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## A BILL FOR AN ACT

RELATING TO HISTORIC PRESERVATION.

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

1           SECTION 1. The legislature finds that, according to the  
2 United States Census Bureau and the department of business,  
3 economic development, and tourism statistics, nearly forty per  
4 cent of private residences on Oahu were built in 1969 or  
5 earlier. In certain census tracts, this number is as high as  
6 eighty-five per cent.

7           Hawaii law provides that any building, structure, object,  
8 district, area, or site over fifty years old is considered  
9 historic property. Further, current application of historic  
10 preservation law requires review by the state historic  
11 preservation division of the department of land and natural  
12 resources prior to the granting of permits for proposed projects  
13 on historic properties. This requirement, in certain instances,  
14 has delayed the granting of permits, which has had a negative  
15 impact on development. As nearly forty per cent of residential  
16 properties on Oahu have reached or are approaching fifty years



1 of age, it is prudent for the State to reexamine the current  
2 processes and procedures regarding historic properties.

3 The purpose of this Act is to:

- 4 (1) Exempt private residences from required review by the  
5 by the department of land and natural resources in  
6 connection with applications for project or land use  
7 permits where residences are not included in, or  
8 eligible for inclusion in, the Hawaii register of  
9 historic places, and projects that are determined by  
10 the department to have no potential to affect historic  
11 properties;
- 12 (2) Include only buildings, structures, objects,  
13 districts, areas, or sites that are included in or  
14 eligible for inclusion in the Hawaii register of  
15 historic places in the definition of "historic  
16 property";
- 17 (3) Require the department of land and natural resources  
18 to develop a list of types of projects that have no  
19 potential to affect a historic property and a list of  
20 the types of properties likely to be eligible for



1 inclusion in the Hawaii register of historic places  
2 and to provide those lists to the counties; and  
3 (4) Require the department of land and natural resources  
4 to develop a plan for completing a comprehensive  
5 inventory of historic buildings in the State.

6 SECTION 2. Section 6E-2, Hawaii Revised Statutes, is  
7 amended by amending the definition of "historic property" to  
8 read as follows:

9 "Historic property" means any building, structure, object,  
10 district, area, or site, including heiau and underwater site,  
11 ~~[which]~~ that is [ever fifty years old.] included in or eligible  
12 for inclusion in the Hawaii register of historic places."

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

15 "**§6E-10 Privately owned historic property.** (a) Before  
16 any construction, alteration, disposition or improvement of any  
17 nature, by, for, or permitted by a private landowner may be  
18 commenced ~~[which]~~ that will affect an historic property on the  
19 Hawaii register of historic places, the landowner shall notify  
20 the department of the construction, alteration, disposition, or  
21 improvement of any nature and allow the department opportunity



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

- 9 (1) Commence condemnation proceedings for the purchase of  
10 the historic property if the department and property  
11 owner do not agree upon an appropriate course of  
12 action;
- 13 (2) Permit the owner to proceed with the owner's  
14 construction, alteration, or improvement; or
- 15 (3) In coordination with the owner, undertake or permit  
16 the investigation, recording, preservation, and  
17 salvage of any historical information deemed necessary  
18 to preserve Hawaiian history, by any qualified agency  
19 for this purpose.
- 20 (b) Nothing in this section shall be construed to prevent  
21 the ordinary maintenance or repair of any feature in or on an



1 historic property that does not involve a change in design,  
2 material, or outer appearance or change in those characteristics  
3 [~~which~~] that qualified the historic property for entry onto the  
4 Hawaii register of historic places.

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

10 (d) If funds for the acquisition of needed property are  
11 not available, the governor may, upon the recommendation of the  
12 department allocate from the contingency fund an amount  
13 sufficient to acquire an option on the property or for the  
14 immediate acquisition, preservation, restoration, or operation  
15 of the property.

16 (e) The department may enter, solely in performance of its  
17 official duties and only at reasonable times, upon private lands  
18 for examination or survey thereof. Whenever any member of the  
19 department duly authorized to conduct investigations and surveys  
20 of an historic or cultural nature determines that entry onto  
21 private lands for examination or survey of historic or cultural



1 finding is required, the department shall give written notice of  
 2 the finding to the owner or occupant of [~~such~~] the property at  
 3 least five days prior to entry. If entry is refused, the member  
 4 may make a complaint to the district court in the circuit in  
 5 which [~~such~~] the land is located. The district court may  
 6 thereupon issue a warrant, directed to any police officer of the  
 7 circuit, commanding the officer to take sufficient aid, and,  
 8 being accompanied by a member of the department, between the  
 9 hours of sunrise and sunset, allow the member of the department  
 10 to examine or survey the historic or cultural property.

11 (f) Nothing in this section shall be construed to require  
 12 a review by the department for a project on a private residence  
 13 that has not been entered, or nominated by the owner of the  
 14 residence for entry, onto the Hawaii register of historic  
 15 places."

16 SECTION 4. Section 6E-42, Hawaii Revised Statutes, is  
 17 amended to read as follows:

18 "**§6E-42 Review of proposed projects.** (a) Before any  
 19 agency or officer of the State or its political subdivisions  
 20 approves any project involving a permit, license, certificate,  
 21 land use change, subdivision, or other entitlement for use,



1 which may affect historic property, aviation artifacts, or a  
2 burial site, the agency or office shall advise the department  
3 and prior to any approval allow the department an opportunity  
4 for review and comment on the effect of the proposed project on  
5 historic properties, aviation artifacts, or burial sites,  
6 consistent with section 6E-43, including those listed in the  
7 Hawaii register of historic places. If:

8 (1) The proposed project consists of corridors or large  
9 land areas;

10 (2) Access to properties is restricted; or

11 (3) Circumstances dictate that construction be done in  
12 stages,

13 the department's review and comment may be based on a phased  
14 review of the project; provided that there shall be a  
15 programmatic agreement between the department and the project  
16 applicant that identifies each phase and the estimated timelines  
17 for each phase.

18 (b) Residences not included in or eligible for inclusion  
19 in the Hawaii register of historic places, and projects  
20 determined by the department to have no potential to affect  
21 historic properties in accordance with the requirements of



1 current historic preservation laws, shall not be subject to  
2 review by the department pursuant to this section and shall not  
3 be submitted to the department for review.

4 [~~(b)~~] (c) The department shall inform the public of any  
5 project proposals submitted to it under this section that are  
6 not otherwise subject to the requirement of a public hearing or  
7 other public notification.

8 [~~(e)~~] (d) The department shall adopt rules in accordance  
9 with chapter 91 to implement this section."

10 SECTION 5. (a) The department of land and natural  
11 resources shall:

12 (1) Develop a list of the types of projects that have no  
13 potential to affect a historic property and provide  
14 the list to the counties no later than October 1,  
15 2015; and

16 (2) Develop a list of the types of properties likely to be  
17 eligible for inclusion in the Hawaii register of  
18 historic places and provide the list to the counties  
19 no later than January 2, 2016.

20 (b) Properties not included in or eligible for inclusion  
21 in the Hawaii register of historic places and projects of the





1 types identified in the list developed pursuant to subsection  
 2 (a) (1) shall not be subject to review under section 6E-42,  
 3 Hawaii Revised Statutes, and the counties shall not submit such  
 4 projects to the department for review under section 6E-42,  
 5 Hawaii Revised Statutes.

6 SECTION 6. The department of land and natural resources  
 7 shall develop a plan for completing a comprehensive inventory of  
 8 historic buildings in the State and shall submit the plan,  
 9 together with a proposed budget for implementation of the plan,  
 10 to the legislature no later than fourteen days prior to the  
 11 convening of the regular session of 2016.

12 SECTION 7. Statutory material to be repealed is bracketed  
 13 and stricken. New statutory material is underscored.

14 SECTION 8. This Act shall take effect upon approval.  
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INTRODUCED BY:

Guthrie Yvelen

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# H.B. NO. 405

**Report Title:**

DLNR; Historic Preservation; Review Exemptions; Residential Property; Inventory of Historic Buildings

**Description:**

Exempts personal residences from automatic historic preservation review. Amends definition of "historic property." Requires the department of land and natural resources to develop a plan for implementation and completing a comprehensive inventory of historic buildings. Effective upon approval.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

