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

TO THE HOUSE COMMITTEE ON
CONSUMER PROTECTION & COMMERCE

TWENTY-SIXTH STATE LEGISLATURE
REGULAR SESSION, 2012

MONDAY, FEBRUARY 27, 2012
2:05 P.M.

TESTIMONY ON HOUSE BILL NO. 2272 H.D.1
RELATING TO PROFESSIONS AND VOCATIONS

TO THE HONORABLE ROBERT N. HERKES, CHAIR,
AND TO THE HONORABLE RYAN I. YAMANE, 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. 2272 H.D.1, Relating To Professions and Vocations. My name is Daria Loy-Goto, RICO's Acting Complaints and Enforcement Officer. RICO offers the following comments on the bill.

House Bill No. 2272 H.D.1 replaces the current definitions of "surveyor" or "land surveyor" with new definitions for "land surveying" and "professional

surveyor", "professional land surveyor" or "land surveyor" in Chapter 464, Hawaii Revised Statutes, which governs professional engineers, architects, surveyors, and landscape architects. The bill also amends the current definition of "landscape architect."

RICO notes that the Senate companion measure, Senate Bill No. 2167, was heard by the Senate Committee on Commerce and Consumer Protection on February 23, 2012. The Committee passed out a Senate Draft 1.

RICO is aware that the Board of Engineers, Architects, Surveyors, and Landscape Architects, working with industry, has proposed revisions to the House Draft 1. RICO has reviewed the language and supports this latest effort to update existing definitions to capture the full range of conduct performed by land surveyors. RICO does note the potential that any changes may impact other industries and recommends consideration of possible scope issues.

Thank you for this opportunity to testify on House Bill No. 2272 H.D.1. I will be happy to answer any questions that the members of the Committee may have.

**PRESENTATION OF THE
BOARD OF PROFESSIONAL ENGINEERS, ARCHITECTS,
SURVEYORS AND LANDSCAPE ARCHITECTS**

**TO THE HOUSE COMMITTEE ON
CONSUMER PROTECTION & COMMERCE**

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

**Monday, February 27, 2012
2:05 p.m.**

TESTIMONY ON HOUSE BILL NO. 2272, H.D.1, RELATING TO PROFESSIONS AND VOCATIONS.

**TO THE HONORABLE ROBERT N. HERKES, CHAIR,
AND MEMBERS OF THE COMMITTEE:**

My name is Dan Hirota, surveyor member of the Board of Professional Engineers, Architects, Surveyors and Landscape Architects ("Board"). The Board appreciates the opportunity to testify in support of the intent of House Bill No. 2272, H.D.1, Relating to Professions and Vocations, and offers amendments for your consideration.

The purpose of House Bill No. 2272, H.D.1, is to replace the existing definition of "surveyor" or "land surveyor" with definitions for "land surveying" and "professional surveyor", "professional land surveyor", or "land surveyor" and to clarify the definition of "landscape architect".

The Board believes the existing definition for "surveyor" or "land surveyor" is outdated and does not reflect the full scope of practice of land surveying. Amending the definition of land surveying would provide a more accurate description of the activities involved in the practice of land surveying.

Testimony on H.B. No. 2272, H.D.1
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Attached for your consideration is a draft of the definition of land surveying which has been agreed upon by the Board of Professional Engineers, Architects, Surveyors and Landscape Architects; Regulated Industries Complaints Office; Attorney General's Office; and the Hawaii Land Surveyors Association.

Thank you for the opportunity to testify in support of House Bill No. 2272, H.D.1, with amendment.

A BILL FOR AN ACT

RELATING TO PROFESSIONS AND VOCATIONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 464-1, Hawaii Revised Statutes, is
2 amended by adding two new definitions to be appropriately
3 inserted and to read as follows:
4 "Land surveying" means any professional service or work
5 which involves the application of specialized knowledge of the
6 principles of mathematics, the physical and applied sciences,
7 and the act of measuring, locating, establishing, or
8 reestablishing lines, angles, elevations, natural and manmade
9 features on the surface and immediate subsurface of the earth,
10 or on the beds or surfaces of bodies of water, for the purpose
11 of determining, establishing, describing, displaying, or
12 interpreting the size, shape, topography, elevation datum
13 planes, legal or geodetic location or relocation, or orientation
14 of improved or unimproved real property or appurtenances
15 thereto, including acreage. "Land surveying" includes but is
16 not limited to:

- 1 (1) Evaluating and determining boundary evidence collected
2 through field surveys, boundary studies, or other
3 means;
- 4 (2) Using the principles of land surveying to:
- 5 (A) Determine the position for any monument or
6 reference point which marks a property line,
7 boundary corner, right of way, easement, or
8 alignment of those lines;
- 9 (B) Set, reset, recover, or replace any such monument
10 or reference point; or
- 11 (C) Perform topographical surveys;
- 12 (3) Giving an authoritative reference or interpretation as
13 to the location of a property line, boundary, right of
14 way, easement, or any related corner position;
- 15 (4) Creating or modifying record plats for cadastral
16 surveys including consolidation, subdivision, re-
17 subdivision, rights of way, easements, determination
18 of areas, mathematical closures, and elevations of
19 land parcels;
- 20 (5) Creating or modifying land surveying descriptions of
21 property lines and easements, or editing their content
22 for use in legal instruments that convey real property
23 and property rights;

- 1 (6) Rendering a statement or certification regarding the
2 positional accuracy of land surveying maps, record
3 drawings, field surveys, or measured survey data;
- 4 (7) Creating or modifying the content of electronic data,
5 computerized drawings, or any other survey map
6 relative to the practice of land surveying; or
- 7 (8) Setting, resetting, or replacing initial survey
8 control points, including benchmarks to provide
9 horizontal and vertical data on or in the vicinity of
10 a construction or engineering project to enable any
11 components of the project to be built in compliance
12 with plans and specifications with respect to the
13 project location, orientation, elevation, and
14 relationship to property lines, easements, or right-
15 of-way boundaries.

16 This definition shall not apply to any person working
17 within the scope of practice of another licensed profession;
18 provided that the person does not purport to be a land surveyor.

19 "Professional surveyor", "professional land surveyor", or
20 "land surveyor" means a person who holds oneself out as able to
21 practice, or who does practice, land surveying in this State.

1 SECTION 2. Section 464-1, Hawaii Revised Statutes, is
2 amended by amending the definition of "landscape architect" to
3 read as follows:

4 "Landscape architect" means a person who holds oneself out
5 as able to perform, or who does perform, any professional
6 services such as consultation, investigation, reconnaissance,
7 research, design, preparation of drawings and specifications,
8 and observation of construction where the dominant purpose of
9 the services is:

- 10 (1) The preservation and enhancement of land uses and
11 natural land features;
- 12 (2) The location and construction of aesthetically
13 pleasing and functional approaches for structures,
14 roadways, and walkways; and
- 15 (3) The design for equestrian trails, plantings, landscape
16 irrigation, landscape lighting, and landscape grading.

17 This practice shall include the location, arrangement, and
18 design of tangible objects and features as are incidental and
19 necessary to the purposes outlined herein. Nothing herein shall
20 preclude a duly licensed landscape architect from planning the
21 development of land areas and elements used thereon or from
22 performing any of the services described in this section in
23 connection with the settings, approaches, or environment for

1 buildings, structures, or facilities; provided that nothing in
2 this chapter shall empower a landscape architect licensed under
3 this chapter from practicing or offering to practice
4 architecture or engineering in any of its various recognized
5 branches."

6 SECTION 3. Section 464-1, Hawaii Revised Statutes, is
7 amended by deleting the definition of "surveyor" or "land
8 surveyor".

9 [~~"Surveyor" or "land surveyor" means a person who holds
10 oneself out as able to make, or who does make cadastral surveys
11 of areas for their correct determination and description, either
12 for conveyancing or for the establishment or reestablishment of
13 land boundaries or the plotting of lands and subdivisions
14 thereof.~~"]

15 SECTION 4. Statutory material to be repealed is bracketed
16 and stricken. New statutory material is underscored.

17 SECTION 5. This Act shall take effect upon its approval.

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INTRODUCED BY: _____

BY REQUEST

Testimony for HB2272 on 2/27/2012 2:05:00 PM

mailinglist@capitol.hawaii.gov [mailinglist@capitol.hawaii.gov]

Sent: Thursday, February 23, 2012 7:58 PM

To: CPCtestimony

Cc: Brenda.Kosky@gmail.com

Testimony for CPC 2/27/2012 2:05:00 PM HB2272

Conference room: 325

Testifier position: Comments Only

Testifier will be present: No

Submitted by: Brenda Kosky

Organization: Individual

E-mail: Brenda.Kosky@gmail.com

Submitted on: 2/23/2012

Comments:

I don't understand, this seems like wasting time over splitting hairs. There are far more important matters. Is there really a need to do such minor adjustment???