
A BILL FOR AN ACT

RELATING TO BUILDINGS.

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

1 SECTION 1. The purpose of this Act is to repeal the
2 amendments made by Act 228, Session Laws of Hawaii 2008, which
3 require the taking of photographs of actual or potential
4 historic buildings before demolition, construction, or other
5 alteration of the buildings. The legislature finds that the
6 requirement has placed an onerous and expensive burden on
7 persons who desire to demolish, renovate, or alter such
8 buildings. In many instances, the buildings, although old, have
9 no historic significance.

10 The legislature believes that this Act deserves expedited
11 enactment to ease the burden on persons impeded from performing
12 work on their buildings.

13 During the remainder of the 2009 regular session, the
14 legislature intends to formulate separate legislation to achieve
15 a similar purpose as Act 228, but with more reasonable and
16 practical application.

17 SECTION 2. Section 6E-8, Hawaii Revised Statutes, is
18 amended by amending subsection (a) to read as follows:

HB520 HD1 HMS 2009-2453



1 "(a) Before any agency or officer of the State or its
2 political subdivisions commences any project which may affect
3 historic property, aviation artifact, or a burial site, the
4 agency or officer shall advise the department and allow the
5 department an opportunity for review of the effect of the
6 proposed project on historic properties, aviation artifacts, or
7 burial sites, consistent with section 6E-43, especially those
8 listed on the Hawaii register of historic places. The proposed
9 project shall not be commenced, or in the event it has already
10 begun, continued, until the department shall have given its
11 written concurrence. [~~In the case of any building that is
12 eligible for listing or is listed on the Hawaii or national
13 register of historic places, no demolition, construction, or
14 other alteration of the building shall occur until after the
15 responsible agency, officer, or county has transmitted archival
16 quality black and white photographs of the historic building to
17 the department.]~~

18 The department is to provide written concurrence or non-
19 concurrence within ninety days after the filing of a request
20 with the department. The agency or officer seeking to proceed
21 with the project, or any person, may appeal the department's
22 concurrence or non-concurrence to the Hawaii historic places



1 review board. An agency, officer, or other person who is
2 dissatisfied with the decision of the review board may apply to
3 the governor, who may request the Hawaii advisory council on
4 historic preservation to report or who may take action as the
5 governor deems best in overruling or sustaining the department."

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

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



- 1 (1) Commence condemnation proceedings for the purchase of
2 the historic property if the department and property
3 owner do not agree upon an appropriate course of
4 action;
- 5 (2) Permit the owner to proceed with the owner's
6 construction, alteration, or improvement; or
- 7 (3) In coordination with the owner, undertake or permit
8 the investigation, recording, preservation, and
9 salvage of any historical information deemed necessary
10 to preserve Hawaiian history, by any qualified agency
11 for this purpose.

12 ~~[(b) In the case of any building over fifty years old, no
13 demolition, construction, or other alteration of the building
14 shall occur until after the owner has transmitted to the
15 department, at the owner's expense, archival quality black and
16 white photographs of the building.]~~

17 ~~(e)]~~ (b) Nothing in this section shall be construed to
18 prevent the ordinary maintenance or repair of any feature in or
19 on an historic property that does not involve a change in
20 design, material, or outer appearance or change in those
21 characteristics which qualified the historic property for entry
22 onto the Hawaii register of historic places.



1 [~~d~~] (c) Any person, natural or corporate, who violates
2 the provisions of this section shall be fined not more than
3 \$1,000, and each day of continued violation shall constitute a
4 distinct and separate offense under this section for which the
5 offender may be punished.

6 [~~e~~] (d) If funds for the acquisition of needed property
7 are not available, the governor may, upon the recommendation of
8 the department allocate from the contingency fund an amount
9 sufficient to acquire an option on the property or for the
10 immediate acquisition, preservation, restoration, or operation
11 of the property.

12 [~~f~~] (e) The department may enter, solely in performance
13 of its official duties and only at reasonable times, upon
14 private lands for examination or survey thereof. Whenever any
15 member of the department duly authorized to conduct
16 investigations and surveys of an historic or cultural nature
17 determines that entry onto private lands for examination or
18 survey of historic or cultural finding is required, the
19 department shall give written notice of the finding to the owner
20 or occupant of such property at least five days prior to entry.
21 If entry is refused, the member may make a complaint to the
22 district court in the circuit in which such land is located.



1 The district court may thereupon issue a warrant, directed to
2 any police officer of the circuit, commanding the officer to
3 take sufficient aid, and, being accompanied by a member of the
4 department, between the hours of sunrise and sunset, allow the
5 member of the department to examine or survey the historic or
6 cultural property."

7 SECTION 4. Section 46-3.5, Hawaii Revised Statutes, is
8 repealed.

9 [~~"[§46-3.5] Photographs of historic property.~~

10 ~~Notwithstanding any other law to the contrary, each county~~
11 ~~agency that issues building, construction, or development-~~
12 ~~related permits shall not issue any permit allowing the~~
13 ~~demolition, construction, or other alteration of a historic~~
14 ~~building until after a permit applicant provides proof of having~~
15 ~~provided the department of land and natural resources with~~
16 ~~archival quality black and white photographs of the historic~~
17 ~~building, as required under chapter 6E."]~~

18 SECTION 5. From the effective date of this Act:

19 (1) No applicant for a county permit to demolish,
20 construct, or otherwise alter a historic building
21 shall be required, as a condition of receipt of the
22 permit, to provide proof to a county agency of



1 transmittal to the department of land and natural
2 resources of any photograph of the historic building;
3 and

4 (2) No person or state or county agency shall be required
5 to transmit any photograph of a subject building to
6 the department of land and natural resources before
7 demolishing, constructing, or otherwise altering the
8 building. For the purposes of this paragraph,
9 "subject building" means a building that is:

- 10 (A) Listed or eligible for listing on the Hawaii or
11 national register of historic places; or
- 12 (B) Over fifty years old.

13 SECTION 6. Statutory material to be repealed is bracketed
14 and stricken. New statutory material is underscored.

15 SECTION 7. This Act shall take effect on July 1, 2020.



Report Title:

Historic Building Photography Requirement; Repeal

Description:

Repeals the amendments made by Act 228, Session Laws of Hawaii 2008, which require the taking of photographs of actual or potential historic buildings before demolition, construction, or alteration of the buildings. (HB520 HD1)

