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GCA of Hawaii

GENERAL CONTRACTORS ASSOCIATION OF HAWAII

Quality People. Quality Projects.

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February 29, 2012

TO: HONORABLE SENATORS DAVID IGE, CHAIR, MICHELLE KIDANI, VICE CHAIR AND SENATE COMMITTEE ON WAYS AND MEANS

SUBJECT: **STRONG OPPOSITION TO S.B. 2412, SD1, 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 07/01/2050. (SD1)

HEARING

DATE: Wednesday, February 29, 2012
TIME: 9:15 AM
PLACE: Conference Room 211

Dear Chair Ige, Vice Chair Kidani 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 80th anniversary this year; GCA remains the largest construction association in the State of Hawaii. GCA is submitting testimony **in strong opposition** to S.B. 2412, SD1 Relating to Contracts.

The purpose of S.B. 2412, SD1 is to provide for the prompt payment of subcontractors and materialmen on government and nongovernment projects.

GCA is in **strong opposition** to S.B. 2412, SD1 because **it extends to private contracts**, which makes it difficult for general contractors to manage its subcontractor's performance when government begins interfering with contractual provisions in private contracts. Further, GCA opposes this bill because the proposed legislation is not necessary as similar issues were addressed in 2006 when the legislature passed Act 291 (SLH 2006). 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 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.

In 2006, 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.

We respectfully request that this bill be held by this Committee.

Thank you for the opportunity to testify on this measure.