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

TO THE HOUSE COMMITTEE ON
ECONOMIC REVITALIZATION & BUSINESS

TWENTY-SIXTH STATE LEGISLATURE
REGULAR SESSION, 2012

THURSDAY, FEBRUARY 9, 2012
8:30 A.M.

TESTIMONY ON HOUSE BILL NO. 1295 H.D.1
RELATING TO BUSINESS

TO THE HONORABLE ANGUS L.K. MCKELVEY, CHAIR,
AND TO THE HONORABLE ISAAC W. CHOY, VICE CHAIR,
AND MEMBERS OF THE COMMITTEE:

The Department of Commerce and Consumer Affairs ("Department") appreciates the opportunity to testify on House Bill No. 1295 H.D.1, Relating To Business. My name is Jo Ann Uchida, Acting Deputy Director and Chair of the Unlicensed Contractor Law Enforcement Task Force ("Task Force"). The Department offers the following testimony in support of the bill.

Pursuant to House Concurrent Resolution 286 H.D.1, the Task Force met over several months to develop an enforcement strategy among the various civil, administrative, and criminal enforcement agencies concerning unlicensed

Testimony on House Bill No. 1295 H.D.1
February 9, 2012
Page 2

contracting. To further this goal, the Task Force created a subgroup called the Law Enforcement Small Working Group, consisting of representatives from the Department's Regulated Industries Complaints Office, the Office of the Attorney General Criminal Division, and the Offices of the Prosecuting Attorney for the counties. House Bill No. 1295 H.D.1 is the result of that group's collaborative efforts.

The group found that, although unlicensed activity is a misdemeanor under current law, enforcement would be enhanced if there were specific omnibus sections in the Penal Code that establish criminal offenses for unlicensed contracting activity, habitual unlicensed contracting activity, and unlicensed contractor fraud. The bill also amends §436B-27, Hawaii Revised Statutes, to conform to the new language in the Penal Code.

Instances of unlicensed contracting range from persons with experience who ultimately work toward and obtain licensure, to persons with little or no experience who most likely would not qualify for licensure, to those with little or no intention to complete work for monies received. House Bill No. 1295 H.D.1 is intended to address egregious unlicensed contracting activity, including chronic and repeat unlicensed contracting activity. The bill is not intended to cover inadvertent oversights by licensees in complying with the licensing law.

Thank you for this opportunity to testify on House Bill No. 1295 H.D.1. I will be happy to answer any questions that the members of the Committee may have.

**PRESENTATION OF THE
PROFESSIONAL & VOCATIONAL LICENSING DIVISION
DEPARTMENT OF COMMERCE & CONSUMER AFFAIRS**

**TO THE HOUSE COMMITTEE ON
ECONOMIC REVITALIZATION & BUSINESS**

**TWENTY-SIXTH LEGISLATURE
Regular Session of 2012**

**Thursday, February 9, 2012
8:30 a.m.**

TESTIMONY ON HOUSE BILL NO. 1295, H.D.1, RELATING TO BUSINESS.

**TO THE HONORABLE ANGUS L.K. MCKELVEY, CHAIR,
AND MEMBERS OF THE COMMITTEE:**

My name is Celia Suzuki, Licensing Administrator for the Professional and Vocational Licensing Division ("PVLD"), Department of Commerce and Consumer Affairs. Thank you for the opportunity to submit testimony on House Bill No. 1295, H.D. 1, which establishes criminal sanctions for unlicensed contracting activity.

This bill is the product of the task force which was created pursuant to House Concurrent Resolution 286, H.D. 1, (2011), to facilitate better enforcement of unlicensed contracting activity. PVLD supports the intent of this measure, including Section 2 of this bill, which amends our Professional and Vocational Licensing Act (Chapter 436B, HRS) to conform to the proposed criminal sanctions.

Thank you for the opportunity to testify on House Bill No. 1295, H.D. 1.

DEPARTMENT OF THE PROSECUTING ATTORNEY
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THE HONORABLE ANGUS L.K. MCKELVEY, CHAIR
HOUSE COMMITTEE ON ECONOMIC REVITALIZATION & BUSINESS
Twenty-sixth State Legislature
Regular Session of 2012
State of Hawai'i

February 9, 2012

RE: H.B. 1295; RELATING TO BUSINESS.

Chair Mizuno, Vice Chair Jordan and members of the House Committee on Economic Revitalization & Business, the Department of the Prosecuting Attorney, City and County of Honolulu, submits the following testimony in support of House Bill 1295.

House Concurrent Resolution 286, House Draft 1, requested that the Director of the Department of Commerce and Consumer Affairs (DCCA) establish a task force to develop a collaborative enforcement strategy concerning unlicensed contractors among civil, criminal, and administrative enforcement agencies. The task force was also requested to evaluate existing laws and propose new laws or revisions to existing laws that apply to unlicensed contractors, where appropriate, to facilitate better enforcement.

House Concurrent Resolution 286, House Draft 1, also requested that the task force report its findings and recommendations and any proposed legislation to the Legislature no later than twenty days prior to the 2012 regular session.

In December 2011, the task force submitted a report to the Legislature. The task force also submitted proposed legislation. HB 1295 represents the proposed new legislation recommended by the task force.

The Department of the Prosecuting Attorney was a member of the task force. The Department supports HB 1295. The purpose of H.B. 1295 is to create the new offenses of: Unlicensed Contracting Activity, as a misdemeanor; Habitual Unlicensed Contracting Activity,

as a class C felony; and Unlicensed Contractor Fraud, as a class A, B or C felony. The Department agrees with the other members of the task force that the language of HB 1295 is appropriate and necessary to address the problem of unlicensed contractor activity, and in particular, unlicensed contractor fraud.

For these reasons, the Department of the Prosecuting Attorney of the City and County of Honolulu supports H.B. 1295. Thank for you the opportunity to testify on this matter.

SAH - Subcontractors Association of Hawaii

1188 Bishop St., Ste. 1003**Honolulu, Hawaii 96813-2938

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February 9, 2012

Testimony To: House Committee on Economic Revitalization & Business
Representative Angus L.K. McKelvey, Chair

Presented By: Tim Lyons
President

Subject: H.B. 1295, HD 1 – RELATING TO BUSINESS

Chair McKelvey and Members of the Committee:

I am Tim Lyons, President of the Subcontractors Association of Hawaii and we oppose this bill as it is currently written. The Subcontractors Association of Hawaii is composed of the following nine separate and distinct subcontracting organizations which include:

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

ELECTRICAL CONTRACTORS ASSOCIATION OF HAWAII

As this Committee is well aware unlicensed contracting is the bane of existence for licensed contractors. Most of them feel that they get licensed, go through the problem of tax clearances, making sure they have workers' compensation, temporary disability insurance, unemployment insurance, tax identifications and on and on, only to then to have the primary competition be some guy down the street who typically doesn't pay taxes, doesn't declare any income and has no license. The unknowing consumer falls prey to this kind of activity on a daily basis and if we want to preserve the integrity of the licensing process and the safeguards and protections that it affords then we need to have an enforcement component.

Our congratulations go out to the Unlicensed Contractor Law Enforcement Task Force which worked so hard on this issue over the interim and it is our hope that the measures that they recommend can be adopted by this Committee and this legislature.

Based on the above, we support the bill and request your favorable consideration.

Thank you.

The Pacific Resource
PARTNERSHIP



Testimony of C. Mike Kido
External Affairs
The Pacific Resource Partnership

House Committee on Economic Revitalization & Business
Representative Angus McKelvey, Chair
Representative Isaac Choy, Vice Chair

HB 1295, HD1 – Relating to Business
Thursday, February 9, 2012
8:30 am
Conference Room 312

Aloha Chair McKelvey, Vice Chair Choy, and Members of the Committee:

My name is C. Mike Kido, External Affairs of the Pacific Resource Partnership (PRP), a labor-management consortium representing over 240 signatory contractors and the Hawaii Regional Council of Carpenters (fka the Hawaii Carpenters Union).

PRP feels that increased enforcement of laws, as well as stiffer penalties, will help to ensure that our citizens, consumers, and stakeholders in the construction industry are protected from those who choose to cheat or circumvent existing laws.

Therefore, PRP in its efforts to ensure a level playing field among those who do business in the State of Hawaii, supports H.B. 1295 and its efforts to strengthen the impact of contractor's licensing laws in an effort for the DCCA to bring unlicensed activity in the construction industry in our State under control.

Thank you for the opportunity to share our views with you and we respectfully ask for your support on HB 1295, HD1.

To: Chair McKelvey, Vice Chair Choy and committee members of ERB

From: Scotty Anderson

Subject: Support of HB1295 HD1

Last year I completed my two terms on the State Contractors License Board. During those years it became very clear to me that all the citizens of Hawaii were being cheated by the actions of unlicensed individuals acting as contractors. These were not occasional actions. This type of activity needs to be halted and this bill is a step in that direction.

Hawaii will be a much better place in terms of safety, consumer protection, and tax collection with passing of this legislation.

F.M. Scotty Anderson

2435 Aha Aina Place, Honolulu, HI 96821