

**PRESENTATION OF THE
CONTRACTORS LICENSE BOARD**

TO THE HOUSE COMMITTEE ON JUDICIARY

TWENTY-FOURTH LEGISLATURE
Regular Session of 2008

Tuesday, February 26, 2008
2:45 p.m.

TESTIMONY ON HOUSE BILL NO. 3107, H.D. 1, RELATING TO OWNER-BUILDER PERMITS.

TO THE HONORABLE TOMMY WATERS, CHAIR,
AND MEMBERS OF THE COMMITTEE:

My name is Denny Sadowski, Legislative Committee Chair of the Contractors License Board ("Board"). The Board appreciates the opportunity to testify in support of House Bill No. 3107, House Draft 1, which is an Administration bill. This bill proposes to require sellers to disclose whether a structure was built or improved under an owner-builder permit, clarify that owner-builders must use licensed subcontractors, and establish penalties for owner-builders who fail to comply with owner-builder permit requirements.

Section 444-2(7), Hawaii Revised Statutes ("HRS"), exempts owners or lessees who build or improve property for their own use from the licensing requirements of Chapter 444, HRS. These owner-builders must perform the work themselves or use licensed subcontractors, and sign a statement to that effect. Current statutes do not explicitly require compliance with the terms of the statement; therefore, this bill clarifies that compliance is required, and establishes penalties for noncompliance. The Board believes that much of the unlicensed contractor activity occurring in this State is

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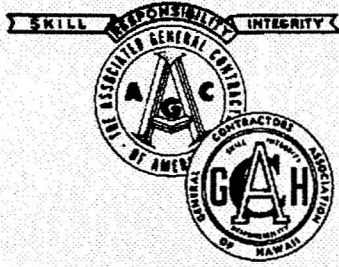
associated with owner-builder permits, and that establishing these penalties will help curb such violations.

Further, for the protection of consumers, the Board feels that the fact that a structure was constructed or improved upon pursuant to an owner-builder permit should be disclosed to potential buyers, thereby allowing them to make an informed decision on whether to purchase a structure which may have been constructed or improved upon by unlicensed persons.

This bill also proposes non-substantive amendments to provide consistency in the description of the permitted work, and to clarify that the fine amount is based on the value of the permitted work rather than the value of the entire structure.

The House Draft 1 adds the phrase "Real Estate Disclosure" to the title of the new section on mandatory disclosure (page 1, line 4) and changes the effective date of the Act to November 1, 2008. The Board supports the language of the House Draft 1.

Thank you for the opportunity to testify in support of this Administration bill.



GENERAL CONTRACTORS ASSOCIATION OF HAWAII

1065 AHUA STREET • HONOLULU, HAWAII 96819-4493 • PHONE 808-833-1681 • FAX 808-839-4167

E-MAIL ADDRESS: gca@gcahawaii.org • WEBSITE: www.gcahawaii.org

February 25, 2008

TO: THE HONORABLE TOMMY WATERS, CHAIRS AND MEMBERS OF THE
JUDICIARY COMMITTEE

SUBJECT: H. B. 3107, HD 1 - RELATING TO OWNER-BUILDER PERMITS.

DATE: Tuesday, February 26, 2008
TIME: 2:45pm
PLACE: Conference Room 325

Dear Chair Waters and Committee members on Judiciary:

The General Contractors Association of Hawaii (GCA), an organization comprised of over five hundred and forty (540) general contractors, subcontractors, and construction related firms, supports the intent of H. B. 3107, HD1, however, as proposed in HD1, the bill may result in unintended consequences that may hurt the homeowner who is trying to abide by the law. For example, if a homeowner secures an owner builder permit to remodel his home in preparation for sale, and abides by all of the requirements of the current law, he will be in violation of the law when he sells the home within one year of the remodeling work, if this bill is passed as drafted.

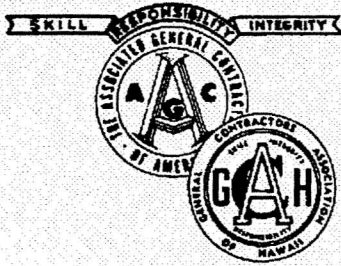
The GCA recommends that this bill be amended to strengthen the current law to insure full disclosure and sufficient penalty for violations of the law as follows:

1. Delete Section 1.
2. Renumber Section 2 to Section 1 and delete all references to alteration, improvement, demolition and repair of any building or structure.
3. Renumber Section 3 to Section 2 and delete the words alteration, improvement, demolition or repair of the building or structure.
4. Renumber Section 4 to Section 3.

The GCA believes that better enforcement of the existing law with the addition of specific penalties for violations of the disclosure requirement will help to reduce incidents of individuals who obtain owner builder permits with the intent to circumvent the contractor's license law.

Thank you for this opportunity to provide our comments on this measure.

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TO: THE HONORABLE TOMMY WATERS, CHAIRS AND MEMBERS OF THE
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SUBJECT: H. B. 3107, HD 1 - RELATING TO OWNER-BUILDER PERMITS.

DATE: Tuesday, February 26, 2008
TIME: 2:45pm
PLACE: Conference Room 325

Dear Chair Waters and Committee members on Judiciary:

The General Contractors Association of Hawaii (GCA), an organization comprised of over five hundred and forty (540) general contractors, subcontractors, and construction related firms, supports the intent and purpose of HB 3107, HD1 "Relating to Owner-Builder Permits" and offers an amendment to the bill that would get to the essence of the bill which is to provide disclosure that the construction on residential real property was done pursuant to an owner-builder permit. This disclosure would be made in the Mandatory Sellers Disclosure Statement, a form developed and used by the Hawaii Association of REALTORS®.

In an effort to protect the consumer and the true owner-builder, the current draft of HB 3107, HD1 may result in unintended consequences and may hurt the wrong people who are trying to abide by the law. One example would be a homeowner preparing his/her home for sale and elects to do painting and minor cosmetic work on the home by himself/herself. If the homeowner does not disclose the painting and any such cosmetic work in the disclosure statement for sale, then a buyer may void an otherwise valid arms-length sale by citing the new provision in the law.

The GCA recommends the bill be amended as follows:

1. Deletion of Section 1. that references §508D
2. Deletion of all changes made to Section 2 on §444.-9.1 except for (e) which reads
"Any person who obtains under section 444-2(7) shall comply with all of the requirements specified in the disclosure statement in subsection (c)."
3. Deletion of all changes made to Section 3 on §444-23 except for (e) that adds "or 444-9.1 (e)" after 444-2(7) so that Section 444-23 (e) reads
"(e) Any person who violates section 444-2(7) or 444-9.1 (e) shall be fined:"

The GCA believes that whatever laws are adopted, there must be proper enforcement of those laws. Thank you for the opportunity to share our views with you.

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**Hawaii
Association of
REALTORS®**
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February 23, 2008

The Honorable Tommy Waters, Chair
House Committee on Judiciary
State Capitol, Room 325
Honolulu, Hawaii 96813

RE: H.B. 3107, HD1 - Relating to Owner-Builder Permits
Hearing Date: Tuesday, February 26, 2008 @ 2:45 p.m., Room 325

On behalf of our 10,000 members in Hawaii, the Hawaii Association of REALTORS® (HAR) supports the intent of H.B. 3107, HD1.

H.B. 3107, HD1 proposes to require sellers to disclose whether a building or structure was built or improved under an owner-builder permit. Our members disclose this information on the Seller's Real Property Disclosure Statement form and it would be in the best interest of consumers that all sellers of real property provide this disclosure.

Thank you for your consideration and for the opportunity to submit this testimony.

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SAH - Subcontractors Association of Hawaii

820 Mililani Street, Suite 810, Honolulu, Hawaii 96813-2938

Phone: (808) 537-5619 ✦ Fax: (808) 533-2739

February 26, 2008

Testimony To: House Committee on Judiciary
Representative Tommy Waters, Chair

SUPPORT

Presented By: Tim Lyons, President

Subject: H.B. 3107, HD 1 – RELATING TO OWNER-BUILDER PERMITS

Chair Waters and Members of the Committee:

I am Tim Lyons, President of the Subcontractors Association of Hawaii. The Subcontractors Association represents the following nine separate and distinct contracting associations:

HAWAII FLOORING ASSOCIATION

ROOFING CONTRACTORS ASSOCIATION OF HAWAII

HAWAII WALL AND CEILING INDUSTRIES ASSOCIATION

TILE CONTRACTORS PROMOTIONAL PROGRAM

PLUMBING AND MECHANICAL CONTRACTORS ASSOCIATION OF HAWAII

SHEETMETAL CONTRACTORS ASSOCIATION OF HAWAII

PAINTING AND DECORATING CONTRACTORS ASSOCIATION

PACIFIC INSULATION CONTRACTORS ASSOCIATION

PACIFIC ELECTRICAL CONTRACTORS ASSOCIATION

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We support the passage of H.B 3107, HD 1. When the Contractors License Law was first passed, the Legislature debated whether it should require an owner who wanted to act as their own builder, to hire a licensed contractor. Ultimately, an exemption was provided for those individuals who wanted to build their own homes as long as they did so for their own family.

Unfortunately, this area has provided for a loophole in the enforcement of the contractors license law. We support the idea that an owner should still be allowed to be their own builder. Where we have a problem, is when the owner-builder then hires other individuals and it is quite typical that they do not hire licensed subcontractors.

There are also many instances in which an owner-builder makes many mistakes, some of which are superficial but, others which are structural but they are hidden by encased walls or other items and the unsuspecting buyer is unaware of this situation. The purpose of this bill is to require the seller to disclose that fact and we think that is proper.

Thank you.

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HB3107

Dear Mr Waters,

February 25, 2008

I am a General Contractor on the Big Island of Hawaii - Kona side. I have lived and worked in Kona for 25 years. The building and remodeling boom has attracted more unlicensed painters, stucco and other builders than ever into Hawaii.

The main problem I see is a majority of homeowners are now using illegal contractors. These illegal builders urge homeowners to pull building permits, allowing them to work under the radar. These builders ask homeowners to pay in cash so they can circumvent taxes and workers' compensation costs.

Those who should be carrying a license but do not should not profit at the expense of others in the trade who do carry licenses, keep up with paying state and federal taxes, workman's compensation and pay the fees required for licenses. We need to be on the same playing field - it is hard to compete when illegal workers don't have the bills licenced contractors do.

There are also many illegal aliens who work for cash on the jobs. Many legal General Contractors are also hiring illegal aliens and paying them under the table. When me and my colleagues turn in unlicensed illegal subcontractors- the license board comes and issues a 500 dollar fine and tells them to cease the work and get off the job - but that doesn't happen. They come back the next day and finish the job to get their money. They also threaten legal builders for threatening to turn them in and some are afraid for their safety.

Illegal contractors have become such a concern that builders in Kona have set aside their competitiveness to collectively address the local building officials. We fully believe that if we don't do something, the entire industry is going to go more and more toward owner-builders, and licensed contractors will just disappear. The state's economy will lose lots of money from this.

Respectfully yours,

Tom Migliori

[Redacted]

Kailua-Kona, HI
96740

[Redacted]

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Dear Mr Waters,

February 25, 2008

I am a General Contractor on the Big Island of Hawaii - Kona side. I have lived and worked in Kona for 25 years. The building and remodeling boom has attracted more unlicensed painters, stucco and other builders than ever into Hawaii.

The main problem I see is a majority of homeowners are now using illegal contractors. These illegal builders urge homeowners to pull building permits, allowing them to work under the radar. These builders ask homeowners to pay in cash so they can circumvent taxes and workers' compensation costs.

Those who should be carrying a license but do not should not profit at the expense of others in the trade who do carry licenses, keep up with paying state and federal taxes, workman's compensation and pay the fees required for licenses. We need to be on the same playing field - it is hard to compete when illegal workers don't have the bills licenced contractors do.

There are also many illegal aliens who work for cash on the jobs. Many legal General Contractors are also hiring illegal aliens and paying them under the table. When me and my colleagues turn in unlicensed illegal subcontractors- the license board comes and issues a 500 dollar fine and tells them to cease the work and get off the job - but that doesn't happen. They come back the next day and finish the job to get their money. They also threaten legal builders for threatening to turn them in and some are afraid for their safety.

Illegal contractors have become such a concern that builders in Kona have set aside their competitiveness to collectively address the local building officials. We fully believe that if we don't do something, the entire industry is going to go more and more toward owner-builders, and licensed contractors will just disappear. The state's economy will lose lots of money from this.

Respectfully yours,

Tom Migliori

[Redacted]

Kailua-Kona, HI
96740

I agree with everything Tom Migliori has said in his letter. The government also has to find a way to enforce the laws they pass.

In the past we turn in unlicensed contractors and even when they do find them it does not stop them from working.

*I have been licensed in this state since 1980. Richard Bates 10747
Kohala Partners LLC 26083*

[Redacted]

*Kamuela, HI 96743
ph: [Redacted]*

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