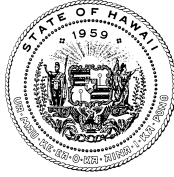


**HB1295, HD3**



NEIL ABERCROMBIE  
GOVERNOR

DWIGHT Y. TAKAMINE  
DIRECTOR

AUDREY HIDANO  
DEPUTY DIRECTOR

**STATE OF HAWAII**  
**DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS**  
830 PUNCHBOWL STREET, ROOM 321  
HONOLULU, HAWAII 96813  
[www.hawaii.gov/labor](http://www.hawaii.gov/labor)

March 22, 2012

To: The Honorable Clayton Hee, Chair, Maile S.L. Shimabukuro, Vice Chair, and  
Members of the Senate Committee on Judiciary and Labor

The Honorable Rosalyn H. Baker, Chair, Brian T. Taniguchi, Vice Chair, and  
Members of the Senate Committee on Commerce and Consumer Protection

Date: Thursday, March 22, 2012  
Time: 10:15 a.m.  
Place: Conference Room 229, State Capitol

From: Dwight Y. Takamine, Director  
Department of Labor and Industrial Relations (DLIR)

**Re: HB1295HD3 RELATING TO BUSINESS**

The Department of Labor and Industrial Relations (DLIR) strongly supports HB1295HD3 RELATING TO BUSINESS, which establishes criminal sanctions for unlicensed contracting activity. DLIR participated in the Unlicensed Contractor Law Enforcement Task Force pursuant to HCR286HD1 (SLH, 2011). DLIR believes a nexus exists between unlicensed contractor activity and attempts to avoid labor law regulation and enforcement.

DLIR joined in the Small Working Group on Information Sharing and developed several Memorandums of Agreement with the other departments as part of the overall effort to reduce unlicensed contracting and the avoidance of labor laws. HB1295HD3 is a product of the Small Working Group on Enforcement. The proposal establishes criminal offenses for unlicensed contractor activity, including chronic and repeat unlicensed contracting activity, and unlicensed fraud. The proposal excludes penal offenses for a first instance involving the inadvertent failure of a licensee to renew a previously existing license.

DLIR believes establishing criminal offenses for unlicensed contracting will serve as both an effective deterrent to unlicensed contracting activity and attempts to circumvent labor laws. Therefore, the department strongly supports this proposal.



NEIL ABERCROMBIE  
GOVERNOR

BRIAN SCHATZ  
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

KEALI'I S. LOPEZ  
DIRECTOR

**PRESENTATION OF THE  
PROFESSIONAL AND VOCATIONAL LICENSING DIVISION**

TO THE SENATE COMMITTEE ON JUDICIARY AND LABOR

AND

TO THE SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

TWENTY-SIXTH LEGISLATURE  
Regular Session of 2012

Thursday, March 22, 2012  
10:15 a.m.

**WRITTEN TESTIMONY ONLY**

**TESTIMONY ON HOUSE BILL NO. 1295, H.D. 3, RELATING TO BUSINESS.**

TO THE HONORABLE CLAYTON HEE, CHAIR,  
TO THE HONORABLE ROSALYN H. BAKER, CHAIR,  
AND MEMBERS OF THE COMMITTEES:

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 in support of House Bill No. 1295, H.D. 3, 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 No. 286, H.D. 1, (2011), to facilitate better enforcement of

Testimony on House Bill No. 1295, H.D. 3  
Thursday, March 22, 2012  
Page 2

unlicensed contracting activity. PVLD supports 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 submit written testimony on House Bill No. 1295, H.D. 3.



**NEIL ABERCROMBIE**  
GOVERNOR

**BRIAN SCHATZ**  
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](http://www.hawaii.gov/dcca)

**KEALI'I S. LOPEZ**  
DIRECTOR

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

**TO THE SENATE COMMITTEE ON**  
**JUDICIARY AND LABOR**

**AND**

**TO THE SENATE COMMITTEE ON**  
**COMMERCE AND CONSUMER PROTECTION**

**TWENTY-SIXTH STATE LEGISLATURE**  
**REGULAR SESSION, 2012**

**THURSDAY, MARCH 22, 2012**  
**10:15 A.M.**

**TESTIMONY ON HOUSE BILL NO. 1295 H.D.3**  
**RELATING TO BUSINESS**

**TO THE HONORABLE CLAYTON HEE, CHAIR,**  
**TO THE HONORABLE ROSALYN H. BAKER, CHAIR,**  
**AND TO THE HONORABLE MAILE S.L. SHIMABUKURO, VICE CHAIR,**  
**AND TO THE HONORABLE BRIAN T. TANIGUCHI, VICE CHAIR,**  
**AND MEMBERS OF THE COMMITTEE:**

The Regulated Industries Complaints Office ("RICO") of the Department of Commerce and Consumer Affairs appreciates the opportunity to testify on House Bill No. 1295 H.D.3, Relating To Business. My name is Daria Loy-Goto, Acting Complaints and Enforcement Officer for RICO and member of the Unlicensed

Contractor Law Enforcement Task Force ("Task Force"). RICO 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 contracting. To further this goal, the Task Force created a subgroup called the Law Enforcement Small Working Group, consisting of representatives from RICO, the Office of the Attorney General Criminal Division, and the Offices of the Prosecuting Attorney for the counties. House Bill No. 1295 H.D.3 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.3 is intended to address egregious unlicensed contracting activity, including chronic and repeat

Testimony on House Bill No. 1295 H.D.3  
March 22, 2012  
Page 3

unlicensed contracting activity. The bill is not intended to cover inadvertent oversights by licensees in complying with the licensing law.

RICO notes, however, that the bill has a defective effective date and respectfully requests that the defective date be amended to July 1, 2012. There is no Senate companion measure.

Thank you for this opportunity to testify on House Bill No. 1295 H.D.3. I will be happy to answer any questions that the members of the Committees may have.

DEPARTMENT OF THE PROSECUTING ATTORNEY  
**CITY AND COUNTY OF HONOLULU**

ALII PLACE  
1060 RICHARDS STREET • HONOLULU, HAWAII 96813  
PHONE: (808) 547-7400 • FAX: (808) 547-7515

KEITH M. KANESHIRO  
PROSECUTING ATTORNEY

ARMINA A. CHING  
FIRST DEPUTY PROSECUTING ATTORNEY



**THE HONORABLE CLAYTON HEE, CHAIR  
SENATE COMMITTEE ON JUDICIARY AND LABOR**

**THE HONORABLE ROSALYN H. BAKER, CHAIR  
SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION**

**Twenty-sixth State Legislature  
Regular Session of 2012  
State of Hawai`i**

March 22, 2012

**RE: H.B. 1295, H.D. 3; RELATING TO BUSINESS.**

Chair Hee, Chair Baker, Vice-Chair Shimabukuro, Vice-Chair Taniguchi, members of the Senate Committee on Judiciary and Labor, and members of the Senate Committee on Commerce and Consumer Protection, the Department of the Prosecuting Attorney, City and County of Honolulu, submits the following testimony in support of House Bill 1295, House Draft 3.

House Concurrent Resolution 286, House Draft 1 (2011), requested that the Director of the Department of Commerce and Consumer Affairs establish a task force among civil, criminal, and administrative enforcement agencies, to develop a collaborative enforcement strategy to address unlicensed contractors. The task force was also asked to evaluate existing laws, and propose new laws or revisions to existing laws, regarding unlicensed contractors, to better facilitate enforcement.

In December 2011, the task force submitted a report and proposed legislation to the Legislature. H.B. 1295, H.D. 3, is the present version of the proposed legislation recommended by the task force.

The Department of the Prosecuting Attorney was a member of the task force, and supports H.B. 1295, H.D. 3. The purpose of H.B. 1295, H.D. 3, 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, H.D. 3, 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, H.D. 3. Thank for you the opportunity to testify on this matter.

**From:** [mailinglist@capitol.hawaii.gov](mailto:mailinglist@capitol.hawaii.gov)  
**To:** [JDLTestimony](#)  
**Cc:** [Lardizabal@local368.org](mailto:Lardizabal@local368.org)  
**Subject:** Testimony for HB1295 on 3/22/2012 10:15:00 AM  
**Date:** Tuesday, March 20, 2012 2:36:49 PM

---

Testimony for JDL/CPN 3/22/2012 10:15:00 AM HB1295

Conference room: 229  
Testifier position: Support  
Testifier will be present: No  
Submitted by: Al lardizabal  
Organization: Hawaii Laborers' Union  
E-mail: [Lardizabal@local368.org](mailto:Lardizabal@local368.org)  
Submitted on: 3/20/2012

Comments:  
March 20, 2012

Chair Hee; Chair Baker and members of the joint committee:

The Hawaii Laborers' Union supports HB1295 HD3 curbing unlicensed contracting activities. Safety for Hawaii construction workers is a prime concern; this bill will help to raise the level of safety.

Mahalo

Al Lardizabal  
Hawaii Laborers' Union

**From:** [mailinglist@capitol.hawaii.gov](mailto:mailinglist@capitol.hawaii.gov)  
**To:** [JDLTestimony](#)  
**Cc:** [greg@ccs-hawaii.com](mailto:greg@ccs-hawaii.com)  
**Subject:** Testimony for HB1295 on 3/22/2012 10:15:00 AM  
**Date:** Tuesday, March 20, 2012 9:00:45 PM

---

Testimony for JDL/CPN 3/22/2012 10:15:00 AM HB1295

Conference room: 229  
Testifier position: Support  
Testifier will be present: No  
Submitted by: Greg Thielen  
Organization: Complete Construction Services  
E-mail: [greg@ccs-hawaii.com](mailto:greg@ccs-hawaii.com)  
Submitted on: 3/20/2012

Comments:

Please pass HB1295 out of your committee. Unlicensed activity is killing honest businesses that follow the law. It harms consumers, workers and businesses. The legislature needs to provide a meaningful deterrent to the worst offenders and HB1295 does that.



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

COMMITTEE ON JUDICIARY AND LABOR  
Senator Clayton Hee, Chair  
Senator Maile S.L. Shimabukuro, Vice Chair

COMMITTEE ON COMMERCE AND CONSUMER PROTECTION  
Senator Rosalyn H. Baker, Chair  
Senator Brian T. Taniguchi, Vice Chair

HB 1295, HD3 – Relating to Business  
Thursday, March 22, 2012  
10:15 am  
Conference Room 229

Aloha Chair Hee, Chair Baker, Vice Chair Shimabukuro, Vice Chair Taniguchi, and Members of the Committees:

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 HB 1295, HD3 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, HD3.

# *SAH - Subcontractors Association of Hawaii*

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

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

March 22, 2012

Testimony To: Senate Committee on Judiciary and Labor  
Senator Clayton Hee, Chair

Senate Committee on Commerce and Consumer Protection  
Senator Rosalyn H. Baker, Chair

Presented By: Tim Lyons  
President

Subject: H.B. 1295, HD 3 – RELATING TO BUSINESS

Chair Hee, Chair Baker and Members of the Joint 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.

**William C. Loeffler Construction, Inc.**  
**1451 Kinoole Street**  
**Hilo, HI 96720**  
**(808)935-4422**  
**Fax: (808)961-5588**  
**cloeffler@interpac.net**

**Testimony to Senate Committees on Judiciary and Labor & Commerce and  
Consumer Affairs**

Thursday, March 22, 2012

10:15 a.m.

Capitol Room 229

**RE: H.B. 1295 HD3, Relating to Business**

Attention: Chairs Hee and Baker, Vice-Chairs Shimabukuro and Taniguchi, and members of the Committees:

William C. Loeffler Construction, Inc. **strongly supports** H.B. 1295 HD3.

Through the years we have witnessed the illegal unlicensed activity of people that have continued to work despite their prior judgments. Their penalties definitely need to have higher consequences in order to make an impact.

Unlicensed construction activity is often targeted to the elderly and this is criminal all in itself. Just this week we had an officer come in to get a quote on what an elderly lady had thought she was getting for a newly resurfaced driveway from an unlicensed person. She was charged and PAID 7 times the amount that would be acceptable in our eyes and she did not get the end product. In the past, we have had to go in and remove and replace work done by unlicensed activity at still much less than the elderly were charged and paid to the illegal contractor. They are often too embarrassed to press charges with the police.

The other obvious reasons: guarantee of work, quality of materials and workmanship, having insurances, paying of taxes, safety of both the customer and themselves, and jeopardizing the legitimate contractors play strongly for support of this bill too.

Again, we strongly support this H.B. 1295 HD3.

Thank you for your time.



William and Carolyn Loeffler



# MAUI CONTRACTORS ASSOCIATION

March 21, 2012

**Testimony to Senate Committees on Judiciary  
and Labor & Commerce and Consumer Affairs**

Thursday, March 22, 2012

10:15 a.m.

Capitol Room 229

**RE: H.B. 1295 HD3, Relating to Business**

Good morning Chairs Hee and Baker,  
Vice-Chairs Shimabukuro and Taniguchi,  
and members of the Committees:

I am Jacqueline Haraguchi, Executive Director of the Maui Contractors Association. Maui Contractors Association has over 220 business members and has been the voice of the Building Industry in Maui County for over 40 years.

Maui Contractors Association strongly supports HB1295 HD3, Relating to Business. It will establish unlicensed contracting activity as a misdemeanor offense, establish habitual unlicensed contracting activity and unlicensed contractor fraud as felonies requires that each day of unlicensed contracting activity be considered a separate offense and specifies that a licensee in a first instance involving the inadvertent failure of such licensee to renew a previously existing license shall not be penalized under the newly created offenses.

Maui Contractors Association believes that unlicensed activity has been an increasing problem that requires stricter laws and enforcement. It is unsafe business practices and puts homeowners and the general public at risk. We are pleased that stricter laws are considered and strongly encourages your committee to support them.

Thank you for the opportunity to submit testimony. Should you have any questions, please call me at (808)281-8284.

Sincerely,

*Jacqueline Haraguchi*

Jacqueline Haraguchi  
Executive Director