

STAND. COM. REP. NO.

937

Honolulu, Hawaii

MAR 25 2009

RE: H.B. No. 1316
H.D. 2

Honorable Colleen Hanabusa
President of the Senate
Twenty-Fifth State Legislature
Regular Session of 2009
State of Hawaii

Madam:

Your Committee on Commerce and Consumer Protection, to which was referred H.B. No. 1316, H.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO TORTS,"

begs leave to report as follows:

The purpose of this measure is to abolish joint and several liability for design professionals and public utilities in tort claims relating to the design and maintenance of public highways, except where the design professional or public utility's degree of negligence is twenty-five per cent or greater.

Your Committee received testimony in support of this measure from American Public Works Association, American Council of Engineering Companies of Hawaii, American Society of Civil Engineers, Coalition of Hawaii Engineering and Architectural Professionals, Hawaiian Electric Company, Hawaiian Telcom, Arcadia Architecture, Belt Collins Hawaii, Bills Engineering, Brown and Caldwell, Engineering Solutions, Finance Insurance, Ltd., Kelso Architects, Shigemura, Lau, Sakanashi, Higuchi and Associates, Inc., Fukunaga & Associates, The Limtiaco Consulting Group, Kai Hawaii, Sarwar Structural Engineering, Hawaii Pacific Engineers, and fifty private citizens. Testimony in opposition to this measure was received from Hawaii Association for Justice. Written testimony presented to your Committee may be reviewed on the Legislature's website.

Your Committee finds that there is widespread support for this measure among engineering and structural design interests.

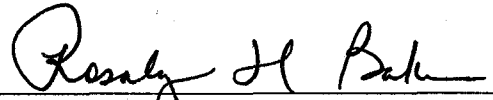
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Your Committee further finds that this measure will not eliminate the liability of design professionals and public utilities, but will rather limit liability to the percentage of damages actually attributable to the professional or to the utility where those parties are found to be less than twenty-five per cent at fault. If the design professional or public utility is more than twenty-five per cent at fault, joint and several liability will still apply.

As affirmed by the record of votes of the members of your Committee on Commerce and Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1316, H.D. 2, and recommends that it pass Second Reading and be referred to the Committee on Judiciary and Government Operations.

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



ROSALYN H. BAKER, Chair



The Senate
Twenty-Fifth Legislature
State of Hawaii

Record of Votes
Committee on Commerce and Consumer Protection
CPN

Bill / Resolution No.:*	Committee Referral:	Date:		
HB 1316, HD2	CPN, JAO	3/19/2009		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is:				
<input checked="" type="checkbox"/> Pass, unamended 2312 <input type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
BAKER, Rosalyn H. (C)	✓			
IGE, David Y. (VC)	✓			
ESPERO, Will	✓			
GREEN, M.D., Josh	✓			
IHARA, Jr., Les				✓
SAKAMOTO, Norman	✓			
HEMMINGS, Fred				✓
TOTAL	5			2
Recommendation:				
<input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
<i>David Y. Ige</i>				
Distribution:				
Original File with Committee Report	Yellow Clerk's Office	Pink Drafting Agency	Goldenrod Committee File Copy	

*Only one measure per Record of Votes