



NEIL ABERCROMBIE
GOVERNOR

SHAN S. TSUTSUI
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

JO ANN M. UCHIDA TAKEUCHI
DEPUTY DIRECTOR

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

TO THE HOUSE COMMITTEE ON
JUDICIARY

TWENTY-SEVENTH STATE LEGISLATURE
REGULAR SESSION, 2013

TUESDAY, FEBRUARY 26, 2013
2:05 P.M.

TESTIMONY ON HOUSE BILL NO. 1202
RELATING TO BUSINESS

TO THE HONORABLE KARL RHOADS, CHAIR,
AND TO THE HONORABLE SHARON E. HAR, VICE CHAIR,
AND MEMBERS OF THE COMMITTEE:

The Department of Commerce and Consumer Affairs ("Department") appreciates the opportunity to testify on House Bill No. 1202, Relating To Business. My name is Daria Loy-Goto. I am the Complaints and Enforcement Officer for the Department's Regulated Industries Complaints Office ("RICO"). RICO offers the following comments in support of the bill.

House Bill No. 1202 clarifies that: (1) a licensee who inadvertently fails to maintain licensing requirements but who subsequently corrects the failure so that

there was no lapse in licensure shall not be guilty of a misdemeanor under §436B-27, Hawaii Revised Statutes ("HRS"); and (2) a contractor who inadvertently fails to maintain the licensing requirements in chapter 444, HRS, and who subsequently corrects the failure so that there was no lapse in licensure shall not be guilty of the offense of unlicensed contracting activity under §708-8300, HRS.

RICO supports the proposed revisions to §§436B-27 and 708-8300, HRS, as contained in House Bill No. 1202. The amendment in Section 1 of the bill is the result of the collaborative efforts between RICO and the proponents of the bill. The revision in Section 2 of the bill on page 2, lines 5-8 represents language previously agreed upon among RICO, the Contractors' Board, and the proponents during the 2012 Legislative Session with regard to House Bill No. 1295 (Act 244).

Thank you for this opportunity to testify on House Bill No. 1202. I will be happy to answer any questions that the members of the Committee may have.

1065 Ahua Street
Honolulu, HI 96819
Phone: 808-833-1681 FAX: 839-4167
Email: info@gcahawaii.org
Website: www.gcahawaii.org



GCA of Hawaii

GENERAL CONTRACTORS ASSOCIATION OF HAWAII

Quality People. Quality Projects.

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February 26, 2013

TO: HONORABLE KARL RHOADS, CHAIR, HONORABLE MAILE SHIMABUKURO, VICE CHAIR AND MEMBERS OF THE HOUSE COMMITTEE ON JUDICIARY

SUBJECT: **SUPPORT OF H.B. 1202, RELATING TO BUSINESS.** Clarifies other professional and vocational license activity subject to penalty. Clarifies unlicensed contracting activity subject to penalty.

HEARING

DATE: Tuesday, February 26, 2013
TIME: 2:05 p.m.
PLACE: Conference Room 325

Dear Chair Rhoads, Vice Chair Shimabukuro and Members of the Committee,

The General Contractors Association (GCA) is an organization comprised of over six hundred general contractors, subcontractors, and construction related firms. The GCA was established in 1932 and is the largest construction association in the State of Hawaii. The GCA's mission is to represent its members in all matters related to the construction industry, while improving the quality of construction and protecting the public interest.

The GCA fully supports the passage of H.B. 1202, Relating to Business. In 2012, the Legislature passed H.B. 1295, HD3, SD1, CD1, which was enacted as Act 244, SLH 2012. Act 244 was passed to provide the Office of Consumer Protection with the ability to prosecute habitual unlicensed contracting activity and unlicensed contracting fraud.

H.B. 1202, amends the language of Act 1295, to clarify that individuals and firms licensed by the state under different Chapters of the Hawaii Revised Statutes who have inadvertently forgotten to renew their licenses, and who subsequently renew their licenses are not treated as unlicensed contractors. The GCA supports the proposed amendment, to clarify the intent of Act 244, SLH 2012, and recommends that H.B. 1202 be passed by the House Judiciary Committee.

Thank you for this opportunity to present our views on this measure.

SAH - Subcontractors Association of Hawaii

*1188 Bishop St., Ste. 1003**Honolulu, Hawaii 96813-2938*

Phone: (808) 537-5619 ✦ Fax: (808) 533-2739

LATE

February 26, 2013

Testimony To: House Committee on Judiciary
Representative Karl Rhoads, Chair

Presented By: Tim Lyons
President

Subject: H.B. 1001 BUSINESS

LATE

Chair Rhoads and Member of the Committee

I am Tim Lyons, President of the Subcontractors Association of Hawaii.

The Subcontractors Association of Hawaii is composed of the following nine separate and distinct industry associations which include:

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
ELECTRICAL CONTRACTORS ASSOCIATION OF HAWAII

We oppose this bill as written.

This bill is a follow-up to a more comprehensive bill on establishing penalties for unlicensed contractors. We assisted in drafting that bill and the subject of this bill was a discussion point at the final moments in Conference Committee.

We are not opposed to the intent of this bill which is to allow a licensee who becomes unlicensed inadvertently to escape the penalties of unlicensed contracting as long as there was no "lapse" in licensure.

Our problem is that number one, we are not sure what "inadvertently" is and who defines it, and two, in some cases there is actually a "lapse" of the license. Section 444-11.1 (c) mandates that the Board cannot restore a forfeited license unless there is satisfactory proof of continuous insurance and if the licensee should fail to restore within sixty (60) days then there is automatic forfeiture.

In our mind forfeiture means a "lapse" of the license and therefore, what this bill basically says is that if the contractor fails to renew their insurance for some reason, they then forfeit their license and then are subject to the penalties as contained in Section 436b.

The intent is laudable and we want to be sure that people are properly licensed. What we are most concerned with regarding the passage of last year's bill was a contractor who was licensed however failed to renew his insurance coverage by one (1) day because of cash flow problems or secretarial error and, therefore, would be subject to the penalties of unlicensed activity.

We too do not condone unlicensed activity however we don't think it was the intent of last year's legislation to assess those kinds of penalties against a contractor who inadvertently lost their license. Our objection is to the term "lapse" in that the contractor whose license has been forfeited would certainly mean to us, that it has lapsed and therefore would be subject to penalties as an unlicensed contractor.

Based on the above, we do not support this bill and believe it needs some additional work in defining "inadvertent" and "lapse".

Thank you for this opportunity to testify.