

# **SAH - Subcontractors Association of Hawaii**

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February 10, 2011

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

Presented By: Tim Lyons  
President

Subject: H.B. 440 – RELATING TO LIENS

Chair McKelvey and Members of the Committee:

I am Tim Lyons, President of the Subcontractors Association of Hawaii. SAH is composed of nine separate and distinct subcontracting organizations including:

ELECTRICAL CONTRACTORS ASSOCIATION OF HAWAII

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

We are opposed to this bill.

We have no real problem with the current ninety (90) day period that exists in order to perfect a mechanic's lien. This bill appears to try and parallel bond actions with the same time limitations. It would seem to us that a bond is quite different than a mechanic's lien.

A mechanic's lien is, in essence, very similar to a mortgage in that it grants you an interest in real estate. On the other hand, a bond is a promise to pay by the surety and under this bill it would appear to us that if they don't pay within that period, all you can really do is file a suit against the general contractor and wait to get paid a year or two later. Claims against bonds on public works must be made within a time period of when the work was last performed by that specific contractor and because there are a variety of different dates generally concerned with a project based on various completion times of each subs work, it would seem to us that this will be a difficult matter to administer. In other words, the site contractor who prepared the ground ahead of time and the landscaping contractor who did the work at the very end have quite different dates.

We think that if the deadlines in this bill are adopted there must also be an accompanying deadline to require the surety to pay the claim or to deny it within the ninety (90) days. Additionally, they should have to engage in good faith mediation with the contractor and the claimant within thirty (30) days so that the ninety (90) day expiration can be accommodated.

Based on the above, we cannot recommend the passage of this bill.

Thank you.