



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
WATER AND LAND

AND

TO THE HOUSE COMMITTEE ON AGRICULTURE

TWENTY-SEVENTH STATE LEGISLATURE
REGULAR SESSION, 2013

MONDAY, MARCH 11, 2013
8:30 A.M.

TESTIMONY ON SENATE BILL NO. 1077 S.D.2
RELATING TO THE OWNER-BUILDER EXEMPTION

TO THE HONORABLE CINDY EVANS, CHAIR,
TO THE HONORABLE JESSICA WOOLEY, CHAIR,
AND TO THE HONORABLE NICOLE E. LOWEN, VICE CHAIR,
AND TO THE HONORABLE RICHARD H.K. ONISHI, VICE CHAIR,
AND MEMBERS OF THE COMMITTEES:

The Department of Commerce and Consumer Affairs ("Department")
appreciates the opportunity to testify on Senate Bill No. 1077 S.D.2, Relating to
the Owner-Builder Exemption. My name is Daria Loy-Goto. I am the Complaints

and Enforcement Officer for the Department's Regulated Industries Complaints Office ("RICO"). The Department strongly supports this Administration bill.

Senate Bill No. 1077 S.D.2 amends chapter 444, Hawaii Revised Statutes ("HRS") to clarify the responsibilities for owner-builders and increase fine amounts for noncompliance with owner-builder requirements. The bill represents consensus language agreed to between RICO and various industry stakeholders.

Senate Bill No. 1077 S.D.2 is similar, but not identical, to the companion bill, House Bill No. 846 H.D.2, which this Committee heard in its original version. Except for the savings clause and defective effective date contained in this bill, the differences between this bill and House Bill No. 846 H.D.2 are non-substantive. RICO prefers the language in House Bill No. 846 H.D.2, subject to the addition of a savings clause.

Owner-builders often obtain owner-builder permits without full knowledge of the responsibilities and risks they assume. This bill sets forth the requirements for owner-builders so that owner-builders will know exactly what is required of them.

From an enforcement perspective, inspection of owner-builder records as authorized in this bill will strengthen RICO's ability to monitor and prosecute violations.

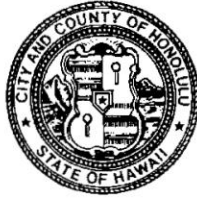
Thank you for this opportunity to testify on Senate Bill No. 1077 S.D.2. I will be happy to answer any questions that the members of the Committee may have.

Testimony on Senate Bill No. 1077 S.D.2
March 11, 2013
Page 3

DEPARTMENT OF PLANNING AND PERMITTING
CITY AND COUNTY OF HONOLULU

650 SOUTH KING STREET, 7TH FLOOR • HONOLULU, HAWAII 96813
PHONE: (808) 768-8000 • FAX: (808) 768-6041
DEPT. WEB SITE: www.honoluluodpp.org • CITY WEB SITE: www.honolulu.gov

KIRK CALDWELL
MAYOR



GEORGE I. ATTA
FAICP, LEED AP, CEI
DIRECTOR DESIGNATE

JIRO A. SUMADA
DEPUTY DIRECTOR

March 11, 2013

The Honorable Cindy Evans, Chair
and Members of the Committee on Water & Land
The Honorable Jessica Wooley, Chair
and Members of the Committee on Agriculture
Hawaii State House of Representatives
Hawaii State Capitol
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chairs Evans, Wooley and Members:

Subject: Senate Bill No. 1077, SD 2
Relating to Owner-Builder Exemption

The Department of Planning and Permitting (DPP) **supports** passage of Senate Bill No. 1077, SD 2. We understand that the purpose of the bill is to set forth the specific responsibilities and protections for owner-builder exempted from licensing and other requirements under chapter 444, Hawaii Revised Statutes.

A major objective of the DPP is to promote life safety through construction code compliance. The bill, as proposed, would promote this objective by requiring owner-builders to adhere to important performance and safety standards that licensed contractors must administer daily on the job site to ensure worker safety. Additionally, the bill would require the owner-builder to hire qualified subcontractors, thus ensuring that new construction will comply with current building, electrical, and plumbing codes.

The DPP recommends passage of Senate Bill No. 1077, SD 2, which will significantly promote greater safety and improved quality of construction in Hawaii. Thank you for the opportunity to testify.

Very truly yours,


George I. Atta, FAICP, LEED AP, CEI
Director Designate
Department of Planning and Permitting

GIA:jmf
sb1077sd2-OwnrBldExemp

BIA-HAWAII

BUILDING INDUSTRY ASSOCIATION

"Building Better Communities"

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Ryan Engle

Bays Lung Rose & Holma

Scotty Anderson

Pacific Rim Partners

W. Bruce Barrett

Castle & Cooke Homes Hawaii, Inc.

Testimony to the House Committees on Water & Land and Agriculture

Monday, February 11, 2013

8:30 a.m.

Capitol, Room 229

RE: S.B. 1077, S. D. 2, RELATING TO THE OWNER-BUILDER EXEMPTION

Dear Chairs Evans and Wooley, Vice-Chair s Lowen and Onishi, 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 **strongly supports** S.B. 1077, S.D.2, which proposes to set forth specific responsibilities of, and protections for, owner-builders exempted under Chapter 444, Hawaii Revised Statutes (HRS). S.B. 1077, S.D. 1: 1) helps strengthen RICO's ability to monitor and prosecute violations involving owner-builder construction projects; 2) increases protections for owner-builders as well as workers; 3) ensures that appropriate taxes, including the GET, are paid to the State; and 4) addresses concerns presented by the Contractors License Board and Farm Bureau.

Currently, Chapter 444 – 2.5, HRS, allows owners or lessees of real property to qualify for an owner-builder exemption from the licensing requirements of Hawaii's Contractor law if the owners or lessees build or improve residential, farm, industrial, or commercial buildings for their own use and do not offer the buildings for sale or lease within one year. With the rising cost of construction and the industry's high unemployment, many homeowners are choosing to be their own contractors under Chapter 444-2.5.

The owner-builder exemption was established, and intended, for legitimate circumstances where homeowners had the requisite ability, time, and inclination to save money by performing their own home improvements and construction.

An owner-builder becomes the general contractor responsible for compliance with the regulations of federal, state, and county laws that govern construction: OSHA, EPA, taxes, insurance, etc. Violations of these regulations result in heavy fines levied by the respective agencies. The owner-builder is also liable for all persons who enter their project site. However, Many homeowners are ill-advised by unlicensed contractors to obtain an owner-builder permit so the owner can hire or contract with an unlicensed contractor.

The hiring of an unlicensed contractor results in millions of dollars in lost GET because payment is almost always made in cash. Workers who are hired for cash wages are not provided mandated employee benefits, such as workers compensation and insurance. This is both a disservice to the State and to homeowners, who become extremely vulnerable in the event anything adverse occurs to a worker on their property during the project. Legitimate businesses that comply with the legal cost of doing business are at a disadvantage because their costs are higher. BIA-Hawaii members have witnessed, first hand, how unlicensed individuals have abused this exemption by performing work without complying with the law.

Representatives Evans and Wooley, Chairs
Committees on Water & Land and Agriculture
Monday, March 11, 2013
S.B. 1077, S.D. 1

BIA-Hawaii supports a filing fee, based on the value of the proposed improvement, to directly support the Department's inspection efforts. We are willing to work with DCCA to find a way that this can best be implemented.

For the preceding reasons, BIA-Hawaii **strongly supports** S.B. 1077, S.D.2.

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

**PRESENTATION OF THE
CONTRACTORS LICENSE BOARD**

TO THE HOUSE COMMITTEE ON WATER & LAND
AND
TO THE HOUSE COMMITTEE ON AGRICULTURE

TWENTY-SEVENTH LEGISLATURE
Regular Session of 2013

Monday, March 11, 2013
8:30 a.m.

**TESTIMONY ON SENATE BILL NO. 1077, S.D. 2, RELATING TO THE OWNER-
BUILDER EXEMPTION.**

TO THE HONORABLE CINDY EVANS, CHAIR, AND
TO THE HONORABLE JESSICA WOOLEY, CHAIR,
AND MEMBERS OF THE COMMITTEES:

My name is Peter Lee, and I am the Legislation Committee Chair of the Contractors License Board ("Board"). Thank you for the opportunity to testify on Senate Bill No. 1077, S.D. 2, Relating to the Owner-Builder Exemption.

The Board supports this bill, as it will enhance the Regulated Industries Complaints Office's ("RICO") ability to monitor and prosecute violations involving owner-builder construction projects. Often, owner-builder permits are used as a vehicle for unlicensed contracting activity. The Board feels that this bill will assist RICO in investigating such violations, as well as offer additional protection to the owner-builder by means of disclosure requirements.

Thank you for the opportunity to provide comments on Senate Bill No. 1077, S.D. 2.

SAH - Subcontractors Association of Hawaii

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

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

March 11, 2013

Testimony To: House Committee on Water & Land
Representative Cindy Evans, Chair

House Committee on Agriculture
Representative Jessica Wooley, Chair

Presented By: Tim Lyons
President

Subject: S.B. 1077, SD 2 – RELATING TO OWNER-BUILDER EXEMPTION

Chair Evans, Chair Wooley and Members of the Joint Committees:

I am Tim Lyons, President of the Subcontractors Association of Hawaii and we generally support this bill.

Although our input on this bill was strictly limited to Section 4 and is a rather minor change, it never the less bring the law in conformance with actual practice and to that extent we support it.

We would also note that owner-builders are still a primary source for unlicensed contracting activity and to the extent that this bill helps in that effort we also support it.

Thank you.



Testimony of Cindy McMillan
The Pacific Resource Partnership

House Committee on Water & Land
Rep. Cindy Evans, Chair
Rep. Nicole E. Lowen, Vice Chair

House Committee on Agriculture
Rep. Jessica Wooley, Chair
Rep. Richard H.K. Onishi, Vice Chair

SB 1077, SD2 – Relating to the Owner-Builder Exemption
Monday, March 11, 2013
8:30 am
Conference Room 312

Aloha Chairs Evans and Wooley, Vice Chairs Lowen and Onishi and Members of the Committees:

The Pacific Resource Partnership (PRP) is a labor-management consortium representing over 240 signatory contractors and the Hawaii Regional Council of Carpenters.

PRP **supports** SB 1077, SD2, Relating to the Owner-Builder Exemption, which sets forth specific responsibilities of and protections for owner-builders exempted under chapter 444, Hawaii Revised Statutes. This measure limits the application of the owner-builder exemption to residential or farm property only, to improve the ability of the Regulated Industries Complaints Office (RICO) to investigate possible violations of the owner-builder law, and to offer additional disclosures for owner-builders when they enter into agreements with licensed subcontractors.

SB 1077, SD2 will afford owner-builders the same consumer protections currently given to homeowners who are not owner-builders. Currently, section 444-25.5, HRS, provides that licensed contractors must (1) disclose certain information to a homeowner prior to entering into a contract with the homeowner and prior to the application for a building permit; and (2) provide a written contract to the homeowner. Under this bill, owner-builders will benefit from the required disclosures and from written, enforceable contracts.

In addition, the bill will strengthen RICO's ability to monitor and prosecute violations involving owner-builder construction projects, eliminating the unfair advantage dishonest companies have over those

March 11, 2013

Testimony Supporting SB 1077, SD2 – Relating to the Owner-Builder Exemption

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who play by the rules. Cheating contractors who apply for the owner-builder exemption underbid and steal work away from honest, tax-paying contractors.

For these reasons, we respectfully ask for your support on SB 1077, SD2. Thank you for the opportunity to share our views on this important initiative with you.

lowen1-Kyli

From: mailinglist@capitol.hawaii.gov
Sent: Friday, March 08, 2013 5:23 PM
To: waltestimony
Cc: duchida@ssfm.com
Subject: *Submitted testimony for SB1077 on Mar 11, 2013 08:30AM*

SB1077

Submitted on: 3/8/2013

Testimony for WAL/AGR on Mar 11, 2013 08:30AM in Conference Room 312

Submitted By	Organization	Testifier Position	Present at Hearing
Dean Uchida	Individual	Support	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.

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lowen1-Kyli

From: mailinglist@capitol.hawaii.gov
Sent: Saturday, March 09, 2013 11:14 AM
To: waltestimony
Cc: TABRAHAM08@GMAIL.COM
Subject: Submitted testimony for SB1077 on Mar 11, 2013 08:30AM

SB1077

Submitted on: 3/9/2013

Testimony for WAL/AGR on Mar 11, 2013 08:30AM in Conference Room 312

Submitted By	Organization	Testifier Position	Present at Hearing
TROY ABRAHAM	Individual	Support	No

Comments: i support urgent passage of the bill

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.

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