



SB2591 SD2 HD1
RELATING TO BURIAL SITES
House Committee on Judiciary and Hawaiian Affairs

March 28, 2024

2:00 p.m.

Conference Room 308

The Office of Hawaiian Affairs will recommend to the Board of Trustees that it **SUPPORTS SB2591 SD2 HD1**. If passed, the bill would fine land owners \$1,000 should they not disclose a burial site, archaeological site, or historic property on their property. For burials and archaeological sites, they must be recorded with the bureau of conveyances on the landowner's property deed.

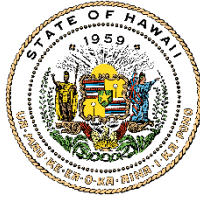
OHA supports disclosure of this information to raise awareness and to improve protections and access. Too often OHA has seen burials go unrecorded with the Bureau of Conveyances despite being mandated by the Hawai'i Administrative Rules (HAR). This creates problems for recognized descendants who want to care for and access the burials. The problem is further compounded when burial protections enshrined in a burial treatment plan (BTP) are observed by one landowner but not the succeeding landowner due to a failure to record the burial properly. Even with letters from OHA and the State Historic Preservation Division (SHPD) calling for access and adherence to burial protections, OHA has witnessed pushback from private landowners in some cases. Thus, this measure should help alleviate this issue that has at times ended up in costly litigation.

OHA appreciates the current draft of the bill which removed the requirement to record a historic property with the Hawai'i Registry of Historical Places which appeared in an earlier draft of the bill. We believe that any future amendments must not encourage property owners to obscure burials. We must facilitate increased access for lineal or cultural descendants, not less.

For the above reasons, OHA urges the Committee to **PASS SB2591 SD2 HD1**. Mahalo for the opportunity to testify on this measure.

JOSH GREEN, M.D.
GOVERNOR | KE KIA'ĀINA

SYLVIA LUKE
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA



STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAII'
DEPARTMENT OF LAND AND NATURAL RESOURCES
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HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

Testimony of
DAWN N.S. CHANG
Chairperson

Before the House Committee on
FINANCE

Thursday, March 28, 2024
2:00 PM

State Capitol, Conference Room 308 & Via Videoconference

In consideration of
SENATE BILL 2591, SENATE DRAFT 2, HOUSE DRAFT 1
RELATING TO BURIAL SITES

Senate Bill 2591, Senate Draft 2, House Draft 1 proposes to impose a fine on any landowner for failure to disclose and record the existence of burial sites or archaeological sites on their property to the Bureau of Conveyances that the landowner knew or should have known of, and for failure to record their property with the Hawaii Register of Historic Places prior to or concurrently with a real estate transaction when the landowner knew or should have known that an obligation existed to record with the Bureau of Conveyances. **The Department of Land and Natural Resources (Department) supports this measure.**

Section 2 of this bill amends Chapter 508 Hawaii Revised Statutes (HRS) to impose a fine of \$1,000 for knowingly failing to record the presence of an archaeological site, burial site or property listed in the Hawaii Register of Historic Places or for failure disclose the presence of such at the time of a real estate transaction.

Use of a property is sometimes affected by the presence of previously identified or listed historic properties or burial sites. Such properties should be, but are not always, recorded with the Bureau of Conveyances. Even when such properties are recorded, the Department is aware that their presence is not always disclosed to the buyer at the time of a real estate transaction. As a consequence of the failure to record or disclose, property owners are sometimes surprised to learn of the presence of historic properties or burials on their land. Occasionally they only learn of the presence of such sites after they have been disturbed or damaged. New owners of a property should not find out after the fact that such

sites exist on their land. Moreover, it is extremely difficult to properly plan for or protect places if they are not recorded or disclosed. The Department believes that this measure addresses these issues.

The Department notes that Senate Bill 2591, Senate Draft 2 does not specify who will have the duty to impose the fine, for example a court of competent jurisdiction or the Board of Land and Natural Resources. The Department recommends that the Committee clarify these points.

The Department appreciates that the House Committee on Judiciary and Hawaiian Affairs amended this measure to specify that any fines levied shall be deposited in the Historic Preservation Special Fund.

Finally, the Department recommends that the following clarifying amendment be made at page 1, lines 9-15, of this bill:

§508D- Failure to record or disclose a burial site, archaeological site, or historic property; penalty. There shall be imposed a fine of \$1,000 on any landowner who fails to disclose and record with the bureau of conveyances, or in documents used to offer real property for sale, burial or archaeological sites are located on the landowner's property that the landowner knew of or should have known of.

Mahalo for the opportunity to testify in support this measure.

SB-2591-HD-1

Submitted on: 3/25/2024 7:20:04 PM

Testimony for FIN on 3/28/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Lynette Cruz	Malama Makua	Support	Written Testimony Only

Comments:

Malama Makua strongly supports this bill.

SB-2591-HD-1

Submitted on: 3/27/2024 5:24:39 PM

Testimony for FIN on 3/28/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Nancy Jones	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Yamashita, Vice Chair Kitagawa and Finance Committee Members:

I submit this testimony in SUPPORT of SB2591, SD2, HD1 – which would fine any private landowner up to \$1000 who fails to disclose and record with the Hawai`i Bureau of Conveyances the existence of burial or archaeological sites on his/her property that the landowners knew of or should have known of. Burial or archaeological sites located on a property may affect the property’s usage. Accordingly, prospective property buyers – in the interest of “full disclosure” – MUST be made aware of any burial or archaeological sites on the property before the completion of a real estate transaction. Also, disclosing and recording burial and archaeological site locations makes it easier to plan for and protect these sites from damage. Any fines collected for failing to disclose burial and archaeological sites should rightly be collected and deposited into the Hawai`i Historic Preservation Fund to further this division’s mission.

For all of these reasons and in the interest of protecting Hawai`i’s important cultural sites, we urge your Committee to please pass SB2591, SD2, HD1 and allow it to move forward during this Session.

Mahalo for this opportunity to present this testimony supporting SB2591, SD2, HD1.

Nancy A. Jones

PO Box 1462, Wai`anae, HI 96792 / Email: nancyhydroalt@gmail.com

SB-2591-HD-1

Submitted on: 3/27/2024 5:31:34 PM

Testimony for FIN on 3/28/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Zeb Jones	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Yamashita, Vice Chair Kitagawa and Finance Committee Members:

I submit this testimony to SUPPORT SB2591, SD2, HD1 – which would fine any private landowner up to \$1000 who neglects to disclose and record with the Hawai`i Bureau of Conveyances the existence of burial or archaeological sites on his/her property that the landowners knew of or should have known about. Archaeological or burial sites located on a property may affect use of a property. So, prospective property buyers – in the interest of “full disclosure” – MUST be made aware of any burial or archaeological sites on the property before completing a real estate transaction. Also, disclosing and recording burial and archaeological site locations will make it easier to plan for and protect these sites from damage. Any fines collected for failing to disclose burial and archaeological sites should rightly be collected and deposited into the Hawai`i Historic Preservation Fund to further this division’s mission.

For these above reasons and in the interest of protecting Hawai`i’s important cultural sites, we urge your Committee to please pass SB2591, SD2, HD1 and allow it to move forward during this Session.

Mahalo for this opportunity to present this testimony in support SB2591, SD2, HD1.

Zebuel “Zeb” C. Jones

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