

SB 633

Measure Title: RELATING TO UNLICENSED CONTRACTING ACTIVITIES.
Report Title: Unlicensed Contracting Activity; Unlicensed Contractor Fraud
Description: Prohibits the value of any work done by a unlicensed contractor to be used as an offset for the value of the property calculated in unlicensed contractor fraud cases.
Companion:
Package: None
Current Referral: CPN
Introducer(s): KEITH-AGARAN, Baker, Ruderman, Taniguchi, Tokuda, Wakai

<u>Sort by Date</u>		Status Text
1/18/2013	S	Introduced.
1/22/2013	S	Passed First Reading.
1/22/2013	S	Referred to CPN.
2/6/2013	S	The committee(s) on CPN added the measure to the public hearing scheduled on 02-13-13 8:30AM in conference room 229.



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 SENATE COMMITTEE ON
COMMERCE AND CONSUMER PROTECTION

TWENTY-SEVENTH STATE LEGISLATURE
REGULAR SESSION, 2013

WEDNESDAY, FEBRUARY 13, 2013
8:30 A.M.

TESTIMONY ON SENATE BILL NO. 633
RELATING TO UNLICENSED CONTRACTING ACTIVITIES

TO THE HONORABLE ROSALYN H. BAKER, CHAIR,
AND TO THE HONORABLE BRICKWOOD GALUTERIA, VICE CHAIR,
AND MEMBERS OF THE COMMITTEE:

The Department of Commerce and Consumer Affairs ("Department") appreciates the opportunity to testify on Senate Bill No. 633, Relating To Unlicensed Contracting Activities. 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 testimony in support of the bill.

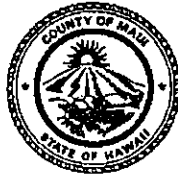
Senate Bill No. 633 amends §708-8305, Hawaii Revised Statutes ("HRS"), to clarify that the value of work performed by an unlicensed contractor shall not offset the value of the property for purposes of determining unlicensed contractor fraud in the first and second degrees. Section 708-8305, HRS, was enacted last year as part of Act 244 and represented the collaborative work of the Unlicensed Contractor Law Enforcement Task Force. RICO was a member of the Task Force. Act 244 added an existing misdemeanor unlicensed contracting offense to the Penal Code and created new offenses for habitual unlicensed contracting activity and unlicensed contractor fraud.

The House Committee on Consumer Protection and Commerce heard a similar bill, House Bill No. 153, and passed that bill out unamended.

Section 708-8305, HRS, was not intended to allow the value of an unlicensed contractor's work to offset the value of the property in determining the degree of unlicensed contractor offenses. Senate Bill No. 633 makes it clear that no such offset shall be applied. For these reasons, RICO supports this bill.

Thank you for this opportunity to testify on Senate Bill No. 633. I will be happy to answer any questions that the members of the Committee may have.

ALAN M. ARAKAWA
Mayor



JOHN D. KIM
Prosecuting Attorney
ROBERT D. RIVERA
First Deputy Prosecuting Attorney

DEPARTMENT OF THE PROSECUTING ATTORNEY
COUNTY OF MAUI
150 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793
PHONE (808) 270-7777 • FAX (808) 270-7625

CONTACT: RICHARD. K. MINATOYA
Deputy Prosecuting Attorney
Supervisor, Appellate, Asset Forfeiture and Administrative Services Division

TESTIMONY
ON
SB 633 - RELATING TO UNLICENSED CONTRACTING ACTIVITIES

February 13, 2013

The Honorable Rosalyn H Baker
Chair
The Honorable Brickwood Galuteria
Vice Chair
and Members
Senate Committee on Commerce and Consumer Protection

Chair Baker, Vice Chair Galuteria and Members of the Committee:

SB 633, Relating to Unlicensed Contracting Activities, proposes to clarify the new unlicensed contracting activity statutes past last year. The bill seeks to clarify that the value of any work done by an unlicensed contractor cannot be used as an offset to calculate the value paid or lost by a victim.

The Department of the Prosecuting Attorney, County of Maui, **STRONGLY SUPPORTS** the passage of this bill. We were the only office to actively prosecute unlicensed contracting cases under the previous law. Last month, one of these cases went before the Hawaii Supreme Court. Although we are still waiting for a decision, some of the justices did indicate that the work done by the unlicensed contractor should serve as an offset to the calculation of value. While that was under the old law, the new law is also open for similar questioning.

It is our position that a contract by an unlicensed contractor is illegal, and allowing an unlicensed contractor to use the value of work done as an offset allows the unlicensed contractor to receive gain from the illegal contract. Further, allowing work done to be an offset would lead to a "battle of the experts" when trying to calculating the value of work done, and justice would not be served for the victims. We ask that the committee **PASS SB 633**

Thank you very much for the opportunity to provide testimony on this bill.