



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: 586-2850
Fax Number: 586-2856
www.hawaii.gov/dcca

LAWRENCE M. REIFURTH
DIRECTOR

RONALD BOYER
DEPUTY DIRECTOR

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

TO THE HOUSE COMMITTEE ON
CONSUMER PROTECTION AND COMMERCE

AND

TO THE HOUSE COMMITTEE ON JUDICIARY

TWENTY-FIFTH STATE LEGISLATURE
REGULAR SESSION, 2009

MONDAY, MARCH 30, 2009
2:00 P.M.

TESTIMONY ON SENATE BILL NO. 205 S.D.1 H.D.1
RELATING TO OWNER-BUILDERS

TO THE HONORABLE ROBERT N. HERKES, CHAIR,
TO THE HONORABLE JON RIKI KARAMATSU, CHAIR,
AND TO THE HONORABLE GLENN WAKAI, VICE-CHAIR,
AND TO THE HONORABLE KEN ITO, VICE-CHAIR,
AND MEMBERS OF THE COMMITTEES:

The Department of Commerce and Consumer Affairs ("Department") appreciates the opportunity to testify on Senate Bill No. 205 S.D.1 H.D.1, Relating to Owner-Builders. My name is Jo Ann Uchida, Complaints and Enforcement Officer for the Department's Regulated Industries Complaints Office ("RICO"). The Department strongly supports measures that will enhance its enforcement of laws

Testimony on Senate Bill No. 205 S.D.1 H.D.1
March 30, 2009
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against unlicensed contracting activity. The Department supports certain provisions of this bill and takes no position as to the remainder of the bill.

Senate Bill No. 205 S.D.1 H.D.1 requires applicants for an owner-builder permit to submit federal and state tax identification numbers, federal and state tax clearances, and certificates of workers' compensation insurance with the permit application. The bill also requires owner-builders to comply with certain contractor law requirements.

The Department supports the language on page 5 lines 9-12. The language requires that any person who obtains a permit under §444-2(7), Hawaii Revised Statutes ("HRS"), shall comply with the disclosure statement requirements in subsection (c) and provides that a failure to comply constitutes a violation of §444-2(7), HRS. This language ensures that violators are subject to the fines set forth in §444-23(e), HRS.

Thank you for the opportunity to testify on Senate Bill No. 205 S.D.1 H.D.1. I will be happy to answer any questions that the members of the Committees may have.

BIA-HAWAII
BUILDING INDUSTRY ASSOCIATION

March 30, 2009

Representative Robert Herkes, Chair
Committee on Consumer Protection & Commerce
Representative Jon Riki Karamatsu, Chair
Committee on Judiciary
State Capitol, Room 325
Honolulu, HI 96813

RE: SB 205, SD1, HD1 "Relating to Owner- Builders"

Chairs Herkes and Karamatsu and Members of the Joint Committees:

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 supports SB 205, SD1, HD1 "Relating to Owner-Builders". BIA-Hawaii would have preferred SB 205, SD1 that would have been a stronger deterrent to persons who abused this provision of the law (owner-builder exemption). BIA-Hawaii takes very seriously the contractors licensing laws and does not want to see anyone using the owner-builder exemption as a means to circumvent the licensing laws.

BIA-Hawaii believes there are sufficient safeguards in SB 205, HD1 to deter potential owner-builders from abusing the law.

Thank you for the opportunity to express our views.



Chief Executive Officer
BIA-Hawaii



March 27, 2009

Representative Robert N. Herkes, Chair
Committee on Consumer Protection & Commerce
Representative Jon Riki Karamatsu, Chair
Committee on Judiciary

Hearing: Monday, March 30, 2009
2:00 p.m., Conference Room 325
Fax: 586-6221
e-mail: CPCtestimony@Capitol.hawaii.gov

Chairs Herkes and Karamatsu and Members of the Joint Committee:

Re: SB 205, SD1, HD1 (HSCR 1282) – Relating to owner-Builders

My name is Audrey Hidano, of Hidano Construction, Inc. and I am testifying in SUPPORT for SB 205, SD1, HD1 (HSCR 1282).

This Senate Bill helps the law abiding contractors who are challenged daily by persons who abuse the owner-builder exemption status. We take seriously our obligations, not only to the State's Contractor's License Board, but to our clients and to see people taking advantage to circumvent the licensing laws should be fined and penalized.

Thank you for the opportunity to testify.


Audrey Hidano

f/BIA/090330 test SB 205 SD1 HD1 (HSCR 1282) re owner-builder

SAH - Subcontractors Association of Hawaii

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

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

March 30, 2009

Testimony To: House Committee on Consumer Protection & Commerce
Representative Robert N. Herkes, Chair

House Committee on Judiciary
Representative Jon Riki Karamatsu, Chair

Presented By: Tim Lyons
President

Subject: S.B. 205, SD 1, HD 1 – RELATING TO OWNER-BUILDERS

Chair Herkes, Chair Karamatsu and Members of the Joint Committees:

I am Tim Lyons, President of the Subcontractors Association of Hawaii and we are in support of this bill. SAH represents the following eight separate and distinct subcontracting 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

Unfortunately, unlicensed activity has been in existence forever for the construction industry. With the increasing poor economy, we would expect it to get even worse.

What we are talking about here is the "underground" economy; those that are operating illegally, generally are not paying taxes and violate a multitude of labor laws. We would agree that it should be legal for an individual to build their own house, that's not the problem. The problem is when they hire other people to fill in the areas where they don't feel comfortable doing it themselves. That too, is actually okay, as long as they use licensed contractors and subcontractors. From our experience however, we know that in these kinds of cases, owner-builders tend to hire casual labor thinking they are legal and calling them independent contractors. HIOSH actually cited an owner-builder recently because of the safety violations on the job.

In conclusion, we think that tightening up this law is definitely in order.

Thank you for the opportunity to testify.



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REALTORS®**
www.hawaii Realtors.com

The REALTOR® Building
1136 12th Avenue, Suite 220
Honolulu, Hawaii 96816

Phone: (808) 733-7060
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Neighbor Islands: (888) 737-9070
Email: har@hawaii Realtors.com

March 29, 2009

The Honorable Robert N. Herkes, Chair

House Committee on Consumer Protection & Commerce

The Honorable Jon Riki Karamatsu, Chair

House Committee on Judiciary

State Capitol, Room 325

Honolulu, Hawaii 96813

RE: S.B. 205, S.D.1, H.D.1 Relating to Owner-Builders

HEARING DATE: Monday, March 30, 2009 at 2:00 p.m.

Aloha Chair Herkes, Chair Karamatsu, and Members of the Joint Committee:

I am Myoung Oh, here to testify on behalf of the Hawai'i Association of REALTORS® ("HAR") and its 9,600 members in Hawai'i. HAR **submits comments** on S.B. 205, S.D.1, H.D.1, which requires applicants for county building permits under the owner-builder exemption from the contractor licensing law to submit their state and federal tax identification numbers, federal and state tax clearances, and certificate of workers' compensation insurance.

In its present language, S.B. 205, S.D.1, H.D.1 does not include an increase of time restrictions as proposed in prior versions of the bill. We believe that keeping the time restriction of one year for an owner-builder to be able to sell or lease the property is adequate. This will add to the properties eligible for sale or lease, and keep homeowners' options open in Hawai'i's tight housing market.

With respect to the amendments inserted in S.B. 205, S.D.1., H.D.1 that requires owner-builders submit state and federal tax identification numbers, federal and state tax clearances, and certificate of workers' compensation insurance, we are concerned that these proposed requirements, as drafted, may be too broad.

As an owner-builder, a homeowner acts as its own general contractor. But, not all owner-builders are employers that would possess the tax and insurance information required by the proposed measure, and therefore, not all owner-builders would be able to provide this information with their permit application. We believe the language as drafted may not be workable and would impose an unfair and onerous burden on legitimate homeowners acting as owner-builders.

HAR looks forward to participating in further discussions on this measure.

Mahalo for the opportunity to testify.