

Honolulu, Hawaii  
Feb 6, 2008

RE: H.B. No. 2997

Honorable Calvin K.Y. Say  
Speaker, House of Representatives  
Twenty-Fourth State Legislature  
Regular Session of 2008  
State of Hawaii

Sir:

Your Committee on Consumer Protection & Commerce, to which was referred H.B. No. 2997 entitled:

"A BILL FOR AN ACT RELATING TO TORTS,"

begs leave to report as follows:

The purpose of this bill is to ensure the availability of design professional services in highway construction by providing that a design professional is liable only for the percentage of damages attributable to the design professional in tort claims relating to the maintenance and design of public highways, except when the design professional's degree of negligence is at least 25 percent.

The Coalition of Hawaii Engineering and Architectural Professionals; American Council of Engineering Companies of Hawaii; Hawaii State Council of the American Institute of Architects; Hawaii Section of the American Society of Civil Engineers; KAI Hawaii, Inc.; Alpha Engineers, Inc.; Engineering Concepts, Inc.; Masa Fujioka & Associates; Kelso Architects, Inc.; Bill Chang Architect, LLC; Mechanical Engineers of Hawaii Corporation; Next Design, LLC; Shimabukuro, Endo & Yoshizaki, Inc.; Gray, Hong, Nojima & Associates, Inc.; MK Engineers, Ltd.; Kauahikaua & Chun - Architects; Wesley R. Segawa & Associates, Inc.; Walters, Kimura, Motoda, Inc.; and Garduque Architects, LLC testified in support of this bill. The Consumer Lawyers of Hawaii, Hawaiian Electric Company, Hawaii Electric Light Company, and Maui Electric Company opposed this measure.




Design professionals include engineers, architects, and surveyors. Under joint and several liability for tort cases involving accidents due to highway maintenance or design, these professionals may end up paying well beyond the percentage of damages attributed to them. In many cases, insurers will settle for the design professional's policy limits to avoid the risk of large awards at trial. This economic risk discourages design professionals, particularly smaller firms, from working on highway projects, limiting the pool of available firms willing to take on these projects.

This bill attempts to balance these concerns along with the interests of injured parties by providing that design professionals found to be less than 25 percent at fault in these types of tort cases will only be responsible for the percentage of damages attributed to them.

As affirmed by the record of votes of the members of your Committee on Consumer Protection & Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2997 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

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

  
\_\_\_\_\_  
ROBERT N. HERKES, Chair



