



GOV. MSG. NO. 608

EXECUTIVE CHAMBERS  
HONOLULU

LINDA LINGLE  
GOVERNOR

April 14, 2009

The Honorable Colleen Hanabusa, President  
and Members of the Senate  
Twenty-Fifth State Legislature  
State Capitol, Room 409  
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

This is to inform you that on April 14, 2009, the following bill was signed into law:

HB520 HD1 SD1

A BILL FOR AN ACT  
RELATING TO BUILDINGS.  
**ACT 004 (09)**

Sincerely,

A handwritten signature in black ink, appearing to read "Linda Lingle".

LINDA LINGLE

Approved by the Governor

on APR 14 2009

HOUSE OF REPRESENTATIVES  
TWENTY-FIFTH LEGISLATURE, 2009  
STATE OF HAWAII

**ACT 004**

**H.B. NO.** 520  
H.D. 1  
S.D. 1

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## 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.

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

8 "(a) Before any agency or officer of the State or its  
9 political subdivisions commences any project which may affect  
10 historic property, aviation artifact, or a burial site, the  
11 agency or officer shall advise the department and allow the  
12 department an opportunity for review of the effect of the  
13 proposed project on historic properties, aviation artifacts, or  
14 burial sites, consistent with section 6E-43, especially those  
15 listed on the Hawaii register of historic places. The proposed  
16 project shall not be commenced, or in the event it has already  
17 begun, continued, until the department shall have given its  
18 written concurrence. [~~In the case of any building that is~~

HB520 SD1.DOC

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\*HB520 SD1.DOC\*

1 ~~eligible for listing or is listed on the Hawaii or national~~  
2 ~~register of historic places, no demolition, construction, or~~  
3 ~~other alteration of the building shall occur until after the~~  
4 ~~responsible agency, officer, or county has transmitted archival~~  
5 ~~quality black and white photographs of the historic building to~~  
6 ~~the department.]~~

7       The department is to provide written concurrence or non-  
8 concurrence within ninety days after the filing of a request  
9 with the department. The agency or officer seeking to proceed  
10 with the project, or any person, may appeal the department's  
11 concurrence or non-concurrence to the Hawaii historic places  
12 review board. An agency, officer, or other person who is  
13 dissatisfied with the decision of the review board may apply to  
14 the governor, who may request the Hawaii advisory council on  
15 historic preservation to report or who may take action as the  
16 governor deems best in overruling or sustaining the department."

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

19       "**§6E-10 Privately owned historic property.** (a) Before  
20 any construction, alteration, disposition or improvement of any  
21 nature, by, for, or permitted by a private landowner may be  
22 commenced which will affect an historic property on the Hawaii

1 register of historic places, the landowner shall notify the  
2 department of the construction, alteration, disposition, or  
3 improvement of any nature and allow the department opportunity  
4 for review of the effect of the proposed construction,  
5 alteration, disposition, or improvement of any nature on the  
6 historic property. The proposed construction, alteration,  
7 disposition, or improvement of any nature shall not be  
8 commenced, or in the event it has already begun, continue, until  
9 the department shall have given its concurrence or ninety days  
10 have elapsed. Within ninety days after notification, the  
11 department shall:

12 (1) Commence condemnation proceedings for the purchase of  
13 the historic property if the department and property  
14 owner do not agree upon an appropriate course of  
15 action;

16 (2) Permit the owner to proceed with the owner's  
17 construction, alteration, or improvement; or

18 (3) In coordination with the owner, undertake or permit  
19 the investigation, recording, preservation, and  
20 salvage of any historical information deemed necessary  
21 to preserve Hawaiian history, by any qualified agency  
22 for this purpose.

1       ~~[(b) In the case of any building over fifty years old, no~~  
2 ~~demolition, construction, or other alteration of the building~~  
3 ~~shall occur until after the owner has transmitted to the~~  
4 ~~department, at the owner's expense, archival quality black and~~  
5 ~~white photographs of the building.~~

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

12       ~~[(d)]~~ (c) Any person, natural or corporate, who violates  
13 the provisions of this section shall be fined not more than  
14 \$1,000, and each day of continued violation shall constitute a  
15 distinct and separate offense under this section for which the  
16 offender may be punished.

17       ~~[(e)]~~ (d) If funds for the acquisition of needed property  
18 are not available, the governor may, upon the recommendation of  
19 the department allocate from the contingency fund an amount  
20 sufficient to acquire an option on the property or for the  
21 immediate acquisition, preservation, restoration, or operation  
22 of the property.

1           ~~[(f)]~~ (e) The department may enter, solely in performance  
2 of its official duties and only at reasonable times, upon  
3 private lands for examination or survey thereof. Whenever any  
4 member of the department duly authorized to conduct  
5 investigations and surveys of an historic or cultural nature  
6 determines that entry onto private lands for examination or  
7 survey of historic or cultural finding is required, the  
8 department shall give written notice of the finding to the owner  
9 or occupant of such property at least five days prior to entry.  
10 If entry is refused, the member may make a complaint to the  
11 district court in the circuit in which such land is located.  
12 The district court may thereupon issue a warrant, directed to  
13 any police officer of the circuit, commanding the officer to  
14 take sufficient aid, and, being accompanied by a member of the  
15 department, between the hours of sunrise and sunset, allow the  
16 member of the department to examine or survey the historic or  
17 cultural property."

18           SECTION 4. Section 46-3.5, Hawaii Revised Statutes, is  
19 repealed.

20           ~~["[S46-3.5] Photographs of historic property.~~  
21 ~~Notwithstanding any other law to the contrary, each county~~  
22 ~~agency that issues building, construction, or development~~

1 ~~related permits shall not issue any permit allowing the~~  
2 ~~demolition, construction, or other alteration of a historic~~  
3 ~~building until after a permit applicant provides proof of having~~  
4 ~~provided the department of land and natural resources with~~  
5 ~~archival quality black and white photographs of the historic~~  
6 ~~building, as required under chapter 6E." ]~~

7 SECTION 5. Statutory material to be repealed is bracketed  
8 and stricken. New statutory material is underscored.

9 SECTION 6. This Act shall take effect upon approval.

APPROVED this 14 day of APR , 2009



GOVERNOR OF THE STATE OF HAWAII