

Honolulu, Hawaii

MAR 24 2006

RE: H.B. No. 3036
H.D. 1
S.D. 1

Honorable Robert Bunda
President of the Senate
Twenty-Third State Legislature
Regular Session of 2006
State of Hawaii

Sir:

Your Committee on Commerce, Consumer Protection, and Housing,
to which was referred H.B. No. 3036, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO CONTRACTS,"

begs leave to report as follows:

The purpose of this measure is to provide for prompt payment of a subcontractor or materialman upon completion of the work or materials required under the contract, by establishing a certificate of completion procedure that functions as a lien on the property.

Testimony in support of this measure was submitted by Mutual Welding Company Ltd.; S and M Welding Co. Ltd.; South Pacific Steel Corp.; Paradise Erectors, Inc.; Iron Workers Stabilization Fund; the Subcontractors Association of Hawaii; the Roofing Contractors Association of Hawaii; the Hawaii Flooring Association; the Electrical Contractor Association of Hawaii; the Steel Fabricators and Erectors of Hawaii; the Painting and Decorating Contractors Association of Hawaii; and one individual. Testimony in opposition to this measure was submitted by the Building Industry Association of Hawaii; Mouse Builders, Inc.; Co-Ha Builders, Inc.; The Pacific Resource Partnership; HSI Mechanical Inc.; American Electric Co., LLC; JD Equipment Services, Inc.; Actus Lend Lease LLC; and the General Contractors Association of Hawaii. The Department of Accounting and General Services submitted comments.



Your Committee finds that this measure is a work in progress that requires continued discussion. At the hearing, the Department of Accounting and General Services proposed amendments to sections 103-10.5, 103-32.1, and 103D-501(b), Hawaii Revised Statutes. Testifiers in support and in opposition to the measure testified that they were conceptually in agreement with the Department of Accounting and General Service's proposed amendments. Following the hearing, the affected parties met and drafted a proposed draft that was presented to your Committee.

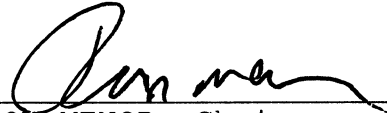
Upon further consideration, your Committee has amended this measure by:

- (1) Deleting all of its original provisions;
- (2) Providing that a subcontractor shall be entitled to payment from an agency under specific circumstances as delineated in the proposed draft;
- (3) Adopting provisions delineated in the proposed draft that allow a contractor or a subcontractor, with specific notice to the subcontractor and the procurement officer, to negotiate provisions that direct the paying agency to retain a specified percentage of each progress payments and permit the contractor or subcontractor to make a determination that a subcontractor's payment may be withheld;
- (4) Adopting provisions delineated in the proposed draft that provide for the determination and payment of an interim price by a governmental body in the absence of agreements between the parties; and
- (5) Changing the effective date from January 1, 2050, to July 1, 2050, to encourage further discussion on this measure.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection, and Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3036, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3036, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.



Respectfully submitted on
behalf of the members of the
Committee on Commerce, Consumer
Protection, and Housing,



RON MENOR, Chair



