

STAND. COM. REP. NO.

1600

Honolulu, Hawaii

APR 05 2007

RE: H.B. No. 1833
H.D. 1
S.D. 1

Honorable Colleen Hanabusa
President of the Senate
Twenty-Fourth State Legislature
Regular Session of 2007
State of Hawaii

Madam:

Your Committee on Commerce, Consumer Protection, and
Affordable Housing, to which was referred H.B. No. 1833, H.D. 1,
entitled:

"A BILL FOR AN ACT RELATING TO UNFAIR BUSINESS PRACTICES,"

begs leave to report as follows:

The purpose of this measure is to prohibit the practice of
mandating the use of certain surety producers or surety insurers
by applicants when a bid, payment, or performance bond is required
to ensure the performance of any real property construction
contract.

Your Committee received testimony in support of this measure
from King & Neel, Inc; Island Insurance Companies; and the General
Contractors Association of Hawaii. The Department of Commerce and
Consumer Protection submitted comments on this measure.

Your Committee finds that directed bonding or suretyship is
the practice within the construction industry, wherein the owner
of a project awards the contract for the construction of the
project on the condition that the contractor obtain a surety bond
from particular sureties or through specified agencies.

Your Committee further finds that contractors need the
freedom to choose with whom they will establish a bonding
relationship rather than be directed by the owner of a
construction project. Your Committee notes that thirty-seven

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other states have already banned the practice of directed suretyship.

Your Committee has amended this measure, based upon an agreement between the Department of Commerce and Consumer Affairs and the insurance industry, by:

- (1) Placing the language prohibiting the use of directed suretyship in a new section in chapter 431:10F, Hawaii Revised Statutes;
- (2) Adding language to allow the Insurance Commissioner to examine and investigate insurance related activities that may violate the prohibition on directed suretyships;
- (3) Allowing any person to submit to the Insurance Commissioner any complaint or materials that are relevant to the enforcement of the prohibition on directed suretyship;
- (4) Allowing any person who grants, awards, or issues contracts for construction or renovations to require the recipient of the contract to acquire or negotiate a surety bond or other contract guaranteeing completion through authorized surety insurers, or producers licensed to do business in the State, or both; and
- (5) Making this measure effective upon its approval.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection, and Affordable Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1833, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1833, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.



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



BRIAN T. TANIGUCHI, Chair



