

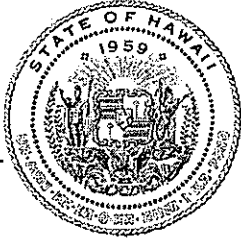
HB 763, HD1

MEASURE TITLE

RELATING TO THE STATE BUILDING CODE

DESCRIPTION

Modifies the composition of the Hawaii State Building Code Council and revises the State Building Code. Effective July 1, 2013. (HB763 HD1)



**DEPARTMENT OF BUSINESS,
ECONOMIC DEVELOPMENT & TOURISM**

NEIL ABERCROMBIE
GOVERNOR

RICHARD C. LIM
DIRECTOR

MARY ALICE EVANS
DEPUTY DIRECTOR

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Statement of
RICHARD C. LIM
Director
Department of Business, Economic Development, and Tourism
before the
**SENATE COMMITTEES ON PUBLIC SAFETY, INTERGOVERNMENTAL
AND MILITARY AFFAIRS
AND
WAYS AND MEANS**

Monday, April 1, 2013
9:55 a.m.

State Capitol, Conference Room 211

in consideration of
**HB 763, HD1
RELATING TO THE STATE BUILDING CODE.**

Chairs Espero and Ige, Vice Chairs Baker and Kidani, and Members of the Committees.

Department of Business, Economic Development, Tourism prefers HB 763, Relating to the State Building Code, as originally drafted. We do, however, support continuing the membership of the Department of Labor and Industrial Relations which was removed in the original bill. HB 763 amends Chapter 107, relating to the State Building Code Council (Council). The Council was established by the Legislature in 2007 to develop a comprehensive state building code that could then be adopted or adapted by the various counties. By developing a comprehensive state building code, it was the intent of the Legislature to have, as much as possible, a consistent building code across all counties.

This Administration bill is the result of extensive discussions by Council members regarding how best to amend HRS 107, Part II, which created the Council. The bill reflects recommendations resulting from these extensive discussions. DBEDT wishes to support the efforts of the Council. The bill provides for measures such as:

1. Adding the International Residential Code and the International Energy Conservation Code.

2. Allowing State buildings to be exempted from any county code amendments that are inconsistent with the Hawaii State building code.
3. Allowing counties to amend and adopt the state model building codes without State approval; no action by counties within 2 years, means the state codes and standards become applicable until the county adopts the updated amendments to the code.

Thank you for the opportunity to offer these comments.

NEIL ABERCROMBIE
GOVERNOR



DWIGHT TAKAMINE
DIRECTOR

AUDREY HIDANO
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS

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March 29, 2013

The Honorable Will Espero, Chair
Committee on Public Safety, Governmental and Military Affairs
The State Senate
State Capitol, Room 231
Honolulu, Hawaii 96813

The Honorable David Ige, Chair
Committee on Ways and Means
The State Senate
State Capitol, Room 208
Honolulu, Hawaii 96813

Dear Chairs Espero and Ige:

Subject: H.B. 763, H.D. 1 Relating to the State Building Code

I am Robert Westerman, Vice Chair of the State Fire Council (SFC) and Fire Chief of the Kauai Fire Department (KFD). As it is currently written, the SFC and the KFD oppose H.B. 763, H.D. 1.

We strongly support the amended version H.B. 763 H.D. 1, Proposed S.D. 1 (attached) for your consideration. This proposed amended bill represents an agreement with the Building Industry Association of Hawaii (BIA), the Subcontractors Association of Hawaii (SAH), the Structural Engineers Association of Hawaii, the American Institute Hawaii State Council, and the SFC.

We believe the proposed S.D. 1 corrects Section 1 of H.B. 763, H.D. 1 that appears to count the four county building officials as one voting member. The current voting membership of the State Building Code Council (SBCC) has each county building official with one vote each.

The SFC also supports the addition of a representative to the SBCC from the Department of Business, Economic Development and Tourism, that promotes industry development, economic diversification, energy efficiency and conservation. They should replace the Department of Health, who has been inconsistent in their SBCC

The Honorable Will Espero and David Ige, Chair
Page 2
March 29, 2013

attendance. We also support the addition of one representative from the Subcontractors' Association of Hawaii and one from either the BIA, or the General Contractors Association of Hawaii. We believe this would provide an equitable representation of industry and trade interests. Representatives from the BIA and the plumbing contractors and union have consistently attended SBCC meetings and have provided valuable input.

The SBCC is administratively attached to the State Department of Accounting and General Services (DAGS), whose duties include establishing a comprehensive suite of the most current national codes and standards for the statewide application of the built environment. Since 2007, the SBCC has not had appropriated funds released to hire an executive director and an assistant to expedite the state building code approval process and has relied primarily on county building officials and private designers to work on this state mandate. The DAGS, who initially supported the SBCC, has all but eliminated that support. The SFC also believes a more sustainable funding mechanism is needed for the SBCC, such as was proposed in S.B. 683.

National building codes establish minimum requirements to safeguard public safety and health. The latest editions provide the most up-to-date technologies, methods and materials that are approved by experts and stakeholders from various fields through a tedious, consensus process. The SBCC was formed to provide statewide application of codes and standards to protect people and property. Previous to its creation, each county adopted ordinances that comprised of codes and standards for its jurisdiction. Consequently, each county had different editions of the building codes that created challenges for designers and builders.

The SFC has been a voting member of the SBCC since its inception in 2007. The SFC and the KFD urge your committee's support on the passage of H.B. 763, H.D. 1, proposed S.D. 1 to continue this important state function.

Should you have any questions, please contact SFC Administrator Socrates Bratakos at 723-7151 or sbratakos@honolulu.gov.

Sincerely,


ROBERT WESTERMAN
Vice Chair

RW/LR:cc
Attachment

A BILL FOR AN ACT

RELATING TO THE STATE BUILDING CODE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. Section 107-22, Hawaii Revised Statutes, is amended by amending subsection (a) and (b) to read as follows:

"(a) There is established a state building code council. The council shall be placed within the department of accounting and general services for administrative purposes only. The council shall consist of ~~[nine]~~ eleven voting members and one nonvoting member, who shall be the comptroller or the comptroller's designee. The council members shall serve four-year terms as defined in paragraphs (1) to ~~[(6)]~~ (8). The voting members shall include:

(1) One county building official from each of the four counties appointed by the mayor;

(2) One member representing the state fire council;

~~[(3) One member representing the department of health who has significant experience in building mechanical and sewage disposal systems;~~

~~(4)~~ (3) One member representing the department of labor and industrial relations who has significant experience in elevator or fire safety;

(4) One member representing the department of business, economic development, and tourism Hawaii state energy office;

~~(5)~~ (5) One member representing the Structural Engineers Association of Hawaii; ~~and~~

(6) One member representing the American Institute of Architects, Hawaii State Council~~[-]~~;

(7) One member representing the Building Industry Association of Hawaii or the General Contractors Association of Hawaii who has significant experience with building codes; and

(8) One member representing the Subcontractors Association of Hawaii who has significant experience with building codes.

(b) ~~[Six]~~ Seven voting members shall constitute a quorum. The chairperson of the council shall be elected annually from among its members by a majority vote of the members of the council."

SECTION 2. Section 107-24, Hawaii Revised Statutes, is amended to read as follows:

"~~[+]§107-24[+]~~ **Authority and duties of the council.** (a) Any law to the contrary notwithstanding, the council shall establish a recommended comprehensive model state building code~~[-]~~ that shall be a part of a loss reduction plan that

complies with the development of loss mitigation standards in accordance with section 431P-12.

(b) The council shall appoint a subcommittee comprised of the four council members representing county building officials, whose duty shall be to recommend any necessary or desirable state amendments to the model codes and standards identified in section 107-25. Any recommended state amendments shall require the unanimous agreement of the subcommittee. The council shall designate the staggering of the adoption of the codes and standards to be adopted, amended, and updated at a frequency of no later than every six years in accordance with section 107-28. Any recommended staggering of adoptions shall be based on a review and evaluation of the utility of each model code identified in Section 107-25 when each edition is published.

(c) The council may appoint other investigative, technical expertise committees, which may include council members.

(d) The council shall consult with [~~general~~] building contractor associations and building trade associations to gather information and recommendations on construction practices and training relevant to building codes and standards.

(e) The council shall review the codes and standards identified in section 107-25 and adopt~~(-)~~ recommended state amendments, as appropriate, pursuant to section 107-24(b), [new model building codes] within eighteen months of the official publication date~~(-)~~ of the respective code or standard. At least every two years, the council shall disseminate an itemized report of the substantially uniform code amendments utilized by at least three counties.

(f) The council may make expenditures for technical references, equipment and supplies, and other operating expenses, and may contract for the conduct of research studies and other technical services.

(g) The council ~~[shall]~~ may provide education and technical training and administrative assistance in the form of services or grants at the state and county levels relating to the implementation and enforcement of the state building code ~~[adopted pursuant to this part.]~~ and loss mitigation standards in accordance with section 431P-12."

SECTION 3. Section 107-25, Hawaii Revised Statutes, is amended to read as follows:

"[+]§107-25[+] [State] Hawaii state building code;
requirements. There is established a Hawaii state building code
applicable to all construction in the State of Hawaii. The
Hawaii state building code shall include [+] the following codes
as amended by the substantially uniform amendments utilized by
at least three counties:

- (1) The [~~latest edition of the~~] state fire code as adopted
by the state fire council;
- (2) The [~~latest edition of the~~] Uniform Plumbing Code, as
copyrighted and published by the International
Association of Plumbing and Mechanical Officials,
including its appendices;
- (3) The [~~latest edition of the~~] International Building
Code, the International Residential Code, and the
International Energy Conservation Code, as published
by the International Code Council;
- (4) The National Electrical Code, as published by the
National Fire Protection Association;
- [4] (5) Hawaii design standards implementing the criteria
pursuant to Act 5, Special Session Laws of Hawaii,
2005, as applicable to:
 - (A) Emergency shelters built to comply with hurricane

resistant criteria, including enhanced hurricane protection areas capable of withstanding a five hundred year hurricane event as well as other storms and natural hazards; and

(B) Essential government facilities requiring continuity of operations; and

[5] (6) Code provisions based on nationally published codes or standards that include, but are not limited to, residential and hurricane resistive standards for residential construction, [~~fire,~~] elevator, [~~electrical, plumbing,~~] mechanical, flood and tsunami, and existing buildings [~~, and energy conservation standards for building design and construction, and onsite sewage disposal~~]."

SECTION 4. Section 107-27, Hawaii Revised Statutes, is amended to read as follows:

"[+]§107-27[+] [~~Exemptions.~~] Design of state buildings. (a) [~~Upon~~] No later than one year after adoption of [rules] substantially uniform code amendments by at least three counties under [~~this chapter,~~] section 107-28, and as reported by the council under section 107-24(e), the design of all state

building construction shall be in compliance with the Hawaii state building code [~~within one year of its effective date~~], [~~and~~] except that state building construction shall be allowed to be exempted from:

- (1) County codes that have not adopted the state building code;
- (2) Any county code amendments that are inconsistent with the minimum performance objectives of the Hawaii state building code or the objectives enumerated in this part; or
- (3) Any county code amendments that are contrary to code amendments adopted by another county.

(b) Exemptions shall include county ordinances allowing the exercise of indigenous Hawaiian architecture adopted in accordance with section 46-1.55."

SECTION 5. Section 107-28, Hawaii Revised Statutes, is amended to read as follows:

"~~[[[~~§107-28~~]]]~~ County building code authority to amend and adopt the state model building [eode] codes without state approval. (a) The governing body of each county shall amend, adopt, and update the model state building code as it applies within its respective jurisdiction, in accordance with section

46-1.5(13), without approval of the council. Each county shall ~~[use]~~ amend and adopt the model state codes and standards listed in section 107-25, as the referenced model building codes and standards for its respective county building code ordinance, no later than two years after the adoption of ~~[the state building code]~~ each of the model codes by the state building code council pursuant to section 107-24.

(b) If a county does not amend the ~~[statewide]~~ model state ~~[code]~~ codes and standards within the two-year time frame, the model state building ~~[code]~~ codes defined in section 107-24(e) shall become applicable as an interim county building code until the county adopts ~~[the]~~ its amendments."

SECTION 6. Section 107-29, Hawaii Revised Statutes, is amended to read as follows:

"~~[+]~~§107-29~~[+]~~ **Rules.** The department shall adopt rules pursuant to chapter 91 as may be necessary for the purposes of defining the Hawaii state building code to consist of the codes and standards identified in section 107-25 and any substantially uniform amendments adopted by at least three counties in accordance with this part."

SECTION 7. Section 431P-5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) The Hawaii hurricane relief fund shall have the following general powers:

(1) To sue and be sued;

(2) To make and alter policies for its organization and internal administration;

(3) To adopt rules in accordance with chapter 91 to effectuate the purposes of this chapter;

(4) To borrow moneys, including but not limited to moneys from state or federal sources and to issue notes or other obligations of the fund for the purposes of providing funds for any of its purposes as authorized by the legislature from time to time;

(5) To pledge, assign, or grant a security interest in all or any part of the moneys, rents, charges, assessments, or other revenue and any proceeds thereof derived by the fund; provided that any pledge, assignment, or grant of security interest shall constitute a lien and security interest on such money, rents, charges, assessments, or other revenue, and any proceeds thereof to the extent and with the priority set forth in the document establishing the pledge, assignment, or security interest, without the necessity for physical delivery, recording, or further act; and provided further that in effectuating any

pledge, assignment, or grant of security interest, the fund may do either or both of the following:

(A) Transfer possession of collateral to its secured parties; or

(B) Execute and cause to be filed at the bureau of conveyances of the State of Hawaii, Uniform Commercial Code financing statements for the purpose of providing notice to third parties of a pledge, assignment, or grant of security interest; provided that any failure to file a financing statement or the filing of a financing statement that contains incomplete or inaccurate information shall not affect the perfected lien and security interest of the pledge, assignment, or grant of security interest; [and]

(6) Enter into contracts as necessary to effectuate the purposes of this chapter[-]; and

(7) Provide funding for the state building code council for activities that are a part of a loss reduction plan that complies with the development of loss mitigation standards in accordance with section 431P-12."

SECTION 8. There is appropriated out of the general revenues of the State of Hawaii the sum of \$ _____ or so much thereof as may be necessary for fiscal year 2013-2014 to support the state building code council's efforts to adopt a uniform set of statewide building codes and consistent standards.

The sum appropriated shall be expended by the department of accounting and general services for the purposes of this Act.

SECTION 9. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 10. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 11. This Act shall take effect on July 1, 2013.

Report Title:

Hawaii State Building Code

Description:

Modifies the composition of the Hawaii State Building Code Council and revises the State Building Code. Effective July 1, 2013. (HB763 HD1)

PLUMBING & MECHANICAL CONTRACTORS ASSOCIATION OF HAWAII



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1314 S. King Street, Suite 961
Honolulu, Hawaii 96814

GREGG S. SERIKAKU
EXECUTIVE DIRECTOR

March 28, 2013

Via Email

Senator Will Espero, Chair
Senator Rosalyn H. Baker, Vice Chair
Senate Committee on Public Safety, Intergovernmental and Military Affairs

Senator David Y. Ige, Chair
Senator Michelle N. Kidani, Vice Chair
Senate Committee on Ways and Means

Chairs Espero and Ige, Vice Chairs Baker and Kidani, and Members of the Committees:

SUBJECT: HB763 HD1 Relating to the State Building Code

My name is Gregg Serikaku, Executive Director of the Plumbing and Mechanical Contractors Association of Hawaii, and we represent plumbing, air conditioning, refrigeration, and fire sprinkler contractors in Hawaii and are the management representatives for the largest certified training programs for each of these trades.

The Association for which I speak opposes HB763 HD1 as it creates an imbalance in the voting membership of the building code council.

We instead support the Proposed SD1 which reconfigures the voting membership to add one shared seat to be filled by BIA or GCA, and one seat to be filled by SAH. This configuration will allow both parties equal representation and equal voting rights.

PAMCA is a long standing member of SAH and have been active at the building code council meetings since the very beginning. We believe it is crucial that the subcontractors association have a vote, especially since several of the model codes, such as the plumbing code and electrical code, are specific to the subcontractor trades, and that maintaining the integrity and timely adoption of these codes is a vital component to protecting public health and safety.

Thank you for the opportunity to testify.

Respectfully yours,

Gregg S. Serikaku
Executive Director

AMERICAN INSTITUTE OF ARCHITECTS

WAM/PSM

9:55 am

April 1, 2013

Honorable David Ige, Chair
Senate Committee on Ways & Means

Honorable Will Espero, Chair
Senate Committee on Public Safety, Intergovernmental & Military Affairs

Re: **House Bill 763 HD1**
Relating to the State Building Code

Dear Chair Espero, Chair Ige and Members of the Committees,

My name is Daniel Chun, President of the American Institute of Architects (AIA) Hawaii State Council, **OPPOSING THE HD1 VERSION** for five reasons:

I. Voting imbalance in the design and construction industry & elimination of the subcommittee of HRS 107-24 (b)

HD1 adds four voting members from the construction industry, but makes design professions conversant with and active in technical code issues into a distinct voting minority. AIA is not opposed to adding industry representatives. However, the focus on public safety is even more adversely compromised by the language of Page 3 lines 5 - 10 that eliminates the subcommittee of four county building officials. Code amendments will only be subject to the voting council with a small quorum.

2. Elimination of a state building code "upfront"

After discussion at the AIA board meeting of February 13, directors indicated that they much prefer a uniform state building code adopted prior to four counties making any local amendments. The more uniform the building code, the better it is for both the technical and business practice of architecture. Thus AIA specifically opposes the language of Page 6 lines 14 - 16; and the language of Page 8 lines 11 - 15 that intends to forego administrative rule making for a state building code.

3. More time than 18 months is needed for review of new building codes

Due to the number of codes to be reviewed and the lack of any state funding to administer the council, the current periodicity needs to be revised. In AIA testimony for SB 212 SD1 we attached proposed language that would allow up to six years for state building code review and rule-making process. Generally

speaking this is a long window for code adoption, but we need to revise public policy based on the extreme slowness of Hawaii administrative rule making.

4. State building code created from local amendments of three of four counties

In HB 763 AIA sees no assurance that the four counties will be in time synchronization with local amendments to a particular edition of national model codes. Every potential amendment will be subject to the adoption schedule of three of the four counties. A state code could lag many many years behind its national model code. Codes consist of numerous voluminous items. We venture that keeping track of county amendments will take more time/expense in both the public and private sector than the relatively modest cost of a unified state code "upfront."

We are also confused as to how the language of HRS 107-28 functions if county amendments are to be the basis for the state building code. Would counties then consider local amendments to a state building code that was created from their previously amended county codes? This seems a circular, rather than a logical linear, process to us.

5. HB 763 HD1 has no state funding authorization

The State Building Code has been nurtured by the technical knowledge and goodwill of the four county building officials, and the two voting design professional societies. The state has contributed essentially nothing, with even the original appropriations never released by the state administration. The rule-making process has been especially difficult, with the Small Business Regulatory Review Board dysfunctional until recently. Hence the original language of HB 763 that sought to rely on county-adopted amendments.

The council has been diligent in its work. For the first time in my personal professional life of 35 years, every county uses the same dated model building code. This is attributable to the original far-sighted statute. It is the state that has very seriously failed to provide funding for codes that have a direct connection to the quality and innovation of state construction.

In AIA testimony for funding legislation SB 213, we support a sustained modest funding for the council. We also attached proposed language to our SB 213 SD2 testimony heard recently but deferred by House CPC. Several funding bills have been introduced this session. AIA can support HB 763 if new drafts both provide funding and address the strong concerns set out above. If there is currently lack of time to make many amendments, it is more important to add language for modest funding than to revise the current statute without exploring all consequences of hasty revisions. Thank you for the opportunity to **OPPOSE the HD1** version of this bill.

BIA-HAWAII

BUILDING INDUSTRY ASSOCIATION

"Building Better Communities"

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Bays Lung Rose & Holma

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Pacific Rim Partners

W. Bruce Barrett
Castle & Cooke Homes Hawaii, Inc.

Testimony to the Senate Committees on Public Safety, Intergovernmental and Military Affairs, and Ways and Means
Monday, April 1, 2013
9:55 a.m.
State Capitol - Conference Room 211

RE: H.B. 763, H.D. 1, RELATING TO THE STATE BUILDING CODE

Dear Chairs Espero and Ige, Vice Chairs Baker and Kidani, and members of the Committees:

My name is Gladys Marrone, Government Relations Director for the Building Industry Association of Hawaii (BIA-Hawaii), the voice of the construction industry. We promote our members through advocacy and education, and provide community outreach programs to enhance the quality of life for the people of Hawaii. BIA-Hawaii is a not-for-profit professional trade organization chartered in 1955, affiliated with the National Association of Home Builders.

BIA-Hawaii **supports** H.B. 763, H.D. 1, which modifies the composition of the Hawaii State Building Code Council (SBCC) and revises the State Building Code.

The current composition of the State Building Code Council (SBCC) includes four county building officials, representatives from the State Fire Council, Department of Health, Department of Labor and Industrial Relations, American Institute of Architects, and from the Structural Engineers Association of Hawaii.

While we defer to current members of the SBCC with regards to the code adoption process, there is agreement between stakeholders to the proposed composition of the Council as follows:

"The council shall consist of ~~nine~~ eleven voting members and one nonvoting member, who shall be the comptroller or the comptroller's designee. The council members shall serve four-year terms as defined in paragraphs (1) to ~~(6)~~ (8). The voting members shall include:

- (1) One county building official from each of the four counties appointed by the mayor;
- (2) One member representing the state fire council;

Mailing address: P.O. Box 970967, Waipahu, HI 96797 Street address: 94-487 Akoki St., Waipahu, HI 96797-0967;
Telephone: (808) 847-4666 Fax: (808) 440-1198 E-mail: info@biahawaii.org; www.biahawaii.org

~~— (3) One member representing the department of health who has significant experience in building mechanical and sewage disposal systems;~~

~~[(4)] (3) One member representing the department of labor and industrial relations who has significant experience in elevator or fire safety;~~

~~(4) One member representing the department of business, economic development, and tourism Hawaii state energy office;~~

~~(5) One member representing the Structural Engineers Association of Hawaii; [and]~~

~~(6) One member representing the American Institute of Architects, Hawaii State Council[-];~~

~~(7) One member representing the Building Industry Association of Hawaii or the General Contractors Association of Hawaii with significant experience with building codes; and~~

~~(8) One member representing the Subcontractors' Association of Hawaii with significant experience with building codes."~~

(b) ~~[Six]~~ Seven voting members shall constitute a quorum. The chairperson of the council shall be elected annually from among its members by a majority vote of the members of the council."

The proposed membership of the SBCC will result in a more balanced and inclusive council. As voting members, the construction industry will provide valuable input to the SBCC regarding the impacts of code changes on construction practice, costs, and whether materials to meet the new requirements are even available in our State. While Chapter 107 requires the SBCC to consult with the construction industry, we do not have a vote. We are making a reasonable proposal that the construction industry have a voice on the SBCC.

An expanded membership on the SBCC is even more significant since H.B. 763, H.D. 1, proposes to make the rule-making process, as prescribed in Chapter 91, an option for the SBCC, and not a requirement, as it currently is. Rule-making allows the public an opportunity to review and provide input on proposed code changes that will have a significant impact. Decision-making on the SBCC, therefore, will be limited to a very small group of people whose decisions impact an entire State.

The SBCC has been operating on a volunteer basis for the past year. We also support funding to help the SBCC continue with its work.

Thank you for the opportunity to share with you our views.

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Phone: 808-833-1681 FAX: 839-4167
Email: info@gcahawaii.org



GCA of Hawaii

GENERAL CONTRACTORS ASSOCIATION OF HAWAII

Quality People. Quality Projects.

Uploaded via Capitol Website

April 1, 2013

TO: HONORABLE WILLIAM ESPERO, CHAIR, HONORABLE ROSALYN BAKER, VICE CHAIR AND MEMBERS OF THE SENATE COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL AND MILITARY AFFAIRS

HONORABLE DAVID IGE, CHAIR, HONORABLE MICHELLE KIDANI, VICE CHAIR AND MEMBERS OF THE SENATE COMMITTEE ON WAYS AND MEANS

SUBJECT: **SUPPORT OF H.B. 763, HD1 WITH SUGGESTED AMENDMENTS RELATING TO THE STATE BUILDING CODE.** Modifies the composition of the Hawaii State Building Code Council and revises the State Building Code. Effective July 1, 2013. (HB763 HD1)

HEARING

DATE: Monday, April 1, 2013
TIME: 9:55 a.m.
PLACE: Capitol Room 211

Dear Chairs Espero and Ige, Vice Chairs Baker and Kidani and Members of the Committees,

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 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.

GCA is in support of H.B. 763, HD1, Relating to the State Building Code and the proposed amendments that would allow GCA to share a seat with the Building Industry Association. This bill proposes to amend the membership of the Hawaii State Building Code Council to increase the representation of members of the construction industry and also proposes an appropriation to assist with the administration of the SBCC. While GCA is willing to participate in the Hawaii State Building Code Council, the current HD1 version may not properly reflect the intent and purpose of the State Building Code Council. Representatives of the SBCC should be familiar with technical building requirements.

In 2007, the Senate Ways and Means committee recognized the importance of the formation of the State Building Code Council whereby it said,

[t]he adoption of a uniform set of statewide building codes applicable to one and two family dwellings, all other residential uses, commercial and industrial buildings, and state building would make it possible for building owners, designers, contractors, and code enforcers within the State to

apply a consistent standard. The health and safety considerations related to the codes are of statewide interest, especially relating to emergency disaster preparedness. Hawaii State Legislature. S. Comm. Rpt. 784, March 2, 2007.

The GCA believes that by involving the building industry technical experts on the SBCC, it will expedite the implementation of the codes once they are approved, because the people who actually have to construct with the new codes would have been involved in the entire adoption process and are able to bring up any constructability issues from the start. Thus, by adding the builders onto the council, these constructability issues can be addressed while the codes are still being discussed within the council.

The GCA supports HB 763, HD1 with amendments as it will provide a proper balance with representatives of the construction industry with building expertise sitting alongside other design professionals and technical experts in the building industry to ensure a balance of public health and safety with construction industry practices. The GCA recommends this Committee review the current HD1 and ensure that participants have the technical expertise necessary to contribute to meeting the goal and intent of the State Building Code Council.

The GCA therefore, requests that this Committee pass out H.B. 763, HD1 with amendments and GCA remains willing to participate in the Hawaii State Building Code Council and requests a viable appropriation mechanism be included in this measure.

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

From: Gary Chock [GChock@martinchock.com]
Sent: Friday, March 29, 2013 1:16 PM
To: PSMT testimony; WAM Testimony
Cc: Sen. Will Espero; Sen. David Ige; Sen. Michelle Kidani; Sen. Roz Baker
Subject: Testimony on HB763 HD1 April 1 joint hearing of PSM and Ways and Means
Attachments: House Bill 763_HD1 SEAOH Testimony (2013).pdf

I have attached the testimony of the Structural Engineers Association of Hawaii on HB763_HD1.

We note that there are several problems in the HD1 version of the bill, such that we oppose this version of the bill unless it is corrected and amended. However, since we drafted the original HB763 for the State Building Code Council and the Administration, we feel it is correctable and ask for your assistance.

With this testimony, we transmit the proposed HB763_HD1_SD1 for your consideration. The proposed HB763_HD1_SD1 that is attached would make a significant improvement for public safety and would have very broad support. We strongly recommend that the issues in HB763_HD1 be resolved with the proposed alternative language that we have developed with the Building Industry Association of Hawaii, General Contractors Association of Hawaii, Subcontractors Association of Hawaii, State Fire Council, and the members of the State Building Code Council itself.

Thank you.
Gary Chock
Structural Engineers Association of Hawaii
Legislative and Building Code Chair

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Honolulu, Hawaii 96813

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STRUCTURAL ENGINEERS ASSOCIATION OF HAWAII
P.O. Box 3348, Honolulu, Hawaii 96801

March 29, 2013

TO: The Senate
Committee on Public Safety, Government Operations, and Military Affairs FAX 586-6659
Senator Will Espero, Chair; Senator Rosalyn H. Baker, Vice Chair
Committee on Ways and Means
Senator David Y. Ige, Chair
Senator Michelle N. Kidani, Vice Chair

SUBJECT: **Senate Bill 213 Relating to the State Building Code**
Joint Hearing April 1, 2013 9:55 am Conference Room 211

Honorable Members of the Committees:

The Structural Engineers Association of Hawaii (SEAOH) is the local chapter of the National Council of Structural Engineering Associations (NCSEA), and we have over 200 active members in Hawaii. SEAOH has several decades of experience in assisting Hawaii with the development of the technical portions of the building codes. The primary purpose of a building code is to establish design standards for buildings in order to protect public safety. Building codes do not govern the means and methods of construction or business practices.

In 2007, HRS 107 Part II, State Building Code and Design Standards, established a process that requires the maintenance of a periodically updated Hawaii State Building Code for State government projects. It is also used as the starting basis for the local county codes, so that unnecessary divergences between the building code adopted by the counties are avoided. The existing law also permits the counties to make modifications to design requirements in the local county building code without approval of the State Council.

The primary function of the State Building Code Council is to set design standards for state projects. The present State Building Code Council takes on the role of a panel of knowledgeable experts and state agencies that have responsibility for the affected regulations under current state law. However, the current process has become unwieldy due to the bureaucratic and administrative process requirements, such that presently there are no ongoing administrative activities. The Governor and the State Building Council now seek to reform the process to make it a more administratively sustainable process through House Bill HB763, which we originally authored.

We oppose the current version of this bill, HB 763_HD1 as inappropriately focused on business interests and an impractical expansion of the size of the Council. Instead, we strongly suggest it be amended per the consensus of the Structural Engineers Association of Hawaii, Building Industry Association of Hawaii, General Contractors Association of Hawaii, Subcontractors Association of Hawaii, State Fire Council, and members of the State Building Code Council itself;

1. HB763_HD1 would go beyond a reasonably balanced approach on membership. We note that there are only two representatives of the design professions that are the actual users of the codes and standards that govern the design of buildings and other structures.
2. HB763_HD1 has incorrectly counted the members and the necessary quorum needs to be modified to avoid minority rule.
3. We support an alternative amended bill that we recommend become HB763_HD1_SD1. In this jointly-authored bill, we provide the consensus agreement of the above referenced organizations regarding the preferred membership with direct knowledge of building codes. It does add two representatives of the construction industry. The proposed amended bill attached to this testimony thus represent a compromise bill among the above organizations, and amending HB763_HD1 per this alternative language would make it a bill that we would fully support.

STRUCTURAL ENGINEERS ASSOCIATION OF HAWAII

P.O. Box 3348, Honolulu, Hawaii 96801

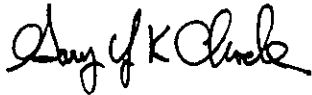
4. Because the State Building Code Council has not received funding since 2007, its progress has suffered. Therefore, the alternative bill includes an appropriation section (we would suggest you consider \$75,000). It also clarifies that since the State Building Code includes hurricane resistive standards, the Hawaii Hurricane Relief Fund may decide to sponsor appropriate activities of the council that help fulfill state statute HRS 431P-12 that does require the HHRF to develop a comprehensive hurricane loss reduction plan with "standards for new residential and commercial structures and separate standards for existing residential and commercial structures."

In conclusion, the proposed HB763_HD1_SD1 that is attached would make a significant improvement for public safety and would have very broad support. Therefore, we strongly recommend that the issues in HB763_HD1 be resolved with the proposed alternative language that we have developed with the Building Industry Association of Hawaii, General Contractors Association of Hawaii, Subcontractors Association of Hawaii, State Fire Council, and members of the State Building Code Council itself.

Gary Chock, S.E.

Ian Robertson, Ph.D., S.E.

SEAOH Legislative Committee



A BILL FOR AN ACT

RELATING TO THE STATE BUILDING CODE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. Section 107-22, Hawaii Revised Statutes, is amended by amending subsection (a) and (b) to read as follows:

"(a) There is established a state building code council. The council shall be placed within the department of accounting and general services for administrative purposes only. The council shall consist of [~~nine~~] eleven voting members and one nonvoting member, who shall be the comptroller or the comptroller's designee. The council members shall serve four-year terms as defined in paragraphs (1) to [~~(6)~~] (8). The voting members shall include:

(1) One county building official from each of the four counties appointed by the mayor;

(2) One member representing the state fire council;

~~— [(3) One member representing the department of health who has significant experience in building mechanical and sewage disposal systems;~~

~~(4)~~ (3) One member representing the department of labor and industrial relations who has significant experience in elevator or fire safety;

(4) One member representing the department of business, economic development, and tourism Hawaii state energy office;

~~(5)~~ (5) One member representing the Structural Engineers Association of Hawaii; ~~and~~

(6) One member representing the American Institute of Architects, Hawaii State Council ~~(-)~~;

(7) One member representing the Building Industry Association of Hawaii or the General Contractors Association of Hawaii who has significant experience with building codes; and

(8) One member representing the Subcontractors Association of Hawaii who has significant experience with building codes.

(b) ~~(Six)~~ Seven voting members shall constitute a quorum. The chairperson of the council shall be elected annually from among its members by a majority vote of the members of the council."

SECTION 2. Section 107-24, Hawaii Revised Statutes, is amended to read as follows:

~~"[+]§107-24[+]~~ **Authority and duties of the council.** (a) Any law to the contrary notwithstanding, the council shall establish a recommended comprehensive model state building code ~~(-)~~ that shall be a part of a loss reduction plan that

complies with the development of loss mitigation standards in accordance with section 431P-12.

(b) The council shall appoint a subcommittee comprised of the four council members representing county building officials, whose duty shall be to recommend any necessary or desirable state amendments to the model codes and standards identified in section 107-25. Any recommended state amendments shall require the unanimous agreement of the subcommittee. The council shall designate the staggering of the adoption of the codes and standards to be adopted, amended, and updated at a frequency of no later than every six years in accordance with section 107-28. Any recommended staggering of adoptions shall be based on a review and evaluation of the utility of each model code identified in Section 107-25 when each edition is published.

(c) The council may appoint other investigative, technical expertise committees, which may include council members.

(d) The council shall consult with [~~general~~] building contractor associations and building trade associations to gather information and recommendations on construction practices and training relevant to building codes and standards.

(e) The council shall review the codes and standards identified in section 107-25 and adopt ~~[]~~ recommended state amendments, as appropriate, pursuant to section 107-24(b), ~~[new model building codes]~~ within eighteen months of the official publication date ~~[]~~ of the respective code or standard. At least every two years, the council shall disseminate an itemized report of the substantially uniform code amendments utilized by at least three counties.

(f) The council may make expenditures for technical references, equipment and supplies, and other operating expenses, and may contract for the conduct of research studies and other technical services.

(g) The council ~~[shall]~~ may provide education and technical training and administrative assistance in the form of services or grants at the state and county levels relating to the implementation and enforcement of the state building code ~~[adopted pursuant to this part.]~~ and loss mitigation standards in accordance with section 431P-12."

SECTION 3. Section 107-25, Hawaii Revised Statutes, is amended to read as follows:

"[+]§107-25[+] [State] Hawaii state building code; requirements. There is established a Hawaii state building code applicable to all construction in the State of Hawaii. The Hawaii state building code shall include [+] the following codes as amended by the substantially uniform amendments utilized by at least three counties:

- (1) The [~~latest edition of the~~] state fire code as adopted by the state fire council;
- (2) The [~~latest edition of the~~] Uniform Plumbing Code, as copyrighted and published by the International Association of Plumbing and Mechanical Officials, including its appendices;
- (3) The [~~latest edition of the~~] International Building Code, the International Residential Code, and the International Energy Conservation Code, as published by the International Code Council;
- (4) The National Electrical Code, as published by the National Fire Protection Association;
- [4] (5) Hawaii design standards implementing the criteria pursuant to Act 5, Special Session Laws of Hawaii, 2005, as applicable to:
 - (A) Emergency shelters built to comply with hurricane

resistant criteria, including enhanced hurricane protection areas capable of withstanding a five hundred year hurricane event as well as other storms and natural hazards; and

(B) Essential government facilities requiring continuity of operations; and

[5] (6) Code provisions based on nationally published codes or standards that include, but are not limited to, residential and hurricane resistive standards for residential construction, ~~[fire,]~~ elevator, ~~[electrical, plumbing,]~~ mechanical, flood and tsunami, and existing buildings ~~[, and energy conservation standards for building design and construction, and onsite sewage disposal]."~~

SECTION 4. Section 107-27, Hawaii Revised Statutes, is amended to read as follows:

"~~[+]§107-27[+]~~ ~~[Exemptions.]~~ Design of state buildings. (a) ~~[Upon]~~ No later than one year after adoption of ~~[rules]~~ substantially uniform code amendments by at least three counties under ~~[this chapter,]~~ section 107-28, and as reported by the council under section 107-24(e), the design of all state

building construction shall be in compliance with the Hawaii state building code [~~within one year of its effective date~~], [~~and~~] except that state building construction shall be allowed to be exempted from:

- (1) County codes that have not adopted the state building code;
- (2) Any county code amendments that are inconsistent with the minimum performance objectives of the Hawaii state building code or the objectives enumerated in this part; or
- (3) Any county code amendments that are contrary to code amendments adopted by another county.

(b) Exemptions shall include county ordinances allowing the exercise of indigenous Hawaiian architecture adopted in accordance with section 46-1.55."

SECTION 5. Section 107-28, Hawaii Revised Statutes, is amended to read as follows:

"~~[[~~§107-28~~]]~~ County building code authority to amend and adopt the state model building ~~[code]~~ codes without state approval. (a) The governing body of each county shall amend, adopt, and update the model state building code as it applies within its respective jurisdiction, in accordance with section

46-1.5(13), without approval of the council. Each county shall ~~[use]~~ amend and adopt the model state codes and standards listed in section 107-25, as the referenced model building codes and standards for its respective county building code ordinance, no later than two years after the adoption of ~~[the state building code]~~ each of the model codes by the state building code council pursuant to section 107-24.

(b) If a county does not amend the ~~[statewide]~~ model state ~~[code]~~ codes and standards within the two-year time frame, the model state building ~~[code]~~ codes defined in section 107-24(e) shall become applicable as an interim county building code until the county adopts ~~[the]~~ its amendments."

SECTION 6. Section 107-29, Hawaii Revised Statutes, is amended to read as follows:

"~~[+]~~§107-29~~[+]~~ **Rules.** The department shall adopt rules pursuant to chapter 91 as may be necessary for the purposes of defining the Hawaii state building code to consist of the codes and standards identified in section 107-25 and any substantially uniform amendments adopted by at least three counties in accordance with this part."

SECTION 7. Section 431P-5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) The Hawaii hurricane relief fund shall have the following general powers:

- (1) To sue and be sued;
- (2) To make and alter policies for its organization and internal administration;
- (3) To adopt rules in accordance with chapter 91 to effectuate the purposes of this chapter;
- (4) To borrow moneys, including but not limited to moneys from state or federal sources and to issue notes or other obligations of the fund for the purposes of providing funds for any of its purposes as authorized by the legislature from time to time;
- (5) To pledge, assign, or grant a security interest in all or any part of the moneys, rents, charges, assessments, or other revenue and any proceeds thereof derived by the fund; provided that any pledge, assignment, or grant of security interest shall constitute a lien and security interest on such money, rents, charges, assessments, or other revenue, and any proceeds thereof to the extent and with the priority set forth in the document establishing the pledge, assignment, or security interest, without the necessity for physical delivery, recording, or further act; and provided further that in effectuating any

pledge, assignment, or grant of security interest, the fund may do either or both of the following:

(A) Transfer possession of collateral to its secured parties; or

(B) Execute and cause to be filed at the bureau of conveyances of the State of Hawaii, Uniform Commercial Code financing statements for the purpose of providing notice to third parties of a pledge, assignment, or grant of security interest; provided that any failure to file a financing statement or the filing of a financing statement that contains incomplete or inaccurate information shall not affect the perfected lien and security interest of the pledge, assignment, or grant of security interest; [and]

(6) Enter into contracts as necessary to effectuate the purposes of this chapter[-]; and

(7) Provide funding for the state building code council for activities that are a part of a loss reduction plan that complies with the development of loss mitigation standards in accordance with section 431P-12."

SECTION 8. There is appropriated out of the general revenues of the State of Hawaii the sum of \$ or so much thereof as may be necessary for fiscal year 2013-2014 to support the state building code council's efforts to adopt a uniform set of statewide building codes and consistent standards.

The sum appropriated shall be expended by the department of accounting and general services for the purposes of this Act.

SECTION 9. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 10. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 11. This Act shall take effect on July 1, 2013.

Report Title:

Hawaii State Building Code

Description:

Modifies the composition of the Hawaii State Building Code Council and revises the State Building Code. Effective July 1, 2013. (HB763 HD1)

From: mailinglist@capitol.hawaii.gov
Sent: Friday, March 29, 2013 3:37 PM
To: PSMTestimony
Cc: Reinhardt@ArchitecturalDiagnostics.com
Subject: Submitted testimony for HB763 on Apr 1, 2013 09:55AM
Attachments: HB763-HD!-HSCR633-WAM&PSA-Testimony-BuildingCodeCouncil.pdf

HB763

Submitted on: 3/29/2013

Testimony for PSMWAM on Apr 1, 2013 09:55AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
James Reinhardt	Individual	Oppose	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

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29 March 2013

Senate Committee on Ways and Means

Honorable Senators David Y. Ige, Chair; Michelle N. Kidani, Vice-Chair; and Members Suzanne Chun Oakland, Donovan M. Dela Cruz, J. Kalani English, Will Espero, Gilbert Kahele, Gilbert S. C. Keith-Agaran, Ronald D. Kouchi, Russell E. Ruderman, Laura H. Thielan, Jill N. Tokuda, Sam Slom

Senate Committee on Public Safety, Intergovernmental and Military Affairs

Honorable Senators Will Espero, Chair; Rosalyn Baker, Vice-Chair; and Members Brickwood Galuteria, Josh Green and Sam Slom

SUBJECT: Testimony in Opposition to HB 763 HD1 / HSCR 633 RE: State Building Code

Chairmen Ige and Espero and Members of the Committees on Ways and Means and Public Safety, Intergovernmental and Military Affairs:

I am an architect and have been practicing in Hawaii since 1970. I am a member of the State Building Code Council, representing the Honolulu AIA. This testimony is my personal opinion and does not necessarily represent the position of the Honolulu AIA.

I urge you to reject the present draft of HB 763 HD1/HSCR633 and, instead, support the modifications proposed in HB 763/HD1/Proposed SD1.

House Bill 763 was drafted by the members of the State Building Code Council (the Council) to address several problems:

1. Lack of funding to enable the Council to continue to operate.
2. A cumbersome and time-consuming procedure for communicating the Council's recommendations to the counties and the public.

Groups representing the construction industry:

Building Industry Association (BIA),
General Contractors Association (GCA), and the
Subcontractors Association of Hawaii (SAH),

and groups presently represented on the Council:

the State Fire Council,
the Structural Engineers Association of Hawaii (SEAOH), and
the Honolulu Chapter of the American Institute of Architects (AIA)

worked together to agreed on modifications to the original draft which address the concerns of both groups. The revised version, known as HB 763 HD1 SD1 resolves the Council's initial concerns and adds Council representation from the construction industry.

HB 763 HD1 SD1 represents a good compromise to the various problems facing the Council. I urge you to support that version of the bill.

Sincerely,

ARCHITECTURAL DIAGNOSTICS, LTD.


Jim Reinhardt
Its President



March 28, 2013

To: The Honorable Will Espero, Chair
Members, Senate Committee on Public Safety, Intergovernmental and Military Affairs

The Honorable David Ige, Chair
Members, Senate Committee on Ways and Means

From: Tim Shestek
Senior Director, State Affairs

RE: **HB 763 – OPPOSE**

The American Chemistry Council (ACC) must respectfully oppose HB 763, legislation that would allow for a six year period between adoption, amendments and updates to the state building code.

ACC member companies manufacture the raw materials for a myriad of industries, including products that help make buildings and homes more energy efficient. The business of chemistry employs over 800,000 workers, making it one of the largest US industries in terms of employment. We have been an active supporter of the Energy Efficient Codes Coalition (EECC), a collective effort of business interests, architects, affordable housing advocates, utilities and environmental organizations working together promote energy efficiency building codes.

ACC advocates for the adoption of the latest energy efficiency codes for both residential and commercial construction. Energy savings resulting from the up-front investment in energy efficient technology benefits the homebuyer monetarily from the moment they move into their home. Homeowners promptly recoup their investment as the realized savings on their energy bills quickly offsets any additional construction costs related to the installation of energy efficient products.

Under HB 763, the state building code would only be updated every six years, creating a significant lag time between building code updates. Today, most states update their building codes every three years to ensure that the most up-to-date safety practices, innovations in energy efficiency and other practical advances in construction are built into homes, offices, schools and government buildings. Hawaii's Building Code Council approved the adoption of the 2009 International Energy Conservation Code (IECC) in February 2012, but to date only Kauai County has implemented this update. Under the language in this bill, the state of Hawaii wouldn't even consider updating the state building code again until 2018 with no specific requirement for the state to consider or adopt the latest editions of the I-codes.

A new home is likely the biggest financial investment for families. Studies show that families can save thousands in energy costs during the years they live in an energy-efficient home, while safety improvements can reduce homeowners' insurance premiums. According to a report by the U.S. Department of Energy, adopting the 2012 energy code would **save homeowners in Hawaii 16.8 percent on their energy bills every year**, which translates into **\$541 in average annual energy savings**. The report also found that moving from the 2009 to the 2012 IECC would result in **\$8,860 in energy savings for Hawaii homeowners on average, over 30 years**¹. Hawaii homeowners would fail to realize these significant

¹ See U.S. Department of Energy, *Hawaii Energy and Cost Savings for New Single- and Multifamily Homes* (September 2012) available at <http://www.energycodes.gov/sites/default/files/documents/HawaiiResidentialCostEffectiveness.pdf>



energy savings from the adoption of the 2012 IECC since under this bill the state wouldn't even consider updating the state's building code until 2018.

Under this legislation, Hawaii's homes and buildings would fall behind in critical technology changes that enhance energy efficiency, save taxpayers money and protect public safety, leading to increased energy costs for Hawaii homeowners. This misguided legislation, while claiming to save money, would also waste state and local tax dollars by delaying implementation of the latest efficiency technologies that cut energy bills for public buildings, protect them from damage due to natural disasters, reduce maintenance costs and insurance claims, and lower insurance premiums for safer buildings.

For these reasons, we urge you to support Hawaii families, energy savings, and lower energy bills and to oppose HB 763. Thank you in advance for considering our views. If you have any questions or comments, please do not hesitate to contact me or ACC's Hawaii based representatives Red Morris and/or John Radcliffe at 808-531-4551.

