

# HB1969 HD1

Measure Title: RELATING TO CONTRACTS.

Report Title: Construction Contracts; Subcontractors and Materialmen; Payments

Description: Shortens the time by which subcontractors are to receive progress and final payments from contractors on government and private construction projects. Provides interest penalties for late payments. Effective July 1, 2112. (HB1969 HD1)

Companion: SB2412

Package: None

Current Referral: CPN, WAM

Introducer(s): YAMANE, AQUINO, BROWER, CULLEN, HANOHANO, C. LEE, MANAHAN, NAKASHIMA, RHOADS, TAKAI, TOKIOKA, Har

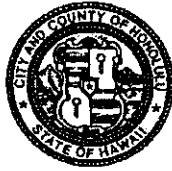
<b>Sort by Date</b>		<b>Status Text</b>
1/17/2012	H	Prefiled
1/18/2012	H	Introduced and Pass First Reading.
1/19/2012	H	Referred to ERB, CPC/JUD, referral sheet 2
1/20/2012	H	Bill scheduled to be heard by ERB on Tuesday, 01-24-12 8:30AM in House conference room 312.
1/24/2012	H	The committees on ERB recommend that the measure be PASSED, WITH AMENDMENTS. The votes were as follows: 10 Ayes: Representative(s) McKelvey, Choy, Awana, Brower, Evans, Hashem, Nishimoto, Tokioka, Tsuji, Marumoto; Ayes with reservations: none; Noes: none; and 1 Excused: Representative(s) Pine.
2/8/2012	H	Reported from ERB (Stand. Com. Rep. No. 199-12) as amended in HD 1, recommending passage on Second Reading and referral to CPC/JUD.
2/8/2012	H	Passed Second Reading as amended in HD 1 and referred to the committee(s) on CPC/JUD with none voting aye with reservations; none voting no (0) and Representative(s) C. Lee excused (1).
2/16/2012	H	Bill scheduled to be heard by CPC/JUD on Wednesday, 02-22-12 2:00PM in House conference room 325.

2/22/2012	H	The committees on CPC recommend that the measure be PASSED, UNAMENDED. The votes were as follows: 13 Ayes: Representative(s) Herkes, Yamane, Brower, Cabanilla, Carroll, Ito, Keith-Agaran, Luke, McKelvey, Souki, Tsuji; Ayes with reservations: Representative(s) Ching, Marumoto; 1 Noes: Representative(s) Thielen; and 1 Excused: Representative(s) Coffman.
2/22/2012	H	The committees on JUD recommend that the measure be PASSED, UNAMENDED. The votes were as follows: 13 Ayes: Representative(s) Keith-Agaran, Rhoads, Brower, Cabanilla, Carroll, Herkes, Ito, Luke, McKelvey, Souki, Tsuji; Ayes with reservations: Representative(s) Fontaine, Marumoto; 1 Noes: Representative(s) Thielen; and 1 Excused: Representative(s) Coffman.
3/1/2012	H	Reported from CPC/JUD (Stand. Com. Rep. No. 669-12), recommending passage on Third Reading.
3/1/2012	H	Passed Third Reading with Representative(s) Ching, Fontaine, Thielen voting aye with reservations; none voting no (0) and Representative(s) Herkes excused (1). Transmitted to Senate.
3/2/2012	S	Received from House (Hse. Com. No. 27).
3/2/2012	S	Passed First Reading.
3/8/2012	S	Referred to CPN, WAM.
3/9/2012	S	The committee(s) on CPN has scheduled a public hearing on 03-13-12 9:00AM in conference room 229.

DEPARTMENT OF DESIGN AND CONSTRUCTION  
CITY AND COUNTY OF HONOLULU

650 SOUTH KING STREET, 11<sup>TH</sup> FLOOR  
HONOLULU, HAWAII 96813  
Phone: (808) 768-8480 • Fax: (808) 768-4567  
Web site: [www.honolulu.gov](http://www.honolulu.gov)

PETER B. CARLISLE  
MAYOR



LORI M.K. KAHIKINA, P.E.  
DIRECTOR

CHRIS TAKASHIGE, P.E.  
DEPUTY DIRECTOR

March 9, 2012

The Honorable Rosalyn H. Baker, Chair  
and Members  
Senate Committee on Commerce and Consumer Protection  
State Capitol  
Honolulu, Hawaii 96813

Dear Chair Baker and Members:

Subject: House Bill No. 1969 HD1, Relating to Contracts

The Department of Design and Construction (DDC) respectfully **opposes**  
House Bill No. 1969 HD1 for the following reasons:

1. Section 5 of the bill proposes to amend Hawaii Revised Statutes, Section 444-25, to require agencies to comply with the following time constraints:
  - Accept construction work or notify the contractor of work yet to be performed within 15 days of receipt of a notice indicating that the contractor considers the work complete. This requirement may not be achievable on complex construction projects.
  - Pay retainage to a contractor equal to the amount paid by the contractor to a subcontractor within 15 days after receiving a notice that the contractor paid the subcontractor in full. Interest on any unpaid amount would begin accruing on the 30<sup>th</sup> day following receipt of the statement. Invoices for construction services need to be checked against the project's design, the status of construction progress, and other project information that may need to be acquired in order to assess the satisfactory completion of the work represented by the invoice. This process can easily take more than a week. Once approved, the invoice is forwarded to the Department of Budget and Fiscal Services (BFS), the agency that processes the payment. BFS needs additional time to verify the financial technicalities of the invoice and process the payment.

DDC's current procedures require payment for goods and services within 30 calendar days after receipt of an invoice. This limit is practical and, we believe, fair to vendors and contractors.

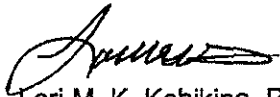
The Honorable Rosalyn H. Baker, Chair  
and Members  
March 9, 2012  
Page 2

The proposed 15-day time limits identified under both bullet points above would be extremely difficult to meet on many construction contracts that DDC administers and likely impossible on some.

2. The interest that would accrue on payments starting on the 30<sup>th</sup> day after receipt of the notice of full payment would increase the effective cost of projects to taxpayers.

Thank you for the opportunity to testify.

Very truly yours,



Lori M. K. Kahikina, P.E.  
Director

LMKK/WB:lm

**PRESENTATION OF THE  
CONTRACTORS LICENSE BOARD**

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

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

**Tuesday, March 13, 2012  
9:00 a.m.**

**TESTIMONY ON HOUSE BILL NO. 1969, H.D.1, RELATING TO CONTRACTS.**

**TO THE HONORABLE ROSALYN H. BAKER, CHAIR,  
AND MEMBERS OF THE COMMITTEE:**

My name is Denny Sadowski, Chair of the Contractors License Board's Legislation Committee. Thank you for the opportunity to testify in opposition to House Bill No. 1969, H.D.1, which amends Chapter 444, HRS, by establishing a timeline for the payment of contractors and subcontractors.

The Board did not submit testimony on the companion bill, Senate Bill No. 2412, at your hearing on February 7, 2012; therefore, we would like to express our reasons for opposing this measure at this time.

Currently, section 444-25, HRS, states that a contractor must pay its subcontractor within 60 days of receipt of a statement that the work has been performed or pay one percent interest per month. This bill creates a new section in Chapter 444, HRS, which establishes a procedure for obtaining performance bonds for every project or establishing alternate procedures for retainage and final payment.

The Board feels that imposing such a process on all projects is unduly burdensome, and may result in additional expenses for the consumer. While

these procedures may be applicable for public works or large commercial projects, subjecting all contracting work to this process is not appropriate. Furthermore, this bill imposes a requirement for the owner to pay interest of one and one-half percent per month on the final payment due to the contractor. However, the purpose of Chapter 444, HRS, is to regulate contractors for the protection of the public. It is not meant to impose and enforce requirements on the consumer, and we feel that this measure is contrary to the Board's mission of protecting the public.

For these reasons, the Board feels that imposing these requirements on all projects is not warranted, and we oppose the proposed amendments to Chapter 444, HRS, as incorporated in Sections 2 and 5 of this bill.

Thank you for the opportunity to testify on House Bill No. 1969, H.D.1.

## HEALY TIBBITTS BUILDERS, INC.

General Contractors  
99199 Kalia Street • Suite A • Aiea, Hawaii 96701  
Telephone: (808) 487-3664 • Facsimile: (808) 487-3660

Via E-mail: [CPNTtestimony@capitol.hawaii.gov](mailto:CPNTtestimony@capitol.hawaii.gov)  
Facsimile: (808) 586-6071

March 13, 2012

TO: THE HONORABLE SENATORS ROSLYN BAKER, CHAIR, BRIAN TANIGUCHI,  
VICE CHAIR AND SENATE COMMITTEE ON COMMERCE & CONSUMER  
PROTECTION

SUBJECT: **STRONG OPPOSITION TO H.B. 1969, HD1, RELATING TO CONTRACTS.**  
Shortens the time by which subcontractors are to receive progress and final  
payments from contractors on government and private construction projects.  
Provides interest penalties for late payments. Effective July 1, 2012. (HB1969 HD1)

### HEARING

DATE: Tuesday, March 13, 2012  
TIME: 9:00 a.m.  
PLACE: Conference Room 229

Dear Chair Baker, Vice Chair Taniguchi and Members of the Committee:

Healy Tibbitts Builders, Inc. **strongly opposes** H.B. 1969, HD2, Relating to Contracts because of its interference into private contracts.

The alleged purpose of H.B. 1969, HD1 is to provide for the prompt payment of subcontractors and materialmen on government and private projects; however its effects on future and existing private contracts may result in legal disputes, especially because government will interfere with private contractual provisions.

The bill is unnecessary, as these issues were already addressed in 2006 resulting in the adoption of Act 291 (SLH 2006) whereby a working group, comprised of general contractors, subcontractors, the Department of Accounting and General Services and other interested parties worked together in passing Act 291. Additionally, this bill overreaches into private contracts, whose terms and conditions are privately negotiated between parties.

For these reasons, Healy Tibbitts Builders, Inc. **strongly opposes** H.B. 1969, HD2 and respectfully recommends this Committee hold this bill.

Very truly yours,  
Healy Tibbitts Builders, Inc.



Richard A. Heltzel  
President

# IRONWORKERS STABILIZATION FUND

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March 12, 2012

Roz Baker, Chair  
Committee on Commerce & Consumer Protection  
State Senate  
State Capitol  
415 S. Beretania Street  
Honolulu, Hawaii 96813

DATE: March 13, 2012  
TIME: 9:00 a.m.  
PLACE: Conference Room 229

Dear Honorable Chair Baker and Members of the Committee on Commerce & Consumer Protection:

Re: Strong Support for HB 1969HD1 – Relating to Contracts

We are in strong support of HB 1969HD1, Relating to Contracts; that shortens the time by which subcontractors are to receive progress and final payments from contractors on government and private construction projects.

The purpose of this bill allows subcontractors to receive payment for work that they have done on construction projects. One example is the Board of Water Supply where the construction job was completed in 2002 and the final payment was not done until 2009. Many subcontractors are small business owners that are trying to stay afloat and that if they do not get final payment in time this could mean bankruptcy for them. During this tough economic time it is imperative to allow small businesses to run instead of letting them close shop and put a lot of hard working men and women out of jobs and on the unemployment line. Consequently, we believe that this bill will assist in providing small companies stability in these uncertain economic times

Again we strongly support this measure for the working men and women of Hawaii. Thank you for your time and consideration.

Sincerely,

T. George Paris /s/  
Managing Director



Testimony of Glenn Ida  
Representing,  
The Plumbers and Fitters Union, Local 675  
1109 Bethel St., Lower Level  
Honolulu, Hi. 96813

In Support of HB1969, HD1

Before the Senate:  
Committee on Commerce and Consumer Protection  
Tuesday, Mar. 13, 2012  
9 AM, Conference Room 229

Aloha Chair Sen. Rosalyn Baker and Vice-Chair Sen. Brian Taniguchi and Members of the Committee,

My name is Glenn Ida; I represent the 1300 plus active members and about 600 retirees of the Plumbers and Fitters Union, Local 675.

Local 675 supports HB 1969, HD1, which shortens the time by which subcontractors are to receive progress and final payments from contractors on government and private construction projects. Provides interest penalties for late payments.

The purpose of this bill is to provide prompt payment to subcontractors for work done on construction projects. They have an obligation to pay for their business costs, material, as well as payroll. Unnecessary delays in receiving final payments will place heavy burdens on their business and their ability to stay viable and competitive in the marketplace.

Therefore Local 675 supports HB 1969, HD1.

Thank you for this opportunity to testify.

Glenn Ida  
808-295-1280

1065 Ahua Street  
Honolulu, HI 96819  
Phone: 808-833-1681 FAX: 839-4167  
Email: [info@gcahawaii.org](mailto:info@gcahawaii.org)  
Website: [www.gcahawaii.org](http://www.gcahawaii.org)



**GCA of Hawaii**

GENERAL CONTRACTORS ASSOCIATION OF HAWAII

Quality People. Quality Projects.

Uploaded via Capitol Website

March 13, 2012

TO: THE HONORABLE SENATORS ROSLYN BAKER, CHAIR, BRIAN TANIGUCHI,  
VICE CHAIR AND SENATE COMMITTEE ON COMMERCE AND CONSUMER  
PROTECTION

SUBJECT: **STRONG OPPOSITION TO H.B. 1969, HD1, RELATING TO  
CONTRACTS.** Shortens the time by which subcontractors are to receive  
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construction projects. Provides interest penalties for late payments. Effective July  
1, 2112. (HB1969 HD1)

HEARING

DATE: Tuesday, March 13, 2012  
TIME: 9:00 a.m.  
PLACE: Conference Room 229

Dear Chair Baker, Vice Chair Taniguchi 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 80<sup>th</sup> anniversary this year; GCA remains the largest construction association in the State of Hawaii whose mission is to represent its members in all matters related to the construction industry, while improving the quality of construction and protecting the public interest.

**GCA is in strong opposition to H.B. 1969, HD1, Relating to Contracts because of its bad implications and interference into private contracts. GCA respectfully requests that this Committee hold this bill.**

The purported purpose of H.B. 1969, HD1 is to provide for the prompt payment of subcontractors and materialmen on government and private projects; however its effects on future and existing private contracts may result in legal disputes, especially because government will interfere with contractual provisions in private contracts.

**GCA is in strong opposition to H.B. 1969, HD1, SD1 because:**

- 1) **The bill is unnecessary, as these issues were already addressed in 2006 resulting in the adoption of Act 291 (SLH 2006) whereby a working group, comprised of general contractors, subcontractors, the Department of Accounting and General Services and other interested parties worked together in passing Act 291; and**
- 2) **The bill overreaches into private contracts, whose terms and conditions are privately negotiated between parties.**

First, GCA opposes this bill because the proposed legislation is not necessary as similar issues were addressed when the legislature passed Act 291 (SLH 2006). In 2006, a working group of all stakeholders worked together and a difficult industry consensus was reached with the passage of Act 291 (SLH 2006) which provides appropriate provisions that balance the need for prompt payment to lower tier contractors/subcontractors, while safeguarding the control needed for the upper tier contractors/subcontractors to ensure work is done timely and properly by its lower tier subcontractors. The purpose of Act 291 (SLH 2006) was to accelerate a subcontractor's or materialman's right to payment upon completion of the subcontract or the furnishings of materials providing for prompt payment to a subcontractor or materialman's upon completion of the subcontractor's or materialman's work in government projects. Act 291 (SLH 2006) is currently codified in HRS §§103-10.5 and 103-32.1 and Administrative Rules.

Second, this bill is overreaching as it will make it difficult for general contractors to manage its subcontractor's performance in private projects. Terms governing private contracts already include provisions that address payments to subcontractors and materialmen. Delay in payments on private projects could be due to a number of factors including, but not limited to: 1) owner not paying per contract; 2) issue with sub-performance by subcontractors that may result in liquidated damages assessed by owner; or 3) subcontract agreement and specifications may have dictated withholding until the end of entire project in which case subs need to bid accordingly knowing must wait for retention. In these situations, other avenues of relief exist and should be addressed appropriately between disputing parties.

In private contracts, private parties should resolve their differences on their own by practicing good business practices and using tools already in existence. We respectfully request that this bill be held by this Committee.

Thank you for the opportunity to testify on this measure.



general contractor license #ABC 21576

Via E-mail: [CPNTestimony@capitol.hawaii.gov](mailto:CPNTestimony@capitol.hawaii.gov)  
Facsimile: (808) 586-6071

March 12, 2012

TO: THE HONORABLE SENATORS ROSLYN BAKER, CHAIR, BRIAN TANIGUCHI,  
VICE CHAIR AND SENATE COMMITTEE ON COMMERCE & CONSUMER  
PROTECTION

SUBJECT: **STRONG OPPOSITION TO H.B. 1969, HD1, RELATING TO CONTRACTS.**  
Shortens the time by which subcontractors are to receive progress and final  
payments from contractors on government and private construction projects.  
Provides interest penalties for late payments. Effective July 1, 2012. (HB1969  
HD1)

HEARING

DATE: Tuesday, March 13, 2012  
TIME: 9:00 a.m.  
PLACE: Conference Room 229

Dear Chair Baker, Vice Chair Taniguchi and Members of the Committee:

**LYZ, Inc. strongly opposes H.B. 1969, HD2, Relating to Contracts** because of its interference into private contracts.

The alleged purpose of H.B. 1969, HD1 is to provide for the prompt payment of subcontractors and materialmen on government and private projects; however its effects on future and existing private contracts may result in legal disputes, especially because government will interfere with private contractual provisions.

The bill is unnecessary, as these issues were already addressed in 2006 resulting in the adoption of Act 291 (SLH 2006) whereby a working group, comprised of general contractors, subcontractors, the Department of Accounting and General Services and other interested parties worked together in passing Act 291. Additionally, this bill overreaches into private contracts, whose terms and conditions are privately negotiated between parties.

For these reasons, **LYZ, Inc. strongly opposes H.B. 1969, HD2** and respectfully recommends this Committee hold this bill.

A handwritten signature in black ink, appearing to read 'James N. Kurita', is written over a circular stamp or seal.

James N. Kurita  
Vice President/ Chief Operating Officer

The Pacific Resource  
**PARTNERSHIP**



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

Senate Committee on Commerce and Consumer Protection  
Senator Rosalyn Baker, Chair  
Senator Brian Taniguchi, Vice Chair

HB 1969, HD1 - Relating to Contracts  
Tuesday, March 13, 2012  
9:00 am  
Conference Room 229

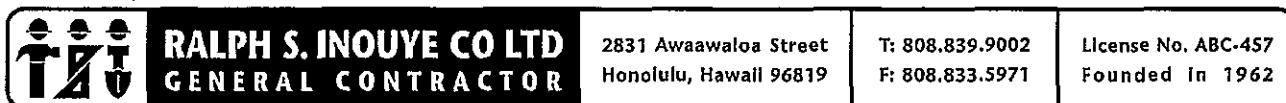
Aloha Chair Baker, Vice Chair Taniguchi, and Members of the Committee:

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, formerly the Hawaii Carpenters Union.

PRP respectfully opposes HB 1969, HD1 which shortens the time by which subcontractors are to receive progress and final payments from contractors on government and private construction projects. This measure would also provide interest penalties for late payments. Effective July 1, 2012. (HB1969 HD1)

PRP believes this bill will seriously jeopardize the legislature's efforts to stimulate the economy. Placing more burdens on private construction contracting may delay and possibly halt potential private construction projects from commencing. General Contractors and project owners/developers are facing similar economic challenges that subcontractors and materialmen are facing.

Thank you for the opportunity to share our views with you and we respectfully request that this bill be held in this committee.



Via E-mail: [CPNTestimony@capitol.hawaii.gov](mailto:CPNTestimony@capitol.hawaii.gov)  
Facsimile: (808) 586-6071

March 13, 2012

TO: THE HONORABLE SENATORS ROSLYN BAKER, CHAIR, BRIAN TANIGUCHI, VICE CHAIR AND SENATE COMMITTEE ON COMMERCE & CONSUMER PROTECTION

SUBJECT: **STRONG OPPOSITION TO H.B. 1969, HD1, RELATING TO CONTRACTS.** Shortens the time by which subcontractors are to receive progress and final payments from contractors on government and private construction projects. Provides interest penalties for late payments. Effective July 1, 2112. (HB1969 HD1)

HEARING

DATE: Tuesday, March 13, 2012  
TIME: 9:00 a.m.  
PLACE: Conference Room 229

Dear Chair Baker, Vice Chair Taniguchi and Members of the Committee:

My name is Lance Inouye and I am President of Ralph S. Inouye Co., Ltd. (RSI), General Contractor and a member of the General Contractors Association of Hawaii (GCA). RSI **strongly opposes** H.B. 1969, HD2, Relating to Contracts because of its interference into private contracts.

The alleged purpose of H.B. 1969, HD1 is to provide for the prompt payment of subcontractors and materialmen on government and private projects; however its effects on future and existing private contracts may result in legal disputes, especially because government will interfere with private contractual provisions.

The bill is unnecessary, as these issues were already addressed in 2006 resulting in the adoption of Act 291 (SLH 2006) whereby a working group, comprised of general contractors, subcontractors, the Department of Accounting and General Services and other interested parties worked together in passing Act 291. Additionally, this bill overreaches into private contracts, whose terms and conditions are privately negotiated between parties.

For these reasons, RSI **strongly opposes** H.B. 1969, HD2 and respectfully recommends this Committee hold this bill.

 **TOMCO CORP.**  
*General Contractors*

March 13, 2012

TO: THE HONORABLE SENATORS ROSLYN BAKER, CHAIR, BRIAN TANIGUCHI,  
VICE CHAIR AND SENATE COMMITTEE ON COMMERCE &  
CONSUMER PROTECTION

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HEARING

DATE: Tuesday, March 13, 2012  
TIME: 9:00 a.m.  
PLACE Conference Room 229

Dear Chair Baker, Vice Chair Taniguchi and Members of the Committee:

**TOMCO CORP. strongly opposes H.B. 1969, HD2, Relating to Contracts** because of  
its interference into private contracts.

The alleged purpose of H.B. 1969, HD1 is to provide for the prompt payment of  
subcontractors and materialmen on government and private projects; however its  
effects on future and existing private contracts may result in legal disputes, especially  
because government will interfere with private contractual provisions.

The bill is unnecessary, as these issues were already addressed in 2006 resulting in  
the adoption of Act 291 (SLH 2006) whereby a working group, comprised of general  
contractors, subcontractors, the Department of Accounting and General Services and  
other interested parties worked together in passing Act 291. Additionally, this bill  
overreaches into private contracts, whose terms and conditions are privately negotiated  
between parties.

For these reasons, **TOMCO CORP. strongly opposes H.B. 1969, HD2** and  
respectfully recommends this Committee hold this bill.

500 Ala Kawa St., Suite #100A Honolulu, Hawaii 96817  
Telephone #: (808) 845-0755 Fax #: (808) 845-1021  
Lic# ABC 16941



Via E-mail: [CPNTestimony@capitol.hawaii.gov](mailto:CPNTestimony@capitol.hawaii.gov)  
Facsimile: (808) 586-6071

March 12, 2012

TO: THE HONORABLE SENATORS ROSLYN BAKER, CHAIR, BRIAN TANIGUCHI,  
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HD1)

HEARING

DATE: Tuesday, March 13, 2012  
TIME: 9:00 a.m.  
PLACE: Conference Room 229

Dear Chair Baker, Vice Chair Taniguchi and Members of the Committee:

**Nordic PCL Construction, Inc. strongly opposes H.B. 1969, HD2, Relating to Contracts**  
because of its interference into private contracts.

The alleged purpose of H.B. 1969, HD1 is to provide for the prompt payment of subcontractors  
and materialmen on government and private projects; however its effects on future and existing  
private contracts may result in legal disputes, especially because government will interfere with  
private contractual provisions.

The bill is unnecessary, as these issues were already addressed in 2006 resulting in the  
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subcontractors, the Department of Accounting and General Services and other interested  
parties worked together in passing Act 291. Additionally, this bill overreaches into private  
contracts, whose terms and conditions are privately negotiated between parties.

For these reasons, **Nordic PCL Construction, Inc. strongly opposes H.B. 1969, HD2** and  
respectfully recommends this Committee hold this bill.

Yours truly,

NORDIC PCL CONSTRUCTION, INC.

  
Glen Kaneshige  
President

LICENSE #ABC-17  
1099 ALAKEA STREET, SUITE 1560, HONOLULU, HI 96813  
TELEPHONE (808) 541-9101 ♦ FAX (808) 541-9108





March 13, 2012

TO: THE HONORABLE SENATORS ROSLYN BAKER, CHAIR, BRIAN TANIGUCHI,  
VICE CHAIR AND SENATE COMMITTEE ON COMMERCE & CONSUMER  
PROTECTION

SUBJECT: **STRONG OPPOSITION TO H.B. 1969, HD1, RELATING TO CONTRACTS.**  
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HD1)

HEARING

DATE: Tuesday, March 13, 2012

TIME: 9:00 a.m.

PLACE: Conference Room 229

Dear Chair Baker, Vice Chair Taniguchi and Members of the Committee:

Rons Construction Corporation **strongly opposes** H.B. 1969, HD2, Relating to Contracts  
because of its interference into private contracts.

The alleged purpose of H.B. 1969, HD1 is to provide for the prompt payment of subcontractors  
and materialmen on government and private projects; however its effects on future and existing  
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private contractual provisions.

The bill is unnecessary, as these issues were already addressed in 2006 resulting in the  
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subcontractors, the Department of Accounting and General Services and other interested  
parties worked together in passing Act 291. Additionally, this bill overreaches into private  
contracts, whose terms and conditions are privately negotiated between parties.

For these reasons, Rons Construction Corporation **strongly opposes** H.B. 1969, HD2 and  
respectfully recommends this Committee hold this bill.

Sincerely,

A handwritten signature in black ink, appearing to read "Ronald K. Oshiro".

Ronald K. Oshiro, President  
Rons Construction Corporation

Testimony for CPN 3/13/2012 9:00:00 AM HB1969

Conference room: 229  
Testifier position: Oppose  
Testifier will be present: No  
Submitted by: Glenn Nohara  
Organization: Genba Hawaii, Inc.  
E-mail: [gnohara@genbahawaii.com](mailto:gnohara@genbahawaii.com)  
Submitted on: 3/12/2012

Comments:

Dear Chair Baker, Vice Chair Taniguchi and Members of the Committee:

Genba Hawaii, Inc. strongly opposes H.B. 1969, HD2, Relating to Contracts because of its interference into private contracts.

The alleged purpose of H.B. 1969, HD1 is to provide for the prompt payment of subcontractors and materialmen on government and private projects; however its effects on future and existing private contracts may result in legal disputes, especially because government will interfere with private contractual provisions.

The bill is unnecessary, as these issues were already addressed in 2006 resulting in the adoption of Act 291 (SLH 2006) whereby a working group, comprised of general contractors, subcontractors, the Department of Accounting and General Services and other interested parties worked together in passing Act 291. Additionally, this bill overreaches into private contracts, whose terms and conditions are privately negotiated between parties.

For these reasons, Genba Hawaii, Inc. strongly opposes H.B. 1969, HD2 and respectfully recommends this Committee hold this bill.

Sincerely,  
Glenn Nohara  
President