

Lindemann Construction Inc.
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March 29, 2012

TO: HONORABLE REPRESENTATIVES ROBERT HERKES, CHAIR, RYAN YAMANE, VICE CHAIR AND MEMBERS OF THE HOUSE COMMITTEE ON CONSUMER PROTECTION AND COMMERCE

HONORABLE REPRESENTATIVES GILBERT KEITH-AGARAN, CHAIR, KARL RHOADS, VICE CHAIR AND MEMBERS OF THE HOUSE COMMITTEE ON JUDICIARY

SUBJECT: **STRONG OPPOSITION TO S.B. 2412, SD2, 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. (SB2412 HD1)

HEARING

DATE: Thursday, March 29, 2012

TIME: 2:30 p.m.

PLACE: Conference Room 325

Dear Chairs Herkes and Keith-Agaran, Vice Chairs Yamane and Rhoads, and Members of the Committee:

Lindemann Construction Inc. **strongly opposes** S.B. 2412, SD2, HD1, Relating to Contracts because it is unnecessary due to existing remedial measures and because of its interference into private contracts.

The alleged purpose of S.B. 2412, SD2, HD1 is to provide for the prompt payment of subcontractors and materialmen on government and private projects; however the bill's effects on future and existing private contracts may result in legal disputes, especially because of the government's interference with private contractual provisions.

First of all, this bill will overreach into private contracts whose terms and conditions are privately negotiated between parties. Terms and conditions in private contracts include provisions that address payments to subcontractors and materialmen. If such provisions are not met by either party, proper remedies may be exercised, including, but not limited to, existing law, the Mechanic's Lien Law under Chapter 507, HRS and Contractors License Law, Chapter 444, HRS.

Secondly, this bill is unnecessary, as these issues related to prompt payment were carefully addressed by stakeholders in 2006 resulting in the adoption of Act 291 (SLH 2006). In 2006, a working group, comprised of the State Department of Accounting and General Services, general contractors, subcontractors and other interested parties worked together in passing Act 291 (2006). The implementation of Act 291 (2006) was delayed for one year to address department and contractors concerns regarding implementation. GCA believes if there are issues of concern, there should be another working group formed to address these concerns, before a law is passed that would greatly affect the industry in both public and private projects.

For these reasons, Lindemann Construction Inc. **strongly opposes** S.B. 2412, SD2, HD1 and **respectfully recommends this Committee hold this bill.**