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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. 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:



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 (A) listed  
10 or eligible for listing on the Hawaii or national  
11 register of historic places or (B) over fifty years  
12 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 upon its approval.

16 INTRODUCED BY: Calvin K. King

JAN 23 2009



**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.

