



LINDA LINGLE
GOVERNOR
JAMES R. AIONA, JR.
LT. GOVERNOR

STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
335 MERCHANT STREET, ROOM 310
P.O. Box 541
HONOLULU, HAWAII 96809
Phone Number: (808) 586-2850
Fax Number: (808) 586-2856
www.hawaii.gov/dcca

LAWRENCE M. REIFURTH
DIRECTOR

RONALD BOYER
DEPUTY DIRECTOR

PRESENTATION OF
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
OFFICE OF CONSUMER PROTECTION
TO THE SENATE COMMITTEES ON COMMERCE, CONSUMER
PROTECTION, AND AFFORDABLE HOUSING
AND
INTERGOVERNMENTAL AND MILITARY AFFAIRS

TWENTY-FOURTH STATE LEGISLATURE
REGULAR SESSION, 2008

Wednesday, February 6, 2008
9 a.m.

**TESTIMONY ON SENATE BILL NO. 3033 – RELATING TO PRICE GOUGING
DURING EMERGENCIES.**

TO THE HONORABLE RUSSELL S. KOKUBUN AND LORRAINE R. INOUE,
CHAIRS, AND MEMBERS OF THE COMMITTEES:

The Department of Commerce and Consumer Affairs ("Department") appreciates the opportunity to testify in support of Senate Bill No. 3033, Relating to Price Gouging During Emergencies. My name is Stephen Levins, and I am the Executive Director of the Department's Office of Consumer Protection.

Testimony on Senate Bill No. 3033
February 6, 2008
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Senate Bill No. 3033 seeks to amend Chapter 209 of the Hawaii Revised Statutes by clarifying that price increases on services, rentals, and construction or repair contracts during disasters are illegal.

Pursuant to Chapter 209 of the Hawaii Revised Statutes, once the Governor makes a formal declaration of a natural disaster, it is illegal to increase the selling price of any commodity in the area(s) impacted. This prohibition is limited in nature and only applies to commodities and residential landlord/tenant rentals. Since the definition of "commodity" currently does not include "rentals", or "construction or repair contracts", it appears that a disaster declaration would not prohibit an increase in prices in these areas. Consequently, if price gouging were to occur by service providers, such as tradesmen, who try to take advantage of a crisis by suddenly "jacking up" their hourly rate, the absence of specific regulatory authority will present difficulties in any subsequent prosecution against them for price gouging. The Department is in support of this amendment because it will correct this deficiency and will provide greater consumer protection to our citizens in the aftermath of a disaster.

Thank you for this opportunity to testify on Senate Bill No. 3033. I will be happy to answer any questions that the members of the Committees may have.

STATE OF HAWAII
DEPARTMENT OF DEFENSE

TESTIMONY ON SENATE BILL 3033
A BILL RELATING TO PRICE GOUGING DURING EMERGENCIES

PRESENTATION TO THE

COMMITTEE ON COMMERCE, CONSUMER PROTECTION, AND
AFFORDABLE HOUSING

COMMITTEE ON INTERGOVERNMENTAL AND MILITARY AFFAIRS

BY

MAJOR GENERAL ROBERT G. F. LEE
DIRECTOR OF CIVIL DEFENSE

February 6, 2008

Chair Kokubun, Chair Inouye and Committee Members:

I am Major General Bob Lee, Director of Civil Defense, State Department of Defense. I am testifying in support of Senate Bill 3033.

Senate Bill 3033 strengthens section 209, Hawaii Revised Statutes, to prevent price gouging during State declared emergencies by clarifying that the prohibition against price increases applies to services, rental, and construction or repair contracts. The proposed bill further clarifies that a violation of this section shall constitute unfair methods of competition and unfair practices in the conduct of any trade under section 480-2.

Thank you for the opportunity to provide testimony in support of this bill.

Are there any questions?

SAH - Subcontractors Association of Hawaii

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

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

LATE TESTIMONY

February 6, 2008

Testimony To: Senate Committee on Commerce, Consumer Protection, and Affordable Housing
Senator Russell S. Kokubun, Chair

Senate Committee on Intergovernmental and Military Affairs
Senator Lorraine R. Inouye, Chair

Presented By: Tim Lyons, President

Subject: S.B. 3033 – RELATING TO PRICE GOUGING DURING EMERGENCIES

Chair Kokubun, Chair Inouye and Members of the Joint Committees:

I am Tim Lyons, President of the Subcontractors Association of Hawaii. The Subcontractors Association of Hawaii represents the following nine separate and distinct associations that are listed below.

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

We are opposed to this bill.

We are not opposed to the bill because we think contractors should be allowed to gouge during emergencies. What we are concerned about are the terms of this bill with the language that charges and costs must be consistent with federal equipment and other rate schedules. Perhaps there are such rates or schedules but we are not familiar with what they are or how we access them. Additionally, (page 2) the bill specifies that any charge greater than 20% is presumed to be inconsistent.

The construction industry has faced a multitude of price increases recently. In fact, last year items such as insulation, asphalt based roofing paper, sheet metal and other items were going up 5% to 15% a week during certain times of the year. If contractors are limited to only charge 20% and that 20% represents a charge that is below their cost, the people that have suffered damages as a result of a disaster are not going to be able to get the goods and services that they need in order to bring their lives back to normal or perhaps in some cases, to abate an emergency situation.

We are not sure what the magic answer is, but we do know that this bill appears to "cap" the contractor's charges, possibly below what his costs are and in that event, we think it will be a disservice to the consumer.

Based on the above, we are not in support of this bill.

Thank you.