirmative action to list some of their properties, buildings, structures, objects, districts, areas, or sites on the Hawaii Register of Historic Places, based on their significance relating to Hawaii's history, architecture, archeology, engineering, or culture.

Under the existing law, however, "historic property" is defined as "*any building, structure, object, district, area, or site...which is over fifty years old.*" As a result of this broad definition that assumes age is equivalent to historic importance, there have been many private tract homes and other residences built in the 1960's and before, that must undergo an unnecessary historic preservation review by DLNR prior to the granting of State and county permits for proposed renovations, repairs and demolition (including driveways and landscaping).

LURF understands that the broadness of the "fifty year old" definition has led to a large number of backlogged DLNR regulatory reviews and excessive delays in those reviews. LURF has also been informed that the DLNR staff time spent on the arguably unnecessary reviews of "fifty year old" tract homes and other non-historic structures prevents the DLNR from focusing on residences and other structures that are worthy to be placed on the Hawaii Register of Historic Places.

This measure clarifies the definition of "Historic property" in a manner that will focus reviews on places that are historic, rather than just blindly using the current "*over fifty years old*" criteria. The amended definition provides the foundation for concentrating the DLNR's efforts on Hawaii's truly historic resources.

LURF members also support the work of DLNR and agree that preserving the character of historic residences preserves the character of neighborhood, makes a property potentially eligible for reductions in country real estate assessments, makes commercial properties potentially eligible for federal tax credits, preserves the character of commercial districts, and is an economic driver both in the district and throughout the Hawaiian islands.

**For the above reasons, LURF supports SB 877, SD1 and respectfully urges your favorable consideration of this bill, as well as further funding, staff and other necessary resources which would allow DLNR to create a list of types of residential properties that are likely to eligible for inclusion in the Hawaii Register of Historic Places and to conduct a comprehensive survey of Hawaii's buildings, structures and residences which could be eligible for inclusion in the Hawaii Register.**

Thank you for the opportunity to present testimony regarding this measure.