

Honolulu, Hawaii

FEB 12 2008

RE: S.B. No. 2893
S.D. 1

Honorable Colleen Hanabusa
President of the Senate
Twenty-Fourth State Legislature
Regular Session of 2008
State of Hawaii

Madam:

Your Committee on Commerce, Consumer Protection, and
Affordable Housing, to which was referred S.B. No. 2893 entitled:

"A BILL FOR AN ACT RELATING TO TORTS,"

begs leave to report as follows:

The purpose of this measure is to provide fair and appropriate accountability of design professionals by allowing design professionals to be liable for only the percentage share of the damages attributable to the design professional for tort claims except when the design professional's degree of negligence is twenty-five per cent or more.

Testimony in support of this measure was submitted by MK Engineers, Ltd.; Engineering Solutions, Inc.; the American Society of Civil Engineers; KAI Hawaii, Inc.; the American Institute of Architects Hawaii State Council; the Coalition of Hawaii Engineering and Architectural Professionals; Pacific Geotechnical Engineers, Inc.; Austin, Tsutsumi & Associates, Inc.; Masa Fujioka & Associates; Consulting Structural Hawaii, Inc.; Gray, Hong, Nojima & Associates; Bills Engineering, Inc.; the Limtiaco Consulting Group; the American Council of Engineering Companies; Kauahikaua and Chun Architects; and one private individual. Testimony in opposition to this measure was submitted by the Hawaiian Electric Company and the Consumer Lawyers of Hawaii.

Your Committee finds that the potential liability with respect to the work of design professionals may be substantial and expensive. Design professionals are aware of their responsibility



to prepare designs and supervise the construction of safe and secure facilities, and should they be negligent in their work, they must bear the responsibility for those faults. However, testimony indicates that design professionals are subjected to unfair judgments and settlements, which raises their insurance premiums. Allowing design professionals to be liable for only the percentage share of damages attributable to the design professional in tort claims except when the design professional's degree of negligence is twenty-five per cent or more, will provide fairness in the allocation of risk.

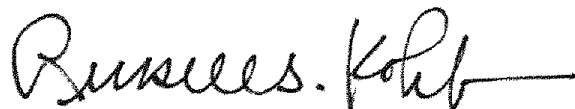
Your Committee has amended this measure by:

- (1) Inserting an effective date of July 1, 2050, to ensure further discussion on this issue by the Committee on Judiciary and Labor; and
- (2) Making technical, nonsubstantive amendments for the purposes of style and clarity.

Your Committee believes that this measure, as amended, fulfills the intent of this measure, which is to provide fair and appropriate accountability of design professionals.

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 S.B. No. 2893, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2893, S.D. 1, and be referred to the Committee on Judiciary and Labor.

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



RUSSELL S. KOKUBUN, Chair



