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PRESENTATION OF
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
REGULATED INDUSTRIES COMPLAINTS OFFICE

TO THE HOUSE COMMITTEE ON
CONSUMER PROTECTION AND COMMERCE

TWENTY-FOURTH STATE LEGISLATURE
REGULAR SESSION, 2008

MONDAY, FEBRUARY 4, 2008
2:00 P.M.

TESTIMONY ON HOUSE BILL NO. 3275—RELATING TO
OWNER-BUILDER PERMITS

TO THE HONORABLE ROBERT N. HERKES, CHAIR,
AND TO THE HONORABLE ANGUS L.K. MCKELVEY, VICE-CHAIR,
AND MEMBERS OF THE COMMITTEE:

The Department of Commerce and Consumer Affairs ("Department") appreciates the opportunity to testify on House Bill No. 3275, Relating to Owner-Builder Permits. My name is Jo Ann Uchida of the Department's Regulated Industries Complaints Office ("RICO"). The Department strongly supports measures that will lead to more effective enforcement of laws against unlicensed contracting activity. The Department respectfully opposes certain provisions in the bill and offers additional amendments that are consistent with the intent of this bill.

Chapter 444-2, Hawaii Revised Statutes ("HRS"), exempts persons who qualify as "owner-builders" from the contractor licensing law. This exemption was originally

designed to allow an individual homeowner to act as his or her own contractor for purposes of building or improving their residence. Owner-builders are authorized to obtain special building permits that do not have to be signed by licensed contractors, however, owner-builders are expected to comply with all laws and if they hire people to perform the construction, those people have to be licensed. The exemption applies only to homeowner residences, restricts the owner from fixing up the residence and then selling it within a year thereafter, and limits the frequency with which owner-builder permits can be obtained.

This bill, among other things, increases the restriction on post-construction sale from one to two years after the closing of the building permit, and limits the availability of the owner-builder permit to once every three years instead of two years under the current law. The Department opposes the increase of these time restrictions in the bill.

With regard to the language on page 3 lines 11-14, while the Department recognizes that changed family or financial circumstances may mandate a sale of the family home, it is concerned that the "unforeseen circumstances" as drafted in this bill create loopholes that will be abused by opportunistic property owners. As such, the Department opposes this language.

With regard to the language on page 3 line 8 and page 5 line 16 that references the closing date of the permit as the start date for the restriction on sale, the Department supports the inclusion of an explicit reference to the closing date of the permit, but suggests that the bill also state explicitly that sales cannot occur before the permit is closed. Although the Department already interprets the law to prohibit sales prior to and

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for a year after the permit is closed, the Department has received questions from the public about this aspect of the law.

With regard to the language on page 4 line 8 of the bill, the Department suggests that the bill be clarified to address whether multiple owner-builder permits are prohibited where the permits all relate to different projects on the same residence.

Finally, the Department suggests that this bill address the situation in which an owner-builder seeks to circumvent the resale restriction by obtaining a "conversion" of the owner-builder permit to a contractor permit after the work on the project is substantially completed, but before the permit is closed.

Thank you for this opportunity to testify on House Bill No. 3275. I will be happy to answer any questions that the members of the Committee may have.

**PRESENTATION OF THE
CONTRACTORS LICENSE BOARD**

TO THE HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE

TWENTY-FOURTH LEGISLATURE
Regular Session of 2008

Monday, February 4, 2008
2:00 p.m.

**TESTIMONY ON HOUSE BILL NO. 3275, RELATING TO OWNER-BUILDER
PERMITS.**

TO THE HONORABLE ROBERT N. HERKES, 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 present testimony on House Bill No. 3275, Relating to Owner-Builder Permits. The Board supports the intent of this bill, which is to place additional restrictions on owner-builders to prevent abuses of the permit process which foster unlicensed contractor activity; however, we must respectfully oppose the addition of specific exemptions to the restriction on selling the property within a certain period of time.

The Board supports: (1) increasing the time period that the owner-builder is prohibited from selling the property from one to two years; (2) increasing the time period that the owner-builder cannot pull another owner-builder permit from two to three years; and (3) requiring the owner-builder to comply with the terms of the disclosure statement. However, the Board is opposed to specifying certain exemptions to the restrictions on selling the property within two years, as stated on page 3, lines 11-14.

While the Board understands that there may be unforeseen circumstances under which an owner may be forced to sell the property, the Board feels that specifying

certain exemptions, such as becoming eligible for unemployment insurance, merely creates loopholes for owners intent on circumventing the license requirements. Also, an owner-builder may have a legitimate need to sell the property within the two-year period, but for reasons other than an exemption specified in the statute. Therefore, we prefer that these matters are left to the Board's discretion, so as not to create an undue burden on rightful owner-builders.

Thank you for the opportunity to testify on House Bill No. 3275.

BIA-HAWAII
BUILDING INDUSTRY ASSOCIATION

House Committee on Consumer Protection & Commerce Hearing
Monday, February 4, 2008
2:00 P.M.
Room 325

Testimony of Karen Nakamura, Chief Executive Officer of BIA-Hawaii

Chair Herkes and Members of the Committee on Consumer Protection & Commerce

I am Karen Nakamura, Chief Executive Officer of the Building Industry Association of Hawaii (BIA-Hawaii). Chartered in 1955, the Building Industry Association of Hawaii is a professional trade organization affiliated with the National Association of Home Builders, representing the building industry and its associates. BIA-Hawaii takes a leadership role in unifying and promoting the interests of the industry to enhance the quality of life for the people of Hawaii.

BIA-Hawaii is in strong support of HB 3275, "Relating to Owner-Builder Permits". HB 3275 strengthens and updates Chapter 444, HRS and does not adversely impact the true owner-builder. It will curb unlicensed contractor activity and clarify current vagueness of the statute.

HB 3275 increases the period during which an owner-builder is prohibited from selling or leasing his property from one to two years, conforming to IRS Capital Gains Tax rules. The bill makes an exception for unforeseen consequences experienced by the owner-builder.. The bill would also limit unlicensed contractor activity to build and sell for quick profit and violate the "Owner Builder Exemption" law.

HB 3275 changes the word "completion" to "closing of the building permit," thus strengthening the statute by providing a trigger of a definite point in time and clears up any ambiguity.

For these reasons, BIA-Hawaii requests passage of HB 3275.

Thank you for the opportunity to share our views with you.

Karen I. Nakamura

TO THE HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE

TWENTY-FOURTH LEGISLATURE
Regular Session of 2008

Monday, February 4, 2008
2:00pm

TESTIMONY ON HOUSE BILL NO. 3275, RELATING TO OWNER-BUILDER PERMITS.

TO THE HONORABLE ROBERT N. HERKES, CHAIR,
AND MEMBERS OF THE COMMITTEE:

My name is Joe Kindrich and thank you for seeing this bill in hearing and allowing my testimony.

HB3275 makes great sense for the following reasons:

1. HB3275 matches and complements the guidelines to IRS Capital Gains tax rules.
2. Changing the time period from one to two years will be consistent with IRS capital gains tax rules. It will also limit unlicensed contractor activity to build and sell for quick profit and violate the "Owner Builder Exemption". The True Owner Builder will not be building to sell for quick profit and thus not be affected. "One year" is simply not enough time. The IRS agrees to this affect and I support that we should update the statute and have consistent rulings to similar measures; i.e. IRS / Capital Gains.
3. The "unforeseen circumstances" language in HB3275 copies IRS 121 rule for exclusions under Capital Gains. This language has been accepted and a proven method for recognized exclusions by the IRS.
4. "Completion" is an arbitrary word and thus HB3275 strengthens the statute by changing the word "completion" to "Closing of the building permit." This proposed language provides a trigger of a definite point in time and clears any ambiguity.

In summary, HB3275 strengthens and updates the statute and does not adversely affect the true owner builder. It will curb unlicensed contractor activity and clear up current vagueness to the statute.

Thank you for allowing my testimony in support of HB3275,
Joe Kindrich

mckelvey3

From: Fred Moore [discover@hsimechanical.com]
Sent: Saturday, February 02, 2008 7:27 PM
To: CPCtestimony
Subject: HB 3275 . . .

House Committee on Consumer Protection & Commerce Hearing
Monday, February 4, 2008
2:00 P.M.
Room 325

Testimony of Fred Moore, President, HSI Mechanical, Inc.

Chair Herkes and Members of the Committee on Consumer Protection & Commerce

I am Fred Moore, President, HSI Mechanical, Inc., a Hawai'i corporation since 1979. We employ 63 associates, and most are members of the Pipe Fitters & Plumbers, and Sheet Metal workers unions.

HSI Mechanical, Inc. is in strong support of HB 3275, "Relating to Owner-Builder Permits". HB 3275 strengthens and updates Chapter 444, HRS and does not adversely impact the true owner-builder. It will curb unlicensed contractor activity and clarify current vagueness of the statute.

HB 3275 increases the period during which an owner-builder is prohibited from selling or leasing his property from one to two years, conforming to IRS Capital Gains Tax rules. The bill makes an exception for unforeseen consequences experienced by the owner-builder.. The bill would also limit unlicensed contractor activity to build and sell for quick profit and violate the "Owner Builder Exemption" law.

HB 3275 changes the word "completion" to "closing of the building permit," thus strengthening the statute by providing a trigger of a definite point in time and clears up any ambiguity.

For these reasons, HSI Mechanical, Inc. requests passage of HB 3275.

Thank you for the opportunity to share our views with you.

Fred Moore
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"Love cures people —
both the ones who give it
and the ones who receive it."

2/3/2008