

STAND. COM. REP. NO. 691

Honolulu, Hawaii

March 8, 2011

RE: H.B. No. 924

H.D. 2

Honorable Calvin K.Y. Say
Speaker, House of Representatives
Twenty-Sixth State Legislature
Regular Session of 2011
State of Hawaii

Sir:

Your Committees on Consumer Protection & Commerce and
Judiciary, to which was referred H.B. No. 924, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO INSURANCE,"

beg leave to report as follows:

The purpose of this bill is to clarify the interpretation of
commercial liability insurance policies affecting construction
professionals.

Wailea MF-9 Associates, LLC; Koga Engineering & Construction,
Inc.; the Building Industry Association of Hawaii; Royal
Contracting, Co.; the Painting and Decorating Contractors
Association of Hawaii; Albert C. Kobayashi, Inc.; Ralph S. Inouye
Co., Ltd.; Constructors Hawaii Inc.; Alan Shintani, Inc.; Nan,
Inc.; Hawaiian Dredging Construction Company; the General
Contractors Association; Pacific Resource Partnership; Lindemann
Construction Inc.; Morris Kozai Landscapes, LLC.; Clay Chapman
Iwamura Pulice & Nervell; Choice Fence; Air Central Inc.; Kalu
Glass Co., Inc.; SteelTech, Inc.; Royal Contracting Co., Ltd.;
Rons Construction Corporation; S & M Sakamoto, Inc.; and Robert M.
Kaya Builders, Inc., supported this measure. First Insurance
Company, Sand Insurance; Hawaii Insurers Council; and the Property
Casualty Insurers Association of America opposed this bill. The
Department of Commerce and Consumer Affairs presented concerns. A
concerned individual presented comments.

HB924 HD2 HSCR CPC-JUD HMS 2011-2499




Your Committees amended this bill by:

- (1) Clarifying the purpose section to explain the purpose and intent of the measure as amended;
- (2) Removing the provisions concerning the duty to defend for construction defect claims;
- (3) Inserting definitions of "contractor" and "licensed contractor" and substituting the term "commercial general liability insurance" for "liability insurance policy" and amending its definition;
- (4) Amending the new section to avoid possible conflicts with section 431:1-209(1), (13), or (15);
- (5) Limiting the new section to licensed contractors only;
- (6) Clarifying the interpretation of a liability insurance policy to address the issues in the Group Builders case;
- (7) Clarifying that the new section shall not be construed to cover additional contractual obligations;
- (8) Clarifying that any provision in a policy that is in violation of this section is void but shall not effect the rest of the coverage in the policy;
- (9) Placing the new section in Part II of Article I of the Insurance Code; and
- (10) Making technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the records of votes of the members of your Committees on Consumer Protection & Commerce and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 924, H.D. 1, as amended herein, and recommend that it pass Third Reading in the form attached hereto as H.B. No. 924, H.D. 2.



Respectfully submitted on
behalf of the members of the
Committees on Consumer
Protection & Commerce and
Judiciary,



GILBERT KEITH-AGARAN, Chair



ROBERT N. HERKES, Chair



