

HB830, HD1

Testimony

Measure Title: RELATING TO RESIDENTIAL PROPERTY.

Report Title: DLNR; Historic Preservation; Review; Private Residence

Description: Exempts from the definition of "historic property" any private residence that has not been entered, or nominated by the owner of the residence for entry, onto the Hawaii Register of Historic Places. Clarifies that nothing in Chapter 6E, HRS, shall be construed to require a review by the DLNR for any private residence exempted under the new "historic property" definition. (HB830 HD1)

Companion:

Package: None

Current Referral: HEA/WTL, WAM

Introducer(s): YAMANE, AQUINO, CULLEN, HAR, ICHIYAMA, ITO, KOBAYASHI, C. LEE, LOPRESTI, MIZUNO, MORIKAWA, NAKASHIMA, NISHIMOTO, OSHIRO, SAY, SOUKI, TAKAYAMA, TAKUMI, THIELEN, TOKIOKA, TSUJI, YAMASHITA, Rhoads, Saiki

DAVID Y. IGE
GOVERNOR OF HAWAII



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

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KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

**Testimony of
CARTY S. CHANG
Interim Chairperson**

**Before the Senate Committees on
HIGHER EDUCATION AND THE ARTS
and
WATER AND LAND**

**Monday, March 23, 2015
3:30 PM
State Capitol, Conference Room 224**

**In consideration of
HOUSE BILL 830, HOUSE DRAFT 1
RELATING TO RESIDENTIAL PROPERTY**

House Bill 830, House Draft 1 proposes to exempt privately owned residences from the definition of historic property and would prohibit the review of any project affecting a private residence requiring a state or county permit by the Department (Department) of Land and Natural Resources unless the residence has been entered into or nominated by the owner for entry into the Hawaii Register of Historic Places (Hawaii Register). **The Department appreciates the intent of this measure but recommends that it be held without action.**

While the Department agrees that there is a potential issue arising from the current statutory definition of historic property, which relies solely on age, it cannot support an amendment to the definition that categorically exempts private residences at this time.

When this issue was before the Legislature during the 2014 Session, the Legislature deferred action to give the State Historic Preservation Division (Division) in the Department the opportunity to address this matter. The Department appreciates that decision. The Division has made substantial progress in addressing the issue of review of residential permits. In January 2014, the average length of time for a residential permit review by the Department was seventeen calendar days, and the mode was seven. A year later, the average turnaround has been reduced to five calendar days, and the mode is three – a more than three-fold decrease in the average length of time it takes the Division to process a residential permit review.

Furthermore, the Division developed a list of project types that have no potential to effect historic properties. This list was distributed to the counties in February 2015, with the instruction that permits for project types on the list should no longer be submitted to the Division for review. The Division estimates that when fully implemented, the number of residential permits submitted to the Division for review will drop by more than thirty percent. The Division will continue to consider adding project types to this list, and continues to work with the counties to train staff and to consider ways in which the list can be made more useable by county staff, as well as to seek additional efficiencies in processing residential permit reviews.

Historic preservation is not simply an abstract “good.” Preserving the character of historic residences preserves the character of neighborhood, makes a property potentially eligible for reductions in country real estate assessments, preserves the character of commercial districts, and is an economic driver both in historic districts and throughout the islands.

Only a very small fraction of Hawai’i’s historic homes have been placed on the Hawaii Register. The overwhelming majority of residential structures in Hawaii have never been inventoried and evaluated to determine whether or not they are eligible for inclusion in the Hawaii Register. Exempting residences from review before completing an inventory of Hawai’i’s buildings will inevitably result in inadvertent damage to or destruction of historic homes and to changes in the character of the neighborhoods in which they are located. In addition, as presently drafted, House Bill 830, House Draft 1 exempts all homes not listed or nominated to the Hawaii Register. Implementing this exemption in historic districts, where structures are evaluated collectively rather than individually, will be all but impossible.

The Department believes that a comprehensive architectural survey of buildings is essential to protection and management of the Hawaii’s unique heritage as well as to resolving the issue of unnecessary permits reviews.

Senate Bill 504 House Draft 1 will address these matters in a way that offers greater potential to resolve this issue without weakening the protection of Hawai’i’s important and unique cultural heritage. The Department strongly prefers the approach in Senate Bill 504 House Draft 1.

The Department recommends that House Bill 830, House Draft 1 be held without action.



HB830 HD1
RELATING TO RESIDENTIAL PROPERTY
Senate Committee on Higher Education and the Arts
Senate Committee on Water and Land

March 23, 2015

3:30 p.m.

Room 224

The Office of Hawaiian Affairs (OHA) offers the following **COMMENTS** on HB830 HD1, which seeks to address perceived delays in permit applications for private residences over 50 years old, by changing the definition of “historic property” to exclude certain types of residential property.

OHA understands that this measure is intended to address an alleged backlog of permits and land use applications for improvements to old homes, and notes that protecting historic architecture is not central to our mission. OHA therefore does not oppose the attempt to develop a more efficient process to reduce the number of old homes required to undergo historic review, where appropriate. However, OHA is generally concerned with any statutory amendments that could potentially weaken procedural protections for bona fide historic sites provided by HRS Chapter 6E.

Accordingly, in order to uphold the intent of this measure, while minimizing any inadvertent weakening of such protections for bona fide historic cultural sites and iwi kūpuna, OHA urges the Committee’s consideration of the following:

1. To avoid unnecessary confusion, OHA recommends leaving the statutory definition of “historic property” intact and, instead, providing a private residence historic review exemption to the relevant process described in Hawai’i Revised Statutes (HRS) Section 6E-42. The definition of “historic property” in HRS Section 6E-2 is referenced in a number of statutory provisions and processes throughout Chapter 6E, including those not relevant to the purposes of this measure. Accordingly, amendments to this definition may inadvertently lead to confusion or unintended consequences involving these other processes.¹ Meanwhile, this measure appears intended to specifically

¹ As an example of such potential confusion, HRS Section 6E-5.5 states that the Hawai’i Historic Places Review Board shall “Order and enter *historic properties* into the Hawaii register of historic places on the basis of their value to Hawaii’s heritage” (emphasis added). With this measure’s current amendment to the definition of “historic property,” any private residence over fifty years old that is not already on or nominated for the register of historic places would be statutorily precluded from being considered for the register--no matter how historically significant it may be--as it would

modify the protections described in HRS Section 6E-42, which pertains to historic preservation review of certain private projects, including those involving privately-owned residences not listed on the state historic register. To avoid unnecessary confusion with historic preservation processes outside the intended scope of this bill, OHA highly recommends avoiding any amendments to the statutory definition of “historic property,” and instead providing the desired exemption for historic review of private residences to the relevant process described in HRS Section 6E-42.

2. Similarly, any amendment to HRS Section 6E-10 is unnecessary and should be avoided to reduce inadvertent confusion. OHA notes that HRS Section 6E-10 pertains only to projects on sites listed in the Hawai‘i Register of Historic Places. Insofar as this bill does not intend to exempt such sites from existing historic review protections, the amendments to HRS Section 6E-10 in Section 3 of this bill would appear to be superfluous and potentially confusing, and should be avoided if possible.

In order to effectuate the above recommendations, a Proposed Senate Draft 1 of this bill is attached. OHA notes that the language of this proposed draft has been developed in close consultation with other members of the historic preservation community, and has been carefully tailored to reflect both the intent of this bill in substantially reducing the number of historic review applications for simple old home renovations, as well as the purpose of Chapter 6E to protect bona fide historic sites and properties.

Mahalo nui for the opportunity to testify on this measure.

no longer be considered a “historic property” by definition. Such an outcome is clearly beyond the intended scope of this bill.

A BILL FOR AN ACT

RELATING TO RESIDENTIAL PROPERTY.

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

1 SECTION 1. According to the United States Census Bureau and
2 the department of business, economic development, and tourism,
3 nearly forty per cent of the existing private residences on Oahu
4 were built before 1970. In certain census tracts, this number
5 is as high as eighty-five per cent.

6 Hawaii law provides that any building, structure, object,
7 district, area, or site over fifty years old is considered
8 historic property. Furthermore, current application of historic
9 preservation law requires review by the state historic
10 preservation division of the department of land and natural
11 resources prior to the granting of permits for proposed projects
12 on historic properties. In certain instances, this requirement
13 has delayed the granting of permits for a period of many months,
14 which has had an adverse effect on the construction industry.
15 Since nearly forty per cent of private residences on Oahu have
16 reached or are approaching fifty years of age, it is prudent for

1 the State to reexamine the current processes and procedures
2 regarding historic properties.

3 The purpose of this Act is to exclude from historic review
4 those projects solely involving certain categories of activities
5 affecting private residences that have not been entered, or
6 nominated by the owner of the residence for entry, onto the
7 Hawaii register of historic places.

8 SECTION 2. Chapter 6E, Hawaii Revised Statutes, is amended
9 by adding a new section 6E-42.5, to read as follows:

10 **"6E-42.5 Activities for privately-owned, single-family**
11 **detached dwelling units categorically excluded from review.** (a)
12 The department shall annually develop and publish a list of
13 categories of excluded activities, including construction,
14 alteration, disposition, improvement, repair, or ordinary
15 maintenance activities, for privately-owned single-family
16 detached dwelling units that do not represent a change in
17 design, material, outer appearance or other characteristics
18 which might otherwise qualify such structures for the Hawaii
19 register of historic places. Upon publication, the list shall
20 be distributed to officers and agencies of the State and any of
21 its political subdivisions responsible for the implementation of
22 section 6E-42.

1 (b) Any approval for a proposed project:

2 (1) Involving a privately-owned single-family detached
3 dwelling unit that is not listed on or nominated for
4 the Hawaii register of historic places or located in a
5 historic district; and

6 (2) Solely involving activities described in the list of
7 categories of excluded activities published within the
8 preceding year by the department pursuant to
9 subsection (a),

10 shall be exempt from the requirements of section 6E-42.

11 (c) The list required under subsection (a) shall be
12 effective for a period of one year from final publication,
13 notwithstanding chapter 91, provided that any proposed list
14 shall be published on the website of the office of the
15 lieutenant governor for a period of not less than thirty days,
16 and that public notice of any such proposed list shall be mailed
17 to all persons who have made a timely written request of the
18 department for advance notice of its list publication. All
19 interested persons shall be given an opportunity to submit data,
20 views, or arguments regarding the list, orally or in writing.
21 The department shall fully consider all written and oral

1 submissions respecting the proposed list and may revise the list
2 accordingly prior to final publication.

3 (d) For the purposes of this section, "dwelling" means a
4 building or portion thereof designed or used exclusively for
5 residential occupancy and having all necessary facilities for
6 permanent residency such as living, sleeping, cooking, eating
7 and sanitation. A single-family detached dwelling is an
8 individual, freestanding, unattached dwelling unit, typically
9 built on a lot larger than the structure itself, resulting in an
10 area surrounding the house."

11 SECTION 3. Subsection (a) of section 6E-42, Hawaii Revised
12 Statutes, is amended to read as follows:

13 "(a) ~~Before~~ Except as provided in subsection 6E-42.5,
14 before any agency or officer of the State or its political
15 subdivisions approves any project involving a permit, license,
16 certificate, land use change, subdivision, or other entitlement
17 for use, which may affect historic property, aviation artifacts,
18 or a burial site, the agency or office shall advise the
19 department and prior to any approval allow the department an
20 opportunity for review and comment on the effect of the proposed
21 project on historic properties, aviation artifacts, or burial

1 sites, consistent with section 6E-43, including those listed in
2 the Hawaii register of historic places. If:

3 (1) The proposed project consists of corridors or large
4 land areas;

5 (2) Access to properties is restricted; or

6 (3) Circumstances dictate that construction be done in
7 stages,

8 the department's review and comment may be based on a phased
9 review of the project; provided that there shall be a
10 programmatic agreement between the department and the project
11 applicant that identifies each phase and the estimated timelines
12 for each phase."

13 SECTION 4. Statutory material to be repealed is bracketed
14 and stricken. New statutory material is underscored.

15 | SECTION 5. This Act shall take effect upon approval.

HISTORIC HAWAII FOUNDATION

TO: Sen. Brian T. Taniguchi, Chair
Senator Lorraine R. Inouye, Vice Chair
Committee on Higher Education & Arts

Sen. Laura H. Thielen, Chair
Sen. Brickwood Galuteria, Vice Chair
Committee on Water & Land

FROM: Kiersten Faulkner, Executive Director
Historic Hawaii Foundation

Committee: Monday, March 23, 2015
3:30 p.m.
Conference Room 224

RE: HB 830 HD1, Relating to Residential Property

On behalf of Historic Hawaii Foundation (HHF), I am writing in **strong opposition to HB 830 HD1**. The bill would amend Hawai'i Revised Statutes §6E to revise the definition of historic property to exclude private residences not on or nominated by the owner to the Hawaii Register of Historic places from designation as historic property and would eliminate review by the Department of Land and Natural Resources in connection with project permit or land use applications for private residences, with some limited exceptions.

Background

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.

The proposed bill would amend the definition of "historic property" to exclude "residences" (which are not defined) from the definition of historic property, unless the residence is listed on or nominated by the owner for the Hawai'i register of historic places.

The bill would also amend HRS 6E-10, which applies to "historic property on the Hawai'i register of historic places" to add a section that would state that "nothing in this chapter shall be construed to require the department to review any proposed construction, alteration, disposition, or improvement of a private

residence that has not been entered, or nominated by the owner of the residence for entry, onto the Hawai'i register of historic places.”

Concerns and Issues

If approved, the proposed bill would be a fundamental change to the definition of historic property. Currently, the marker of 50 years of age provides a bright line for all property types, and further evaluation of a property's significance, historic integrity and other elements of eligibility for the register of historic places occurs through the process outlined in Hawai'i Administrative Rules. Properties that have the inherent characteristics that comprise historic significance are provided with the opportunity to participate in the historic preservation program, leading to greater understanding, appreciation and protection for the architectural, social, economic, and cultural heritage of Hawai'i.

The proposed redefinition would treat one property type—residences—differently than all other property types, which is arbitrary and capricious. It would remove fair access to the state's preservation program and its protection for historic properties based on factors unrelated to the inherent characteristics or merit of the historic property, thus unfairly excluding home owners from equal treatment under the law.

By summarily dismissing all residential property from even considering and evaluating potential historic significance, the proposed exclusion of residences would inevitably lead to the destruction or damage to significant historic properties, and would be to the overall detriment of Hawaii's cultural heritage.

Historic Hawai'i Foundation believes that excluding residential property from the definition of historic property is unnecessarily broad and harmful. Therefore, HHF opposes the bill.

Proposed Amendments

Historic Hawai'i Foundation feels that there are more appropriate mechanisms to ensure the protection of historic properties through focusing the department's review and comment process on those projects which have the potential to inflict harm on historic resources. HHF recommends that HB830 HD1 be amended to an SD1 that would include a mechanism to remove minor project types from the department's review. Draft language is included below for your consideration:

6E-42 Review of proposed projects. (a) Except as provided in section 6E-42.5, before any agency or officer of the State or its political subdivisions approves any project involving a permit, license, certificate, land use change, subdivision, or other entitlement for use, which may affect historic property, aviation artifacts, or a burial site, the agency or office shall advise the department and prior to any approval allow the department an opportunity for review and comment on the effect of the proposed project on historic properties, aviation artifacts, or burial sites, consistent with section 6E-43, including those listed in the Hawaii register of historic places....

6E-42.5 Excluded activities for privately-owned, single-family detached dwelling units.

- a) The department shall develop and annually publish a list of excluded activities to include categories of construction, alteration, disposition, improvement, repair or ordinary maintenance activities to privately-owned single-family detached dwelling units that do not represent a change in design, material, outer appearance or other characteristics which might otherwise qualify such structures for the Hawaii register of historic places.

- b) Applications for proposed projects:
 - i. On privately-owned single-family detached dwelling units that are not designated on or nominated for the Hawaii or National registers of historic places or located in a historic district; and
 - ii. Solely involving activities on the list of excluded activities maintained by the department pursuant to subsection (a);
shall be exempt from the requirements of section 6E-42.
- c) The list of excluded activities maintained by the department under subsection (a) shall be provided to officers and agencies of the State and any of its political subdivisions responsible for the implementation of section 6E-42 on an annual basis.
- d) The list required under subsection (a) shall be effective for a period of one year from final publication, notwithstanding chapter 91, provided that any proposed list shall be published on the website of the office of the lieutenant governor for a period of not less than thirty days, and that public notice of any such proposed list shall be mailed to all persons who have made a timely written request of the agency for advance notice of its list publication. All interested persons shall be given an opportunity to submit data, views, or arguments regarding the list, orally or in writing. The agency shall fully consider all written and oral submissions respecting the proposed list.
- e) For the purposes of this section, “dwelling” means a building or portion thereof designed or used exclusively for residential occupancy and having all necessary facilities for permanent residency such as living, sleeping, cooking, eating and sanitation. A single-family detached dwelling is an individual, freestanding, unattached dwelling unit, typically built on a lot larger than the structure itself, resulting in an area surrounding the house.

Conclusion

Since 1974, Historic Hawai‘i Foundation has been a statewide leader for historic preservation. HHF’s members and numerous additional supporters work to preserve Hawaii’s unique architectural and cultural heritage and believe that historic preservation is an important element in the present and future quality of life, economic viability and environmental sustainability of the state.

Therefore, Historic Hawai‘i Foundation opposes HB 830 HD1 and respectfully asks the committee either to amend the bill as described above, or to hold the bill in committee.

We look forward to continuing to work with the legislature to address these concerns and issues. Thank you for the opportunity to comment.



**Testimony to the Senate Committee on Higher Education and the Arts and
Committee on Water and Land
Monday, March 23, 2015 at 3:30 P.M.
Conference Room 224, State Capitol**

RE: HOUSE BILL 830 HD1 RELATING TO RESIDENTIAL PROPERTY

Chairs Taniguchi and Thielen, Vice Chairs Inouye and Galuteria, and Members of the Committees:

The Chamber of Commerce Hawaii ("The Chamber") **strongly supports** HB 830 HD1, which exempts from the definition of "historic property" any private residence that has not been entered, or nominated by the owner of the residence for entry, onto the Hawaii Register of Historic Places. Further clarifies that nothing in Chapter 6E, HRS, shall be construed to require a review by the DLNR for any private residence exempted under the new "historic property" definition.

The Chamber is Hawaii's leading statewide business advocacy organization, representing about 1,000 businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of members and the entire business community to improve the state's economic climate and to foster positive action on issues of common concern.

The bill is intended to address a specific problem of tract subdivision homes in areas such as Hawaii Kai, Kaneohe, Halawa, Aiea, Pearl City, Waipahu and Mililani which are or will be in the near future, fifty (50) years old. The fact that these tract subdivision homes are fifty (50) years old AUTOMATICALLY defines them as "historic property" pursuant to Section 6E-2 HRS.

In recent years, ministerial approvals (i.e. County Building Permits) have been referred to the State Historic Preservation Division for review in accordance with Chapter 6E, Section 42 which states:

“§6E-42 Review of proposed projects. (a) Before any agency or officer of the State or its political subdivisions approves any project involving a permit, license, certificate, land use change, subdivision, or other entitlement for use, which may affect *historic property*, aviation artifacts, or a burial site, the agency or office shall advise the department and *prior to any approval allow the department an opportunity for review and comment on the effect of the proposed project on historic properties*, aviation artifacts, or burial sites, consistent with section 6E-43, including those listed in the Hawaii register of historic places (Emphasis added).”



Chamber of Commerce HAWAII

The Voice of Business

SHPD's interpretation of the law has caused many renovation and remodeling type building permits on houses older than 50 years old to be routed to SHPD for compliance with Chapter 6E HRS. These include homes and entire subdivisions that were constructed in the 1950's and 1960's. Each year more and more tract type subdivision homes become eligible simply because they are 50 years old or older.

The volume of permits being submitted has created a backlog at SHPD in the time require to review and process the permits. Furthermore, while SHPD is conducting its review, the City and County of Honolulu is unable to complete processing the building permit effectively, creating backlogs at two agencies for the same permit.

We also understand that there are homes in Hawaii that are fifty (50) years old or older which are considered to be architecturally significant and worthy of preservation. These homes should be preserved by either placing them or nominating them for inclusion on the Hawaii Register of Historic Places. The proposes bill would simply remove, from the definition of historic property, any private residences that have not been entered, or nominated by the owner of the residence for entry, onto the Hawaii register of historic places. The bill focuses only on vertical residential structures that haven't been nominated or placed on the Hawaii Register of Historic Places and does not apply to any subsurface work.

HB 830 HD1 is one of several bills introduced this session to proactively address this looming problem. Only two other bills are currently being considered by both houses. These are:

SB 504 SD2, which proposes to appropriate an unspecified amount of funds to SHPD to be used in addressing the issues surrounding historic residences, including but not limited to inventorying of residential structures that are fifty years old or older.

Chamber's Position: SB 504 SD2, essentially instructs SHPD to do what they are statutorily required to do so we are puzzled as to why the legislation is necessary and why additional funds have to be appropriated to undertake this effort.

SB 877 SD2, which proposes to amend the definition of "historic property" to require that fifty-year-old privately owned single family residences be considered historic properties for purposes of chapter 6E, Hawaii Revised Statutes, only if the property is listed or eligible for listing on the Hawaii register of historic places or is located in a historic district.

It also requires the state historic preservation division of the department of land and natural resources to conduct a survey on properties eligible for listing on the Hawaii register of historic places and to provide owners of historic property with notice of the property's likely eligibility. With a repeal date of 12/31/2018.

Chamber's Position: While this bill places additional requirements on SHPD to perform a survey of properties eligible for listing on the register of historic places, we believe the problem should be addressed by simply exempting private residences from the definition



Chamber of Commerce HAWAII

The Voice of Business

of “Historic Property” unless it has been entered or nominated by the owner for entry onto the Hawaii register of historic places. This bill is also “temporary” as it will be repealed at the end of 2018.

We strongly believe that the proposed language in HB 830 HD1 is the most appropriate, of the three pending bills, to address the specific problem, as it would allow for the bulk of work on residential structures to move forward without unnecessary delays, and allow SHPD to focus on residences that are worthy to be placed on the Hawaii Register of Historic Places.

We appreciate the opportunity to express our strong support for HB 830 HD1.

BIA-HAWAII

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Testimony to the Senate Committees on Higher Education and the Arts, and Water & Land Monday, March 23, 2015 3:30 P.M. State Capitol - Conference Room 224

RE: H.B. 830, H.D. 1, RELATING TO RESIDENTIAL PROPERTY

Chairs Taniguchi and Thielen, Vice-Chairs Inouye and Galuteria, and members of the Committees:

My name is Gladys Marrone, Chief Executive Officer for the Building Industry Association of Hawaii (BIA-Hawaii), the Voice of the Construction Industry. We promote our members through advocacy and education, and provide community outreach programs to enhance the quality of life for the people of Hawaii. BIA-Hawaii is a not-for-profit professional trade organization chartered in 1955, and affiliated with the National Association of Home Builders.

BIA-Hawaii **strongly supports** H.B. 830, H.D. 1, which exempts from the definition of "historic property" any private residence that has not been entered, or nominated by the owner of the residence for entry, onto the Hawaii Register of Historic Places. The bill further clarifies that nothing in Chapter 6E, HRS, shall be construed to require a review by the DLNR for any private residence exempted under the new "historic property" definition.

H.B. 830, H.D. 1 is intended to address a specific problem of tract subdivision homes in areas such as Hawaii Kai, Kaneohe, Halawa, Aiea, Pearl City, Waipahu and Mililani which are, or will be in the near future, fifty (50) years old. The fact that these tract subdivision homes are fifty (50) years old AUTOMATICALLY define them as "historic property," pursuant to Section 6E-2 HRS.

In recent years, ministerial approvals (i.e. County building permits) have been referred to the State Historic Preservation Division (SHPD) for review in accordance with Chapter 6E, Section 42 which states:

"§6E-42 Review of proposed projects. (a) Before any agency or officer of the State or its political subdivisions approves any project involving a permit, license, certificate, land use change, subdivision, or other entitlement for use, which may affect *historic property*, aviation artifacts, or a burial site, the agency or office shall advise the department and prior to any approval allow the department an opportunity for review and comment on the effect of the proposed project on historic properties, aviation artifacts, or burial sites, consistent with section 6E-43, including those listed in the Hawaii register of historic places (Emphasis added)."

SHPD's interpretation of the law has caused many renovation and remodeling type building permits on houses 50 years old or older to be routed to SHPD for compliance with Chapter 6E HRS. These include homes and entire subdivisions that were constructed in the 1950's and 1960's. Each year more and more tract subdivision homes become eligible simply because they are 50 years old or older.

The volume of permits being submitted has created a backlog at SHPD in the time required to review and process the permits. Furthermore, while SHPD is conducting its review, the City and County of Honolulu is unable to complete processing the building permit effectively, creating backlogs at two agencies for the same permit.

We also understand that there are homes in Hawaii that are 50 years old or older which are considered to be architecturally significant and worthy of preservation; these homes should be preserved by either placing them or nominating them for inclusion on the Hawaii Register of Historic Places. The proposed bill would simply remove, from the definition of historic property, any private residences that have not been entered, or nominated by the owner of the residence for entry, onto the Hawaii register of historic places. The bill focuses only on vertical residential structures that haven't been nominated or placed on the Hawaii Register of Historic Places and does not apply to any subsurface work.

H.B. 830, H.D. 1, is one of several bills introduced this session to proactively address this looming problem. Only two other bills are currently being considered by both houses. These are:

SB 504 S.D. 2, which proposes to appropriate an unspecified amount of funds to SHPD to be used in addressing the issues surrounding historic residences, including but not limited to inventorying of residential structures that are fifty years old or older.

BIA's Position: S.B. 504 S.D. 2, essentially instructs SHPD to do what they are statutorily required to do so we are puzzled as to why the legislation is necessary and why additional funds have to be appropriated to undertake this effort.

S.B. 877 S.D. 2, which proposes to amend the definition of "historic property" to require that fifty-year-old privately owned single family residences be considered historic properties for purposes of chapter 6E, Hawaii Revised Statutes, only if the property is listed or eligible for listing on the Hawaii register of historic places or is located in a historic district.

It also requires the SHPD to conduct a survey on properties eligible for listing on the Hawaii register of historic places and to provide owners of historic property with notice of the property's likely eligibility. With a repeal date of 12/31/2018.

BIA's Position: While this bill places additional requirements on SHPD to perform a survey of properties eligible for listing on the register of historic places, we believe the problem should be addressed by simply exempting private residences from the definition of "Historic Property" unless it has been entered or nominated by the owner for entry onto the Hawaii register of historic places. This bill is also "temporary" as it will be repealed at the end of 2018.

We strongly believe that the proposed language in H.B. 830, H.D. 1 is the most appropriate, of the three pending bills, to address the specific problem, as it would allow for the bulk of work on residential structures to move forward without unnecessary delays, and allow SHPD to focus on residences that are worthy to be placed on the Hawaii Register of Historic Places.

We appreciate the opportunity to express our **strong support** for H.B. 830 H.D. 1.

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GCA of Hawaii

GENERAL CONTRACTORS ASSOCIATION OF HAWAII

Quality People. Quality Projects.

Uploaded via Capitol Website

March 25, 2015

TO: HONORABLE BRIAN TANIGUCHI, CHAIR, HONORABLE LORRAINE INOUE,
VICE CHAIR AND MEMBERS OF THE SENATE COMMITTEE ON HIGHER
EDUCATION AND THE ARTS

HONORABLE LAURA THIELEN, CHAIR, HONORABLE BRICKWOOD
GALUTERIA, VICE CHAIR AND MEMBERS OF THE SENATE COMMITTEE ON
WATER AND LAND

SUBJECT: **SUPPORT OF H.B. 830, HD1 RELATING TO RESIDENTIAL PROPERTY.**
Exempts from the definition of "historic property" any private residence that has
not been entered, or nominated by the owner of the residence for entry, onto the
Hawaii Register of Historic Places. Clarifies that nothing in Chapter 6E, HRS,
shall be construed to require a review by the DLNR for any private residence
exempted under the new "historic property" definition. (HB830 HD1)

Hearing

DATE: Monday, March 23, 2015
TIME: 3:30 p.m.
PLACE: Conference Room 224

Dear Chair Taniguchi and Chair Thielen, Vice Chair Inouye and Vice Chair Galuteria and
Members of the Committees,

The General Contractors Association of Hawaii (GCA) is an organization comprised of over five
hundred eighty general contractors, subcontractors, and construction related firms. The GCA was
established in 1932 and is the largest construction association in the State of Hawaii. The GCA's
mission is to represent its members in all matters related to the construction industry, while
improving the quality of construction and protecting the public interest.

The GCA is **in support** of H.B. 830, HD1 which would amend the definition of historic property
by excluding any private residence not entered or nominated by the owner for entry into the
Hawaii register of historic places. This measure would also eliminate the assumption that all
homes over fifty years old are subject to 6E, HRS Review.

County ministerial approvals (i.e. building permits) for homes over fifty years old are being
routed to the State Historic Preservation Division for review, comment and other requirements
prior to any approvals. This is causing delays for repair, remodel and maintenance projects of
older residential homes. This bill will alleviate homeowners' frustration over the current
practice.

GCA supports H.B. 830, HD1 and respectfully requests that your Committee pass this measure.

From: mailinglist@capitol.hawaii.gov
To: [HEA Testimony](#)
Cc: darakawa@lurf.org
Subject: Submitted testimony for HB830 on Mar 23, 2015 15:30PM
Date: Sunday, March 22, 2015 9:43:25 AM

HB830

Submitted on: 3/22/2015

Testimony for HEA/WTL on Mar 23, 2015 15:30PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
David Z. Arakawa	Land Use Research Foundation of Hawaii	Comments Only	No

Comments: The Land Use Research Foundation of Hawaii SUPPORTS HB 830, HD1, RELATING TO RESIDENTIAL PROPERTY, which exempts from the definition of "historic property" any private residence that has not been entered, or nominated by the owner of the residence for entry, onto the Hawaii Register of Historic Places. Clarifies that nothing in Chapter 6E, HRS, shall be construed to require a review by the DLNR for any private residence exempted under the new "historic property" definition. (HB830 HD1) LURF would also support DLNR's recommendations and funding for SHPD to conduct a survey of private residences and structures older than fifty years old to create a list of such structures which could be eligible for designation on the Hawaii Register of Historic Places.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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March 23, 2015

The Honorable Brian Taniguchi, Chair
Senate Committee on Higher Education and the Arts

The Honorable Laura Thielen, Chair
Senate Committee on Water and Land
State Capitol, Room 224
Honolulu, Hawaii 96813

RE: H.B. 830, H.D.1, Relating to Residential Property

HEARING: Monday, March 23, 2015, at 3:30 p.m.

Aloha Chair Taniguchi, Chair Thielen and Members of the Joint Committees:

I am Myoung Oh, Government Affairs Director, here to testify on behalf of the Hawai'i Association of REALTORS® ("HAR"), the voice of real estate in Hawai'i, and its 8,400 members. HAR **strongly supports** H.B. 830, H.D.1 which exempts from the definition of "historic property" any private residence that has not been entered, or nominated by the owner of the residence for entry, onto the Hawaii Register of Historic Places. The measure also clarifies that nothing in Chapter 6E, HRS, shall be construed to require a review by the DLNR for any private residence exempted under the new "historic property" definition.

According to the Department of Business, Economic Development, and Tourism's State of Hawai'i Databook 2013, nearly 40% of private residences on Oahu were built in 1969 or earlier. As the number of residences that are 50 years old or older increase over time, it is prudent for the State to reexamine the current processes and procedures regarding historic properties.

Under Hawaii Revised Statutes ("HRS"), §6E-2, historic property is defined as, "any building, structure, object, area or site, including heiau and underwater site, which is over fifty years old."

Simply put, under HRS §6E-42, prior to approval of any project involving a permit, license, certificate, land use change, subdivision, or other entitlement for use, which may affect historic property, the State Historic Preservation Division (SHPD) is to be advised.

Prior to any approval, SHPD must be allowed an opportunity for review and comment on the effect of the proposed project on the historic property. Also, SHPD must inform the public of any project proposals submitted to it that are not otherwise subject to the requirement of a public hearing or other public notification.

HAR believes that the definition of historic property of 50-years-old or older is overly broad, and includes far too many homes that have no qualities that would qualify it for inclusion on the Hawaii Register of Historic Places.

HAR strongly supports this measure to the extent that this will serve as an improvement to current regulatory barriers to both home ownership and renovation.

Mahalo for the opportunity to testify.

From: mailinglist@capitol.hawaii.gov
To: [HEA Testimony](#)
Cc: cawong@lava.net
Subject: Submitted testimony for HB830 on Mar 23, 2015 15:30PM
Date: Sunday, March 22, 2015 8:58:17 AM

HB830

Submitted on: 3/22/2015

Testimony for HEA/WTL on Mar 23, 2015 15:30PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Cecily Wong	Individual	Support	No

Comments: Dear Committee Members, I strongly urge you to pass HB 830. While the preservation of structures of historic importance is a laudable endeavor, the current law is overbroad and imposes a huge financial and administrative burden on individual homeowners. In an environment where permitting and construction are already onerous propositions, the current law penalizes homeowners based on an arbitrary consideration. In effect it hijacks their homes. The proposed amendment returns the sanctity of the home to the homeowner. Please pass this bill. Thank you for your consideration of my testimony. Respectfully, Cecily Wong

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From: mailinglist@capitol.hawaii.gov
To: [HEA Testimony](#)
Cc: datchoy86@yahoo.com
Subject: Submitted testimony for HB830 on Mar 23, 2015 15:30PM
Date: Sunday, March 22, 2015 10:14:55 PM

HB830

Submitted on: 3/22/2015

Testimony for HEA/WTL on Mar 23, 2015 15:30PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
D. Choy	Individual	Support	No

Comments: This bill would allow DLNR to spend more time and money on its primary functions. While SHPD is important, requiring reviews of fifty year old property purely on age is a distraction to the department.

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From: mailinglist@capitol.hawaii.gov
To: [HEA Testimony](#)
Cc: lwong96822@gmail.com
Subject: Submitted testimony for HB830 on Mar 23, 2015 15:30PM
Date: Sunday, March 22, 2015 4:15:44 PM

HB830

Submitted on: 3/22/2015

Testimony for HEA/WTL on Mar 23, 2015 15:30PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Laurel Wong	Individual	Support	No

Comments: Dear Committee Members, As the owner of an older home I strongly urge you to pass HB 830. Thank you for your consideration, Laurel Wong

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