

Honolulu, Hawaii

March 3, 2006

RE: H.B. No. 1417
H.D. 1

Honorable Calvin K.Y. Say
Speaker, House of Representatives
Twenty-Third State Legislature
Regular Session of 2006
State of Hawaii

Sir:

Your Committees on Consumer Protection & Commerce and
Judiciary, to which was referred H.B. No. 1417 entitled:

"A BILL FOR AN ACT RELATING TO DESIGN PROFESSIONALS,"

beg leave to report as follows:

The purpose of this bill is to reduce the number of frivolous
lawsuits brought against design professionals by requiring the
filing of:

- (1) A certificate of merit with a complaint, cross-claim,
counterclaim, or third party complaint stating that the
plaintiff has consulted with a design professional who
finds that the lawsuit has merit; and
- (2) A preliminary expert opinion affidavit, stating the
expert's qualifications and the factual basis for each
claim and relationship to the damages alleged, within 90
days of filing of the certificate of merit.

The American Council of Engineering Companies, American
Institute of Architects, Coalition of Hawaii Engineering and
Architectural Professionals, American Society of Civil Engineers,
Engineering Concepts, Inc., Fukunaga & Associates, Inc., Hawaii
Pacific Engineers, Inc., Gray, Hong, Nojima & Associates, Inc.,
Lincolne Scott, Inc., MK Engineers, Ltd, Masa Fujioka &
Associates, Miyasato Kuniyoshi Engineers LLC, Miyashiro and
Associates, Inc., Pacific Geotechnical Engineers, Inc., Earth

HB1417 HD1 HSCR CPC-JUD HMS 2006-2233



Tech, Inc., Finance Insurance, Ltd., Limtiaco Consulting Group, Sato & Associates, Inc., Shigemura, Lau, Sakanashi, Higuchi & Associates, Inc., Tanimura & Associates, Inc., Cedric D. O. Chong & Associates, Inc., Environet, Inc., and PLA Inc., submitted testimony in support of this bill. Consumer Lawyers of Hawaii opposed this bill.

Your Committees find that in 2004, the Right to Repair law was enacted to reduce litigation in the residential construction industry by providing an alternative dispute resolution procedure. When the law was enacted, it repealed the Design Conciliation Panel (DCP) law. As a result, design professionals lost the protection from unmerited lawsuits afforded by the requirement of an informal hearing before the DCP, and the execution of a certificate of consultation by a design professional. This bill would reinstate some of the protection that was lost.

Your Committees have amended this bill by changing its effective date to July 1, 2006. Technical, nonsubstantive amendments were also made for clarity and consistency.

As affirmed by the records of votes of the members of your Committees on Consumer Protection & Commerce and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1417, as amended herein, and recommend that it pass Third Reading in the form attached hereto as H.B. No. 1417, H.D. 1.

Respectfully submitted on
behalf of the members of the
Committees on Consumer
Protection & Commerce and
Judiciary,



SYLVIA LUKE, Chair



ROBERT N. HERKES, Chair

