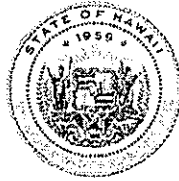


SB2167

Measure Title: RELATING TO PROFESSIONS AND VOCATIONS.
Report Title: Land Surveying; Professional Land Surveyors; Landscape Architects
Description: Clarifies the definition of "landscape architect". Replaces the existing definition of "surveyor" or "land surveyor" with definitions for "land surveying" and "professional surveyor", "professional land surveyor", or "land surveyor".
Companion: HB2272
Package: None
Current Referral: CPN
Introducer(s): BAKER

<u>Sort by Date</u>		Status Text
1/20/2012	S	Introduced.
1/20/2012	S	Passed First Reading.
1/20/2012	S	Referred to CPN.
1/31/2012	S	The committee(s) on CPN has scheduled a public hearing on 02-23-12 9:00AM in conference room 229.



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
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
REGULATED INDUSTRIES COMPLAINTS OFFICE

TO THE SENATE COMMITTEE ON
COMMERCE AND CONSUMER PROTECTION

TWENTY-SIXTH STATE LEGISLATURE
REGULAR SESSION, 2012

THURSDAY, FEBRUARY 23, 2012
9:00 A.M.

TESTIMONY ON SENATE BILL NO. 2167
RELATING TO PROFESSIONS AND VOCATIONS

TO THE HONORABLE ROSALYN H. BAKER, 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 Senate Bill No. 2167, 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.

Senate Bill No. 2167 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

Testimony on Senate Bill No. 2167
February 23, 2012
Page 2

Statutes, which governs professional engineers, architects, surveyors, and landscape architects. The bill also amends the current definition of "landscape architect."

RICO notes that the House companion measure, House Bill No. 2272, was heard by the House Committee on Economic Revitalization and Business on January 26, 2012. The Committee passed out a House Draft 1.

RICO is aware that the Board of Engineers, Architects, Surveyors, and Landscape Architects, working with industry, has proposed revisions to the H.D.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 Senate Bill No. 2167. 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 SENATE COMMITTEE ON
COMMERCE AND CONSUMER PROTECTION**

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

**Thursday, February 23, 2012
9:00 a.m.**

**TESTIMONY ON SENATE BILL NO. 2167, RELATING TO PROFESSIONS AND
VOCATIONS.**

**TO THE HONORABLE ROSALYN H. BAKER, 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 Senate Bill No. 2167, Relating to Professions and Vocations, and offers amendments for your consideration.

The purpose of Senate Bill No. 2167 is to clarify the definition of "landscape architect" and replaces the existing definition of "'surveyor' or 'land surveyor'" with definitions for "land surveying" and "'professional surveyor', 'professional land surveyor', or 'land surveyor'".

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.

Attached for your consideration is a draft of the definition of land surveying which has been worked on by the Board of Professional Engineers, Architects, Surveyors and

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.

18

19

INTRODUCED BY: _____

20

BY REQUEST

21



HAWAII LAND SURVEYORS ASSOCIATION

P.O. BOX 2981
HONOLULU, HAWAII 96802

*Affiliated with NATIONAL SOCIETY OF PROFESSIONAL SURVEYORS
and the AMERICAN CONGRESS ON SURVEYING AND MAPPING
Member of the WESTERN FEDERATION OF PROFESSIONAL SURVEYORS*

February 7, 2012

Hearing: Thursday, February 23, 2012 at 9:00 a.m., in Conference Room 229

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

RE: **SUPPORT SB2167** - Land Surveying; Professional Land Surveyors; Landscape Architects

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

My name is Kevin Kea, and I represent the Hawaii Land Surveyors Association (HLSA), a non-profit organization created in 1988, that represents over 70% of the licensed surveyors in the State of Hawaii.

Thank you for this opportunity to provide written testimony in strong SUPPORT of SB2167 with recent amendments provided by DCCA and RICO. The purpose and intent of this bill is to update, clarify, and make current the definition of a professional land surveyor in the State of Hawaii.

It has been many years since the land surveyors, as licensed professionals, have taken a serious look at the current definition of a professional land surveyor. We believe that it is time to update the definition of the professional land surveyor, as it is severely outdated, and many facets of the profession has changed and modernized over the years.

The surveying profession not only deals with boundary issues of real property, solving conflicts and mapping discrepancies, but also provides services for engineers, architects, real estate agents, contractors, insurance agents, large land owners, and the average home owner. In order to help protect the safety and well-being of the public, a more in-depth and detailed role of a professional land surveyor is needed.

Unfortunately, HLSA has received complaints and reports of activity that may be placing land owners, private individuals, and companies at risk due to the fact that land surveys are being conducted by individuals who are not licensed by the State Department of Commerce and Consumer Affairs (DCCA), but yet hold themselves out as surveyors, and perform surveys. Reports have also been lodged that these individuals are openly advertising in the yellow pages and other sources, and this could unfortunately be viewed as land surveying work.

Senator Rosalyn H. Baker, Chair
Senator Brian T. Taniguchi, Vice Chair
Senate Committee on Commerce and Consumer Protection
SUPPORT of SB2167
Page 2

HLSA's goal in recommending this amendment is to deter and hopefully eliminate any illegal activity by these unlicensed individuals. HLSA also hopes to educate the general public, future clients, and those who consider doing survey work without a license on the new amendments and requirements.


Those in need of a survey within the State of Hawaii should always hire a professional land surveyor licensed by DCCA. With this new clarified definition, it will clearly express the requisite education and experience that is required in order for someone to hold himself or herself out as being a professional licensed land surveyor, required under the statute.

The current definition was originally created in 1933, was amended several times with the last amendment being in 1989. Other states like California, Oregon, Oklahoma, and Florida have updated their definitions. Hawaii must now update its definition for the best interest of the public and the land surveying profession.

HLSA unequivocally supports SB2167.

Thank you very much for this opportunity to provide testimony in strong **SUPPORT** of this important bill.

Sincerely yours,



Kevin K. Kea, PLS
President
Hawaii Land Surveyors Association

Testimony for CPN 2/23/2012 9:00:00 AM SB2167

Conference room: 229

Testifier position: Support

Testifier will be present: No

Submitted by: Darryl Cadiz

Organization: Individual

E-mail: Darryl.Cadiz@aecom.com

Submitted on: 2/21/2012

Comments:

Testimony for CPN 2/23/2012 9:00:00 AM SB2167

Conference room: 229

Testifier position: Support

Testifier will be present: No

Submitted by: Clayton Kaneshiro

Organization: Individual

E-mail: clayton@hawaiiengineering.net

Submitted on: 2/9/2012

Comments:

Testimony for CPN 2/23/2012 9:00:00 AM SB2167

Conference room: 229

Testifier position: Support

Testifier will be present: No

Submitted by: Chrystal Yamasaki

Organization: Wes Thomas Associates

E-mail: chrys@wtahawaii.com

Submitted on: 2/7/2012

Comments:

As a licensed professional land surveyor practicing in the State of Hawaii, I am personally in favor of this bill. Our firm has dedicated itself to the field of Land Surveying since 1975 and we are completely in support of this Bill. We urge you to in favor of SB2167.