



GOV. MSG. NO. 916

EXECUTIVE CHAMBERS  
HONOLULU

July 9, 2008

LINDA LINGLE  
GOVERNOR

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

Dear Madam President and Members of the Senate:

Re: House Bill No. 2486 SD1 CD1

On July 8, 2008, House Bill No. 2486, entitled "A Bill for an Act Relating to Historic Preservation" became law without my signature, pursuant to Section 16 of Article III of the State Constitution.

The purpose of this bill is to require owners of historic buildings to submit archival-quality photographs to the Department of Land and Natural Resources prior to the issuance of a building-related permit. The provisions in this bill apply to privately-owned and public buildings that are at least fifty years old.

While fifty years is usually the age at which a building may be considered as eligible for listing on the Hawaii or National Register of Historic Places, every building over fifty years of age is not eligible for listing on the State or National Register. A structure must possess historic integrity in terms of its setting, design, materials, workmanship, location, and association in order to be eligible for listing on the these registers.

Although I agree with the bill's intent to ensure that a quality record of historic buildings lives on even after the buildings are demolished, I am nonetheless concerned that this bill places a financial burden on owners of buildings over fifty years of age without considering the structure's condition. In some cases, a building may be deteriorated to such a degree that it may not warrant the expense of the archival-quality documentation necessary under this bill to receive a permit seeking to improve the condition of the structure. Next session, my Administration will propose amendments to narrow the scope of this legislation.

For the foregoing reasons, I allowed House Bill No. 2486 to become law as Act 228, effective July 8, 2008, without my signature.

Sincerely,

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

LINDA LINGLE

# ACT 228

HOUSE OF REPRESENTATIVES  
TWENTY-FOURTH LEGISLATURE, 2008  
STATE OF HAWAII

H.B. NO. 2486  
S.D. 1  
C.D. 1

---

## A BILL FOR AN ACT

RELATING TO HISTORIC PRESERVATION.

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

1 SECTION 1. Chapter 46, Hawaii Revised Statutes, is amended  
2 by adding a new section to be appropriately designated and to  
3 read as follows:

4 "§46- Photographs of historic property. Notwithstanding  
5 any other law to the contrary, each county agency that issues  
6 building, construction, or development-related permits shall not  
7 issue any permit allowing the demolition, construction, or other  
8 alteration of a historic building until after a permit applicant  
9 provides proof of having provided the department of land and  
10 natural resources with archival quality black and white  
11 photographs of the historic building, as required under chapter  
12 6E."

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

15 "(a) Before any agency or officer of the State or its  
16 political subdivisions commences any project which may affect  
17 historic property, aviation artifact, or a burial site, the  
18 agency or officer shall advise the department and allow the



1 department an opportunity for review of the effect of the  
2 proposed project on historic properties, aviation artifacts, or  
3 burial sites, consistent with section 6E-43, especially those  
4 listed on the Hawaii register of historic places. The proposed  
5 project shall not be commenced, or in the event it has already  
6 begun, continued, until the department shall have given its  
7 written concurrence. In the case of any building that is  
8 eligible for listing or is listed on the Hawaii or national  
9 register of historic places, no demolition, construction, or  
10 other alteration of the building shall occur until after the  
11 responsible agency, officer, or county has transmitted archival  
12 quality black and white photographs of the historic building to  
13 the department.

14 The department is to provide written concurrence or non-  
15 concurrence within ninety days after the filing of a request  
16 with the department. The agency or officer seeking to proceed  
17 with the project, or any person, may appeal the department's  
18 concurrence or non-concurrence to the Hawaii historic places  
19 review board. An agency, officer, or other person who is  
20 dissatisfied with the decision of the review board may apply to  
21 the governor, who may request the Hawaii advisory council on



1 historic preservation to report or who may take action as the  
2 governor deems best in overruling or sustaining the department."

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

5 "**§6E-10 Privately owned historic property.** (a) Before  
6 any construction, alteration, disposition or improvement of any  
7 nature, by, for, or permitted by a private landowner may be  
8 commenced which will affect an historic property on the Hawaii  
9 register of historic places, the landowner shall notify the  
10 department of the construction, alteration, disposition, or  
11 improvement of any nature and allow the department opportunity  
12 for review of the effect of the proposed construction,  
13 alteration, disposition, or improvement of any nature on the  
14 historic property. The proposed construction, alteration,  
15 disposition, or improvement of any nature shall not be  
16 commenced, or in the event it has already begun, continue, until  
17 the department shall have given its concurrence or ninety days  
18 have elapsed. Within ninety days after notification, the  
19 department shall:

20 (1) Commence condemnation proceedings for the purchase of  
21 the historic property if the department and property



1 owner do not agree upon an appropriate course of  
2 action;

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

5 (3) In coordination with the owner, undertake or permit  
6 the investigation, recording, preservation, and  
7 salvage of any historical information deemed necessary  
8 to preserve Hawaiian history, by any qualified agency  
9 for this purpose.

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

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

21 [~~(c)~~] (d) Any person, natural or corporate, who violates  
22 the provisions of this section shall be fined not more than



1 \$1,000, and each day of continued violation shall constitute a  
2 distinct and separate offense under this section for which the  
3 offender may be punished.

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

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



1 take sufficient aid, and, being accompanied by a member of the  
2 department, between the hours of sunrise and sunset, allow the  
3 member of the department to examine or survey the historic or  
4 cultural property."

5 SECTION 4. Statutory material to be repealed is bracketed  
6 and stricken. New statutory material is underscored.

7 SECTION 5. This Act shall take effect on July 1, 2008.

APPROVED this day of , 2008

GOVERNOR OF THE STATE OF HAWAII

