
BIA-HAWAII
BUILDING INDUSTRY ASSOCIATION

Testimony to House Committee on Economic Development and Business

Thursday, February 9, 2012

8:30 a.m.

Capitol Room 312

RE: H.B. 1295HD1, Relating to Business

Good morning Chair McKelvey, Vice-Chair Choy, and members of the Committee:

My name is Gladys Quinto Marrone, Government Relations Director for the Building Industry Association of Hawaii (BIA-Hawaii). Chartered in 1955, BIA-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** H.B. 1295HD1, which would: 1) Establish unlicensed contracting activity as a misdemeanor offense; 2) Establish habitual unlicensed contracting activity and unlicensed contractor fraud as felonies; and 3) Require that each day of unlicensed contracting activity be deemed a separate offense.

H.B. 1295HD1 is a result of findings and proposed legislation by the Unlicensed Contractor Law Enforcement Task Force (UCLETF), which was created pursuant to H.C.R. 286 HD1 (2011). This resolution requested that the Director of the Department of Commerce and Consumer Affairs 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, in order to facilitate better enforcement.

The UCLETF included a working group comprised of prosecuting attorneys from the various Counties and the Office of the Attorney General. The working group suggested a new, omnibus law that would be housed in the penal code, assisting criminal law enforcement officers.

The bill's habitual unlicensed contracting activity provision is to create a new felony provision that could be used to prosecute egregious and otherwise undeterred conduct. The bill's new fraud provision is aimed at prosecuting serious, fraudulent unlicensed contracting schemes, especially against our elderly.

The construction industry is concerned that contractors whose license temporarily lapsed due to late insurance filings, etc., may be prosecuted under this measure. However, the working group

discussed this concern and the resulting language makes clear that prosecution of inadvertent lapses in licensure is not the intent of this bill.

Unlicensed contractors cost the State and its taxpayers millions of dollars in tax revenue because these contractors receive or pay wages in cash, thereby avoiding unemployment, payroll, and personal tax obligations. Unlicensed contractors often operate without regard to worker and workplace safety requirements. There are unlicensed contractors who continue to engage in illegal contracting despite prior judgments and injunctions. Furthermore, unlicensed contractors place consumers at serious risk of faulty construction and financial harm, without any recourse. Finally, unlicensed contractors adversely impact the legitimate and licensed business operations within the contracting industry.

For the foregoing reasons, BIA-Hawaii **supports** H.B. 1295 HD1.

Thank you for the opportunity to share with you our views.

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GCA of Hawaii

GENERAL CONTRACTORS ASSOCIATION OF HAWAII

Quality People. Quality Projects.

February 9, 2012

TO: THE HONORABLE REPRESENTATIVES ANGUS MCKELVEY, CHAIR,
ISAAC CHOY, VICE CHAIR MEMBERS OF THE HOUSE COMMITTEE ON
ECONOMIC REVITALIZATION & BUSINESS

SUBJECT: **COMMENTS REGARDING H.B. 1295, H.D. 1, RELATING TO
BUSINESSES.** Establishes unlicensed contracting activity as a misdemeanor
offense; establishes habitual unlicensed contracting activity and unlicensed
contractor fraud as felonies. Requires that each day of unlicensed contracting
activity be deemed a separate offense. (HD1)

HEARING

DATE: Thursday, February 9, 2012
TIME: 8:30 a.m.
PLACE: Conference Room 312

Dear Chair Mckelvey, Vice Chair Choy and Members of the Committee:

The General Contractors Association (GCA) is an organization comprised of over six hundred (600) general contractors, subcontractors, and construction related firms. The GCA was established in 1932 and is celebrating its 80th anniversary this year; GCA remains the largest construction association in the State of Hawaii. GCA is in support of the intent of H.B. 1295, H.D. 1 Relating to Business.

This bill amends Section 708, Hawaii Revised Statutes (HRS) to address unlicensed construction activity by creating a new Chapter establishing unlicensed contracting activity as a criminal offense. The bill provides that individuals found guilty of repeated violations or fraudulent unlicensed construction activity may be charged as a felony offense. The bill also establishes a schedule of fines for violations of the section.

The GCA supports the rationale and need for added disincentives to curtail repeated violations of Chapter 444, HRS that require the licensing of all contractors doing work in Hawaii. However, the statutes should include safeguards to ensure that only those individuals who were never licensed under Chapter 444, HRS are considered unlicensed contractors. Licensed contractors who are found to be working out of scope or those with lapsed licenses due to failure to timely file for renewal or those whose licenses are in the process of being transferred should not be considered as unlicensed. The Contractor's Licensing Board should continue to maintain jurisdiction over issues relating to proper licensure and transfer of licenses.

The GCA supports the intent of H.B. 1295, H.D. 1 and recommends its passage by the Committee.

Thank you for the opportunity to present our concerns regarding this measure.