

STAND. COM. REP. NO.

1342

Honolulu, Hawaii

APR 09 2009

RE: H.B. No. 1316
H.D. 2
S.D. 1

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

Madam:

Your Committee on Judiciary and Government Operations, 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 believes that this measure provides a degree of fairness in the judicial system for design professionals, since most design firms that work on public highway projects are small and the professional liability risk may outweigh their financial reward from the project. However, your Committee remains cognizant of maintaining a sufficient deterrent from negligent or substandard design work. In addition, your Committee believes that public utilities are not in the risk/reward situation as design professionals.

Your Committee has amended this measure by:

- (1) Deleting public utilities from coverage under this measure;



- (2) Reducing the cap on the design professional's qualifying negligence from twenty-five to ten per cent, in order to be eligible under the terms of this measure;
- (3) Requiring the design professional to meet the criteria under either of two situations, based upon the contract amount relating to the tort claim, the amount of gross revenue received by the design professional in the preceding year or years, and the coverage amounts of professional errors and omissions liability insurance, in order to be eligible under the terms of this measure;
- (4) Defining "contract amount" for purposes of the amended measure; and
- (5) Changing the effective date to July 1, 2050 to continue the discussions in this matter.

As affirmed by the record of votes of the members of your Committee on Judiciary and Government Operations that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1316, H.D. 2, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1316, H.D. 2, S.D. 1.


Respectfully submitted on
behalf of the members of the
Committee on Judiciary and
Government Operations,


BRIAN T. TANIGUCHI, Chair



The Senate
Twenty-Fifth Legislature
State of Hawaii

Record of Votes
Committee on Judiciary and Government Operations
JGO

Bill / Resolution No.:*	Committee Referral:	Date:		
HB1316, HD2	CPN, J60	4/6/2009		
<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 type="checkbox"/> Pass, unamended 2312	<input checked="" type="checkbox"/> Pass, with amendments 2311	<input type="checkbox"/> Hold 2310		
<input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
TANIGUCHI, Brian T. (C)	✓			
TAKAMINE, Dwight Y. (VC)	✓			
BUNDA, Robert	✓			
GABBARD, Mike	✓			
NISHIHARA, Clarence K.	✓			
SLOM, Sam	✓			
TOTAL	6	0	0	0
Recommendation:				
<input checked="" type="checkbox"/> Adopted		<input type="checkbox"/> Not Adopted		
Chair's or Designee's Signature:				
				
Distribution:				
Original File with Committee Report	Yellow Clerk's Office	Pink Drafting Agency	Goldenrod Committee File Copy	

*Only one measure per Record of Votes