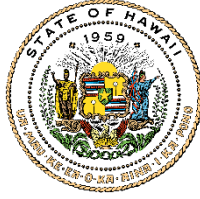


JOSH GREEN, M.D.
GOVERNOR | KE KIA'ĀINA

SYLVIA LUKE
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA



STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAII'
DEPARTMENT OF LAND AND NATURAL RESOURCES
KA 'OIHANA KUMUWAIWAI 'ĀINA

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FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

Testimony of
DAWN N. S. CHANG
Chairperson

Before the Senate Committee on
WATER AND LAND
Wednesday, February 5, 2025
1:00 PM
State Capitol Conference Room 229 & Videoconference

In consideration of
SENATE BILL 15
RELATING TO HISTORIC PRESERVATION

Senate Bill 15 proposes amending the definition of “historic property” to require that the property meets the criteria for inclusion within the Hawaii Register of Historic Places or has important value to Native Hawaiians or other ethnic groups of the State due to associations with cultural practices once carried out, or still carried out, at the property or associations with traditional cultural beliefs, events, or oral accounts that are important to history, traditional cultural practices, and cultural identity. **The Department of Land and Natural Resources (Department) supports this measure.**

Under Chapter 6E-2, HRS, provides the definition of “historic property,” which informs how the State Historic Preservation Division (Division) evaluates historic and cultural resources and the impacts projects submitted to the Division, pursuant to sections 6E-8, -10, and -42, HRS, have on historic and cultural resources.

The current definition of “historic property” is overly broad and does not take into consideration if a historic or cultural resource maintains sufficient integrity and significance to be identified as an “historic property”. This bill will make a critical change to the definition of “historic property” that allows a resource to be evaluated on its integrity and significance, rather than just its age. Additionally, the definition change will be similar to the definition of “historic property” under federal regulations. This will allow historic preservation reviews that require compliance with both federal and state historic preservation policies to be completed in a more streamlined manner that is easier to understand and complied with.

Mahalo for the opportunity to provide testimony on this measure.



HISTORIC HAWAI'I FOUNDATION

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TO: Senator Lorraine R. Inouye, Chair
Senator Brandon J.C. Elefante, Vice Chair
Committee on Water and Land (WTL)

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

Committee: Wednesday, February 5, 2025
1:00 p.m.
Via Video Conference and Conference Room 229

RE: **SB 15, Relating to Historic Preservation**

On behalf of Historic Hawai'i Foundation (HHF), I am writing in **support the intent for SB 15**, with recommendation for amendment.

The bill would amend Hawai'i Revised Statutes §6E to change the definition of historic property to add that properties 50 years or older shall meet the criteria to be placed onto the Hawai'i register of historic places or has important value to Native Hawaiians or other ethnic groups of the State due to associations with cultural practices once carried out, or still being carried out, at the property or due to associations with traditional beliefs, events, or oral accounts that are important to the group's history, traditional practices, and cultural identity.

Legislative Intent and Public Policy Context

The Constitution of the State of Hawai'i recognizes the value of conserving and developing the historic and cultural property within the State for the public good, and the Legislature has declared that it is in the public interest to engage in a comprehensive program of historic preservation at all levels of government to promote the use and conservation of such property for the education, inspiration, pleasure and enrichment of its citizens.

In order to meet this mandate and to ensure that the historic and cultural resources of Hawai'i are treated appropriately, it is necessary to have a framework based on criteria and standards to define and differentiate which properties are subject to the state's historic preservation program.

Any changes to this policy and public benefit need to demonstrate both how the substantive outcomes will be met—that is, to conserve and protect historic resources—and that the administration of the program is fair, clear, unbiased and consistent for all concerned.

Historic Hawai'i Foundation is a statewide nonprofit organization established in 1974 to encourage the preservation of historic buildings, sites, structures, objects and districts on all the islands of Hawai'i. As the statewide leader for historic preservation, HHF works to preserve Hawai'i's unique architectural and cultural heritage and believes that historic preservation is an important element in the present and future quality of life, environmental sustainability and economic viability of the state.

Currently, HRS §6E-2 defines historic properties as any building, structure, object, district, area or site, including heiau and underwater site, which is over 50 years old. This definition has the advantage of being simple to understand and simple to evaluate, as it relies on a single piece of data: age of construction. However, that definition is also unnecessarily broad, and assumes that age is equivalent to historic importance.

Within the discipline and practice of historic preservation, there are two additional criteria used to screen properties: *historic significance* and *integrity*. The criteria for being entered into the State of Hawai'i Register of Historic Places address these additional aspects and are appropriate to add to the State's definition of "historic property."

Historic Hawai'i Foundation supports amending HRS §6E-2 to include the requirement that properties meet the criteria for being entered into the state register of historic places, but is also concerned that some cultural sites or features may have been significantly altered over time, thus affecting their historic integrity. HHF agrees that the definition needs to include these sites and appreciates the explicit inclusion in the proposed definition.

Although HHF supports the clarification in the definition of "historic property," we also note that this amendment introduces a new requirement for the statewide preservation program: the task of determining whether or not a specific property meets the criteria based on more information than age of construction.

When making determinations regarding specific properties, preservation professionals with appropriate education and experience will need to apply the criteria for evaluating historic significance and integrity. Professional judgment is needed to understand and apply the criteria to different property types, including buildings, structures, objects, sites and districts, including those properties to which Native Hawaiians and other ethnic and cultural groups of the State attach religious and cultural significance.

By adding this additional layer of knowledge, skill and experience to the act of determining whether or not a property is "historic," and not merely relying on age of construction, it will be more difficult for property owners, developers, permitting and planning agencies and the general public to know if a property will be subject to the State Historic Preservation Division's requirement to identify, evaluate and resolve potential effects that may be caused by a proposed project.

HHF believes that the revised definition would make the assessment and resolution of effects more efficient and effective, but will complicate the initial step of knowing whether the statute applies at all. We caution about unintended consequences that could be caused by a seemingly straightforward change.

HHF recommends that the bill be amended to require the department to promulgate administrative rules prior to the effective date to be implemented simultaneously with the new definition to address the issue of who will make the determinations, based on established criteria and standards, subject to qualified personnel concurrence and as an initial stage of the process.

Thank you for the opportunity to comment.

Feb. 5, 2025, 1 p.m.
Hawaii State Capitol
Conference Room 229 and Videoconference

To: Senate Committee on Water and Land
Sen. Lorraine Inouye, Chair
Sen. Brandon Elefante, Vice-Chair

From: Grassroot Institute of Hawaii
Ted Kefalas, Director of Strategic Campaigns

RE: SB15 — RELATING TO HISTORIC PRESERVATION

Aloha Chair Inouye, Vice-Chair Elefante and other members of the Committee,

The Grassroot Institute of Hawaii offers **comments on — and an amendment to —** [SB15](#), which would redefine historic property.

Currently, “historic property” is defined as “any building, structure, object, district, area, or site, including heiau and underwater site, which is over fifty years old.”

SB15 would change the definition to read: “any building, structure, object, district, area, or site, including heiau and underwater site, which (1) Is over fifty years old; (2) Meets the criteria for being entered into the Hawaii register of historic places; or (3) Has important value to Native Hawaiians or other ethnic groups of the State due to: (A) Associations with cultural practices once carried out, or still carried out, at the property; or (B) Associations with traditional beliefs, events, or oral accounts that are important to history, traditional practices, and cultural identity.”

Grassroot appreciates the intent of this measure because historic preservation review of projects often takes months, and the State Historic Preservation Division faces a large and growing number of projects that will need its review.

On Oahu alone, there are 135,553 parcels improved with a single living unit, including single condominium units, in residential zones. Of these, 80,870 — almost 60% — were built in 1975 or before. Just 55,074 — about 41% — were built in 1976 or after.¹

And the number of parcels that could be subject to SHPD review will only increase as Hawaii’s housing stock ages. In 2026, the 1,585 dwellings built in 1976 will become candidates for SHPD review any time their owners file for permits to conduct work on them.

While SHPD’s average review times for projects are not readily available, the agency noted in its report to the 2023 Legislature that its archaeology reviews were taking between six months and one year, on average.² The agencies’ historic property reviews were not listed in the report, but it is reasonable to believe they could take months.

However, Grassroot has concerns that the new definition proposed by SB15 would further complicate these reviews. It keeps the current 50-year standard while adding a new, subjective standard relating to the property’s cultural importance.

If this measure is to advance, we suggest changing the “or” to an “and.” The new definition would thus require a property to be both 50 years old and have cultural importance.

Thus, the definition would read: “any building, structure, object, district, area, or site, including heiau and underwater site, which (1) Is over fifty years old; (2) Meets the criteria for being entered into the Hawaii register of historic places; ~~or~~ **and** (3) Has important value to Native Hawaiians or other ethnic groups of the State due to: (A) Associations with cultural practices once carried out, or still carried out, at the property; or (B) Associations with traditional beliefs, events, or oral accounts that are important to history, traditional practices, and cultural identity.”

This definition change could streamline the review process while maintaining protections for unique cultural buildings and sites.

Thank you for the opportunity to testify.

Ted Kefalas
Director of Strategic Campaigns
Grassroot Institute of Hawaii

¹ Hawaii Information Service database, accessed Jan. 30, 2024. Figures exceed 100% because some parcels with a single living unit have multiple buildings with multiple construction dates, resulting in double counting. A subscription is needed to access the data.

² [“Report to the Thirty-Second Legislature 2023 Regular Session on the State Historic Preservation Program For Fiscal Year 2021-2022,”](#) Hawaii Department of Land and Natural Resources, October 2022, p. 1.

SB15

He Mele komo a he mele aloha no na kupuna o ke au i hala Aloha mai kakou.

Aloha,

My name is Cindy Freitas and I'm a Native Hawaiian descended of the native inhabitants of Hawai'i prior to 1778 and born and raised in Hawai'i.

I am also a practitioner who still practice the cultural traditional customary practices that was instill in me by my grandparents at a young age from mauka (MOUNTAIN TO SEA) to makai in many areas.

I'm in OPPOSITION for SB15

Revised Definition:

A "historic property" is any site, structure, or area that holds significant cultural, spiritual, or ancestral value to Native Hawaiians due to its association with traditional practices, beliefs, and knowledge that have been passed down through generations or continue to be practiced. This includes, but is not limited to:

- *Places of spiritual or sacred importance (e.g., heiau, burial grounds, wahi pana) where ancestral rituals, prayers, and ceremonies are performed or have been historically performed, embodying the connection between the land, ancestors, and the divine.*
- *Cultural landscapes and areas tied to traditional land stewardship, such as agricultural sites (e.g., lo'i kalo, loko i'a) or places where the practice of mālama 'āina (land care) and sustainable resource management are integral to Hawaiian cultural identity and community resilience.*
- *Sites of historical significance related to important events, figures, or movements in Hawaiian history, particularly those related to the Hawaiian sovereignty movement, resistance to colonization, or the ongoing cultural revival and practice of Native Hawaiian traditions.*
- *Ancestral homes, gathering places, and community spaces where the values of Hawaiian family, language, and culture are passed down through generations, ensuring the continuity of traditions and fostering a sense of place and belonging.*
- *Living sites that continue to serve as spaces for cultural learning, practice, and transmission, where Hawaiian knowledge systems (such as 'Ōlelo Hawai'i, hula, oli, and other traditional arts) are taught, practiced, and celebrated.*

Considerations:

- The **living relationship** between Native Hawaiians and the land ('āina), where the property remains central to current cultural practices and community life, is fundamental.
- **Sacredness** is woven into the definition to acknowledge that the spiritual aspect is integral to Hawaiian identity and cannot be separated from the historical or cultural dimensions.

- **Community significance** is also emphasized to show that these properties are not merely historical sites but are living, vibrant places of cultural exchange and practice.

Why this refined version:

1. **Spiritual and Sacred Significance:** This ensures that properties related to sacred practices, like heiau, burial grounds, or wahi pana (legendary places), are prioritized for preservation, as they are not just physical sites but are deeply embedded with Hawaiian cosmology and identity.
2. **Ongoing Use and Cultural Continuity:** Emphasizing the **living practices** helps convey that these places are not just remnants of the past, but are integral to the present-day identity and cultural survival of Native Hawaiians.
3. **Environmental Stewardship:** By acknowledging traditional agricultural and aquaculture practices (like lo‘i kalo and loko i‘a), this definition emphasizes the importance of environmental sustainability and cultural responsibility as key elements of Native Hawaiian heritage.
4. **Ancestral Connections:** The emphasis on ancestral homes and gathering spaces ensures that places which have personal and familial significance are also included in the definition of “historic property.”

How It Could Look in Legal Terms

A revised definition of “historic property” could more deeply integrate these aspects by recognizing that a property’s significance extends beyond just being old or associated with a particular time period. It could highlight the **living and evolving nature of cultural heritage**, and how it sustains Hawaiian identity today.

For instance, the definition might be expanded to something like: *"A property holds cultural value to Native Hawaiians if it is a place of continued or historical use that sustains traditional practices, beliefs, and knowledge, whether in the form of spiritual, agricultural, healing, craft, or familial significance. This includes, but is not limited to, ancestral lands, ceremonial sites, cultural landscapes, and any place tied to the ongoing practice of Hawaiian traditions that contribute to cultural identity, continuity, and community cohesion."*

Mahalo,

_____/s/_____
Cindy Freitas