



STATE OF HAWAII
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
830 PUNCHBOWL STREET, ROOM 321
HONOLULU, HAWAII 96813
www.labor.hawaii.gov
Phone: (808) 586-8844 / Fax: (808) 586-9099
Email: dliir.director@hawaii.gov

February 5, 2015

To: The Honorable Mark M. Nakashima, Chair,
The Honorable Jarrett Keohokalole, Vice Chair, and
Members of the House Committee on Labor & Public Employment

Date: Friday, February 6, 2015
Time: 9:00 a.m.
Place: Conference Room 309, State Capitol

From: Elaine Young, Acting Director
Department of Labor and Industrial Relations (DLIR)

Re: H.B. No. 1213 Relating to Employment Security

I. OVERVIEW OF PROPOSED LEGISLATION

HB 1213 proposes to replace the criteria commonly referred to as the "ABC test" in section 383-6, Hawaii Revised Statutes (HRS), with a new definition of "independent contractor." Services performed for remuneration are considered to be in employment under section 383-2, HRS, unless and until the three prongs of the test are met in the conjunctive. The ABC test, a statutory requirement since the beginning of the UI program in 1939, has been an essential in determining whether a worker is an employee or self-employed as an independent contractor.

The department strongly opposes the measure because enactment of the provisions raises conformity issues with several federal laws that could result in the federal funding (\$14,000,000) used to operate the Unemployment Insurance program and subject employers' to the full 6% of the Federal Unemployment Tax Act (FUTA) payroll tax.

II. CURRENT LAW

Section 383-6, HRS, provides services performed by an individual for wages or under any contract of hire shall be deemed to be employment subject to this chapter irrespective of whether the common law relationship of master and servant exists unless it is shown to the department the following criteria have been met:

1. The individual has been and will continue to be free from control or direction over the performance of such service, both under the individual's contract of hire and in fact; and
2. The service is either outside the usual course of the business for which the service performed or that the service is performed outside all the places of business of the enterprise for which the service is performed; and
3. The individual is customarily engaged in an independently established trade, occupation, profession, or business of the same nature as that involved in the contract of service.

III. COMMENTS ON THE HOUSE BILL

The Department opposes HB 1213 for these major reasons:

1. Increased Federal Unemployment Tax Act (FUTA) payroll taxes for employers and loss of certification for UI administrative grants to operate Hawaii's UI program if state law is not consistent with federal law with respect to coverage.

The Internal Revenue Service (IRS) applies the common law test in determining whether services are subject to the FUTA tax and specifies which exclusions from coverage are permissible. To be consistent with the requirements of Federal law, states may not use a test for independent an contractor which is less rigorous than the IRS test when determining coverage of services.

While HRS 383-6, in its current form satisfies this requirement, If application of the provisions of HB1213 results in a determination of independent contractor status without a test that is comparable to the common-law standard and does not provide coverage to individuals in accordance with FUTA law, a conformity issue may be raised with the USDOL. The sanction for non-conformity is severe: all employers will be liable for the full 6.0% FUTA tax and Hawaii may jeopardize over \$14 million in federal funds for the UI program.

2. Subsection (d) of the bill provides "If a certified contractor files a claim for unemployment insurance benefits against the customer pursuant to this chapter, the burden shall be on the certified independent contract to prove that an employer-employee relationship exists." However, Section 303(a)(1) of the Social Security Act requires state law provide for "such methods of

administration... as are found by the Secretary of Labor to be reasonably calculated to insure full payment of unemployment compensation when due.” The USDOL has long interpreted this provision to require states to take the initiative in discovering information regarding the circumstances surrounding an individual’s unemployment and to obtain all the facts necessary to make a determination. As a result, the department has the responsibility to make the determination and cannot be shifted to the individual who files a claim for benefits. The ABC exists so as to allow the department to make such a determination. Non-compliance with 303(a)(1), SSA may result in the loss UI administrative grants to operate the UI program, which effectively shuts down all local offices statewide and precludes jobless workers from filing for UI compensation.

3. While subsection (c) of the bill requires that the department shall be responsible for certifying the individual who meets the requirements of an independent contractor and issuing written certifications, it is questionable if such activity is an authorized expenditure of UI administrative grant funds. State general revenues must be appropriated to satisfy the certification process should the USDOL disapprove use of federal monies for this purpose.



Hawai'i Island Chamber of Commerce

117 Keawe Street, Suite 205
Hilo, Hawai'i 96720-2851
Phone: (808) 935-7178
Fax: (808) 961-4435
E-mail: admin@hicc.biz
www.hicc.biz

Executive Officer
Miles Yoshioka

February 5, 2015

2014-2015 Board

President
Chuck Erskine

Representative Mark Nakashima, Chair
House Committee on Labor & Public Employment

President-Elect
Leslie Ka'iu Kimura

Re: Testimony in support of HB 1213 Relating to Employment Security

Vice President
Michael Kaleikini

Aloha Chair Nakashima, Vice Chair Keohokalole, and Members of the Committee:

Treasurer
Vaughn Cook

My name is Chuck Erskine and I am the President of the Hawai'i Island Chamber of Commerce. With more than 270 member businesses and professionals including over 600 member representatives, the Chamber serves as an important voice of business in Hawai'i.

Immediate Past President
Judith Fox-Goldstein

Directors

Our Chamber joins the Maui Chamber of Commerce and others who strongly support HB 1213 which will help clarify who qualifies as an independent contractor to remove ambiguity and incorrect determinations against legitimate independent contractors and those individuals, businesses and industries who hire them to perform specific services.

Russell Chin
Newton Chu
Nathan Colgrove
John Cross
Jackie De Luz Watanabe
Jay Ignacio
Randy Kurohara
Kapena Lum
Keith Murrack
Tani Matsubara
Stephanie Nagata
Spencer Oliver
Glenn Santos
Wesley Segawa
Margaret Stanley
Donald Straney
Gordon Takaki
Craig Takamine
Barry Taniguchi
Misti Tyrin
Carol VanCamp
William Walter
Noreen Yamane

With more and more people operating as independent contractors, HB 1213 will clarify in state statutes who is an independent contractor under the law.

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

Sincerely,

Chuck Erskine, President



HEARING BEFORE THE
HOUSE COMMITTEE ON LABOR & PUBLIC EMPLOYMENT

TESTIMONY IN STRONG SUPPORT OF HB 1213 RELATING TO EMPLOYMENT SECURITY

February 6, 2015
State Capitol, Room 309
9 AM

Aloha Chair Nakashima, Vice Chair Keohokalole, and Members of the Committee:

I am writing share our strong support of HB1213 and thank Chair Nakashima for signing on to this bill to help clarify who qualifies as an independent contractor. This clarification will protect legitimate independent contractors and those that hire them.

Over the years we have seen numerous rulings where the Department of Labor and Industrial Relations (DLIR) made determinations against employers, classifying people as employees for unemployment benefits through discretionary calls and misapplication of the 3-way test and the subsequent testing built into the rules. We have worked to address this issue with and on behalf of our members for years, but many businesses, particularly small businesses, do not have the time or money to take on the state, so many poor rulings stand.

Last year one of our members, Envisions Entertainment, received a determination from the DLIR that a musician and sole proprietor they hired twice in 18 months to perform music for two events was considered by the DLIR to be employee, not an independent contractor, even though this individual had a full-time position elsewhere, said he was an independent contractor who occasionally provided services to Envisions Entertainment, had a registered business in our state, had a general excise tax license, and signed an independent contractor agreement. The DLIR determination was made before interviewing the company and doing any fact finding. Further, it is important to note that the DLIR's ruling against Envisions Entertainment did not provide any additional benefits to the musician and not garner the state any more in taxes. The determination merely shifted some of the unemployment benefits burden from the man's full-time employer to Envisions Entertainment. Therefore, the company made the decision to fight the ruling as they regularly need to hire independent contractors in their course of business and the ruling could devastate their company.

Many who read the department's determination, including several lawyers, called it "ridiculous" and we have to agree. So, we spoke with legislators last year about this and were encouraged to first work through the Administration and Department, which we and Envisions Entertainment did.

We met with and helped educate the Lt. Governor and department on the issue in the hopes of garnering an administrative fix to avoid a costly legal battle on both sides. However, the former DLIR Director stood by the department's incorrect ruling. During that meeting, the former Director told us that they do sometimes rule in favor of employers and that he would send us 20 redacted copies of rulings in favor of employers as proof. After several months, working through the Lt. Governor's office who worked with DLIR to obtain those copies, they could not send us even 1 ruling, which further illustrates the prevalence of this problem.

Envisions Entertainment had to and did take their case to court. It was an expensive battle (over \$60,000), but the company won! Not only did they win, but the judge's ruling showcased how inappropriate the department's behavior was and created a new precedent. And, while that is helpful, there is still too much leeway for "interpretation" in the law and DLIR has a history of broad and poor interpretations against employers. This is not just an Envisions Entertainment issue or a Maui issue, this is a state issue that affects individuals, businesses and industries who hire independent contractors to perform specific services.

Given the good intentions of the current law, we felt a better route was to simply clarify who qualifies as an independent contractor as more and more entrepreneurs are doing business as independent contractors in this changing economic environment. Therefore, HB1213 seeks to make it clear as to who qualifies as an independent contractor to remove ambiguity and incorrect determinations against independent contractors and companies that hire them.

This clarification in no way affects employees. Instead, it recognizes that more and more people are operating as independent contractors in a new economy and clarifies in state statutes who is an independent contractor under the law. This will avoid discretionary determinations by the DLIR, which will save both businesses and the state a great deal in terms of time, money, and headaches.

Mahalo nui loa for the opportunity to provide testimony on this bill. We ask for your strong support of HB1213 to rectify an ongoing problem.

Sincerely,



Pamela Tumpap
President

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, February 04, 2015 2:31 PM
To: LABtestimony
Cc: nokumura@vipfoodservice.com
Subject: Submitted testimony for HB1213 on Feb 6, 2015 09:00AM

HB1213

Submitted on: 2/4/2015

Testimony for LAB on Feb 6, 2015 09:00AM in Conference Room 309

Submitted By	Organization	Testifier Position	Present at Hearing
Nelson T. Okumura	VIP Foodservice	Support	No

Comments: Aloha, I am writing on behalf of VIP Foodservice in support of HB1213. Our company (has or may) periodically hire Independent Contractors to perform specific services over a defined period of time. Therefore, we appreciate this opportunity to clarify who qualifies as an Independent Contractor with the state as more and more individuals are seeking contracts as sole proprietors and past rulings by the Department of Labor & Industrial Relations make it unclear as to how sole proprietors will be treated. By passing this bill, all parties can move forward with the relationship knowing where they stand. Thank you for the opportunity to provide testimony and please support HB1213. Sincerely, Nelson T. Okumura President

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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Aloha, I am writing on behalf of Vantaggio HR in support of HB1213.

Our company has periodically hire Independent Contractors to perform specific services over a defined period of time. Therefore, we appreciate this opportunity to clarify who qualifies as an Independent Contractor with the state as more and more individuals are seeking contracts as sole proprietors and past rulings by the Department of Labor & Industrial Relations make it unclear as to how sole proprietors will be treated.

By passing this bill, all parties can move forward with the relationship knowing where they stand.

Thank you for the opportunity to provide testimony and please support HB1213.

Sincerely,

Danielle M. Bergan

Business Development Manager- Hawaii

Vantaggio HR, Ltd.

380 Huku Li'i Place, Suite 205

Kihei, HI96753

(808) 661-3614 Office ext 203

(808) 359-6167 Cell

(808) 661-3615 fax

www.VantaggioHR.com

February 5, 2015

Aloha, I am writing on behalf of The Wright Company, LLC in support of HB1213.

Our company has periodically hire Independent Contractors to perform specific services over a defined period of time. Therefore, we appreciate this opportunity to clarify who qualifies as an Independent Contractor with the state as more and more individuals are seeking contracts as sole proprietors and past rulings by the Department of Labor & Industrial Relations make it unclear as to how sole proprietors will be treated.

By passing this bill, all parties can move forward with the relationship knowing where they stand.

Thank you for the opportunity to provide testimony and please support HB1213.

Sincerely,

Kurt R Wright

Whalers Realty Management Company Inc.

2580 Kekaa Drive Suite 118

Lahaina, Hawaii 96761

February 5, 2015

Aloha, I am writing on behalf of Whalers Realty Management Company Inc. in opposition to HB1213.

Our company has periodically hired Independent Contractors to perform specific services over a defined period of time.

Thank you for the opportunity to provide testimony and please oppose HB1213.

Sincerely,

Teresa J. Cartwright

Secretary/Vice President and Principal Broker

Tess Cartwright RB -13987

Whalers Realty Management Company Inc.



FEED MY SHEEP

February 4, 2015

Aloha, I am writing on behalf of Feed My Sheep, Inc in support of HB1213.

Our company is a nonprofit and has in the past and may in the future periodically hire Independent Contractors to perform specific services over a defined period of time. Therefore, we appreciate this opportunity to clarify who qualifies as an Independent Contractor with the state as more and more individuals are seeking contracts as sole proprietors and past rulings by the Department of Labor & Industrial Relations make it unclear as to how sole proprietors will be treated.

By passing this bill, all parties can move forward with the relationship knowing where they stand.

Thank you for the opportunity to provide testimony and please support HB1213.

Sincerely,

D. Joyce Kawakami, CEO

Feed My Sheep, Inc
PO Box 847
Pu`unene, HI 96784
(808) 872-9100

Kika, Inc.

1021 Pueo St.
Honolulu, HI 96816
Phone (808) 735-2088
Fax (808) 737-7999

Feb. 4, 2015

To Whom It May Concern:

I am writing in support of your bill HB 1213. Independent contractors that work for my company periodically want to be classified as such not as employees. They have their own business's licence and pay their taxes. We appreciate this opportunity to clarify who qualifies as an Independent Contractor with the state as more and more individuals are seeking contracts as sole proprietors and past rulings by the Department of Labor & Industrial Relations make it unclear as to how sole proprietors will be treated.

Please pass this bill so that all parties can move forward with the relationship knowing where they stand.

Thank you,

C. Kika T. Matsumoto



HOUSE HEARING
Committee on Labor & Public Employment
Friday, February 6, 2015
9:30AM, Conference Room 309
State Capitol, 415 South Beretania Street

Testimony SUPPORTING HB1213
Relating to Employment Security

Aloha,

I am writing in support of HB1213.

Periodically, Monsanto hires Independent Contractors to perform specific services over a defined period of time. Therefore, we appreciate this opportunity to clarify who qualifies as an Independent Contractor with the state as more and more individuals are seeking contracts as sole proprietors and past rulings by the Department of Labor & Industrial Relations make it unclear as to how sole proprietors will be treated.

By passing this bill, all parties can move forward with confidence knowing where they stand.

We respectfully ask that you please support HB1213.

Thank you,

A handwritten signature in black ink, appearing to read "Carol Reimann", written in a cursive style.

Carol Reimann

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, February 04, 2015 3:15 PM
To: LABtestimony
Cc: doug@levinhu.com
Subject: Submitted testimony for HB1213 on Feb 6, 2015 09:00AM

HB1213

Submitted on: 2/4/2015

Testimony for LAB on Feb 6, 2015 09:00AM in Conference Room 309

Submitted By	Organization	Testifier Position	Present at Hearing
Douglas Levin	Individual	Support	No

Comments: Please work to provide consistency between federal and state tax authorities, as well as labor department standards. Too often the tax departments and labor department don't agree, and a consistently applied standard is needed. Thank you! -Doug

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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National Kidney Foundation™
of Hawaii

February 4, 2015

To Whom It May Concern:

My name is Jill Holley and I am the Director of the National Kidney Foundation of Hawaii – Maui Branch. I am making this testimony as an individual although I direct a nonprofit in Maui. I feel that the Department of Labor & Industrial Relations is reaching and extending their boundaries by trying to classify legitimate Independent Contractors (IC) as employees for unemployment benefits, even when the IC says they are an IC, has a registered business in the state, has a general excise tax license, and has signed an independent contractor agreement. The burden should not fall on the business to prove; rather it should be the other way around. There is still too much room for discretion in the law and I strongly urge you to look for a legislative fix to address this challenge for businesses and ICs statewide by clarifying who qualifies as an independent contractor.

If I can provide any additional information, please do not hesitate to contact me.

JILL HOLLEY | Maui Director

National Kidney Foundation of a Hawaii

T: 808.986.1900 | F: 808.986.1901 | C: 530.545.3000

353 Ano Street | Kahului, HI 96732

jill@kidneyhi.org | www.kidneyhi.org



LOVE YOUR KIDNEYS

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, February 04, 2015 5:23 PM
To: LABtestimony
Cc: Laura@EncoreTalent-Hawaii.com
Subject: Submitted testimony for HB1213 on Feb 6, 2015 09:00AM
Attachments: Feb 4, 2015 Testimony

HB1213

Submitted on: 2/4/2015

Testimony for LAB on Feb 6, 2015 09:00AM in Conference Room 309

Submitted By	Organization	Testifier Position	Present at Hearing
Laura Bollinger	Individual	Support	No

Comments:

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From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, February 04, 2015 6:02 PM
To: LABtestimony
Cc: warrenmcfb@gmail.com
Subject: *Submitted testimony for HB1213 on Feb 6, 2015 09:00AM*

HB1213

Submitted on: 2/4/2015

Testimony for LAB on Feb 6, 2015 09:00AM in Conference Room 309

Submitted By	Organization	Testifier Position	Present at Hearing
Warren Watanabe	Individual	Support	No

Comments:

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From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, February 04, 2015 8:24 PM
To: LABtestimony
Cc: joshuapkahula@gmail.com
Subject: Submitted testimony for HB1213 on Feb 6, 2015 09:00AM

HB1213

Submitted on: 2/4/2015

Testimony for LAB on Feb 6, 2015 09:00AM in Conference Room 309

Submitted By	Organization	Testifier Position	Present at Hearing
joshua p kahula	Individual	Support	No

Comments: Aloha, I am writing in support of HB1213. I currently choose to perform musical entertainment services as an independent contractor under the name JPK Productions LLC. Through this business, I serve multiple clients in a given tax year and am not an employee of my customers. I realize this means that I do not receive employment benefits and that I am required to have my own materials and equipment, insurance, health coverage, etc. In a changing economic environment, being an independent contractor allows me to be my own boss, have flexibility in my work schedule, work when I want to, work for multiple companies, earn more money, etc. Therefore, I support HB1213 to make it clear that I am an Independent Contractor to the clients who are interested in hiring me, as well as the state. Thank you for the opportunity to provide testimony and please support HB1213. Sincerely, Joshua P. Kahula

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Aloha, I am writing in support of HB1213.

I currently choose to perform musician services as an independent contractor under the name Tommy James. Through this business, I serve multiple clients in a given tax year and am not an employee of my customers. I realize this means that I do not receive employment benefits and that I am required to have my own materials and equipment, insurance, health coverage, etc.

As a professional musician, being an independent contractor allows me to secure engagements on Honolulu and Maui, as well as the mainland. The old ways of the music business system are long gone. The only way to find work is to go the independent contractor route. This is how I support my family. This is how I pay my taxes.

Therefore, I support HB1213 to make it clear that I am an Independent Contractor to the clients who are interested in hiring me, as well as the state. Thank you for the opportunity to provide testimony and please support HB1213.

Sincerely,

Tommy James
400 Hobron Lane #1214
Honolulu, HI 96815

Aloha, I am writing in support of HB1213.

I currently choose to perform as a musician as an independent contractor under the name Joel Katz Hawaiian Steel Guitar. Through this business, I serve multiple clients in a given tax year and am not an employee of my customers. I realize this means that I do not receive employment benefits and that I am required to have my own materials and equipment, insurance, health coverage, etc.

In a changing economic environment, being an independent contractor allows me to earn more money for my time and effort by taking full responsibility for my work. It also gives me flexibility. I should add that I also do similar performing part time work as an employee for a major company. I am kept as a part time employee and receive no benefits of any kind anyway, and receive only 25% of what I can earn as a sub contractor. This is common practice for many employers anyway. I pay income and excise tax on my earnings.

Therefore, I support HB1213 to make it clear that I am an Independent Contractor to the clients who are interested in hiring me, as well as the state.

Thank you for the opportunity to provide testimony and please support HB1213.

Sincerely,

Joel Katz

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, February 04, 2015 9:54 PM
To: LABtestimony
Cc: keoughk001@hawaii.rr.com
Subject: *Submitted testimony for HB1213 on Feb 6, 2015 09:00AM*

HB1213

Submitted on: 2/4/2015

Testimony for LAB on Feb 6, 2015 09:00AM in Conference Room 309

Submitted By	Organization	Testifier Position	Present at Hearing
Kirby Keough	Individual	Support	No

Comments:

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Aloha,

I am writing in support of HB1213.

I currently choose to perform musician and performance services as an independent contractor under the name Kristine Snyder/Maui Harps. Through this business, I serve multiple clients in a given tax year and am not an employee of my customers. I realize this means that I do not receive employment benefits and that I am required to have my own materials and equipment, insurance, health coverage, etc.

In a changing economic environment, being an independent contractor allows me to work for multiple companies, work flexible hours, run my own business .

Therefore, I support HB1213 to make it clear that I am an Independent Contractor to the clients who are interested in hiring me, as well as the state.

Thank you for the opportunity to provide testimony and please support HB1213.

Sincerely,

Kristine Snyder

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, February 04, 2015 11:20 PM
To: LABtestimony
Cc: Ginai@me.com
Subject: Submitted testimony for HB1213 on Feb 6, 2015 09:00AM

HB1213

Submitted on: 2/4/2015

Testimony for LAB on Feb 6, 2015 09:00AM in Conference Room 309

Submitted By	Organization	Testifier Position	Present at Hearing
Ginai Curti	Individual	Support	No

Comments: Aloha, I am writing in support of HB1213. I currently choose to perform musical services as an independent contractor under the name GINAI. Through this business, I serve multiple clients in a given tax year and am not an employee of my customers. I realize this means that I do not receive employment benefits and that I am required to have my own materials and equipment, insurance, health coverage, etc. In a changing economic environment, being an independent contractor allows me to make my own hours, be my own boss, set Ann example to my children of how to live independently without being controlled by anyone, think for myself and suffer the consequences of my decisions, all while being a passive contribution to the community around me. Therefore, I support HB1213 to make it clear that I am an Independent Contractor to the clients who are interested in hiring me, as well as the state. Thank you for the opportunity to provide testimony and please support HB1213. Sincerely, Ginai Curti

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TO: Members of the Committee on Labor & Public Employment

FROM: Natalie Iwasa
Honolulu, HI 96825
808-395-3233

HEARING: 9 a.m. Friday, February 6, 2015

SUBJECT: HB1213 Relating to Employment Security - **OPPOSED**

Aloha Chair and Committee Members,

Thank you for allowing me the opportunity to provide testimony on HB1213, which would add another layer of bureaucracy for small business owners who are independent contractors. Hawaii is consistently noted as one of the worst states in the U.S. to do business, and this bill would add to the reasons for that determination.

Currently, a sole proprietor who runs a legitimate business is not required to obtain a federal ID number nor is he or she required to register with the Department of Commerce and Consumer Affairs (DCCA). Registration with the DCCA requires an annual fee and therefore unnecessarily drives up the cost of doing business. While there is no fee for obtaining a federal ID number, it would add to the paperwork required to do business.

In addition, providing a copy of certification to each customer for whom services are provided would also drive up the cost of doing business. Small business owners are already drowning in paperwork.

The Hawaii Department of Taxation provides a search for general excise tax (GET) licenses at <https://dotax.ehawaii.gov/tls/app>. Any customer who is concerned about the status of an independent contractor can easily check to see if that person has a license.

Please do not make it harder for small businesses to operate in Hawaii. Vote "NO" on this bill.

Boyd Lyons
CMS Group/HawaiianIsleWeddings.com
1090 Ala Napunani Street, Unit 218
Honolulu, HI 96818

Aloha, I am writing in support of HB1213.

I currently choose to perform wedding officiant services as an independent contractor under the name CMS Group/Hawaiianisleweddings.com. Through this business, I serve multiple clients in a given tax year and am not an employee of my customers. I realize this means that I do not receive employment benefits and that I am required to have my own materials and equipment, insurance, health coverage, etc.

In a changing economic environment, being an independent contractor allows me to not be bound to an employer's contract but to be independent in working with multiple entities; chapels, hotels, churches, online wedding clients, local clients getting married; I have the flexibility of working various schedules and bookings within each month, part-time commitments vary and enable me to accommodate a variety of couples and companies; this affords me a varying opportunity to earn more money within the pool of officiants and companies, etc. to work in Hawaii. I provide my own health insurance and liability insurance verses limiting myself to companies who only hire me as an employee. This will limit who hires me and the number of options I currently have because of the added employment costs to potential employers. Due to the unpredictable economic climates of recent, I would be concerned of the squeezing out of smaller entities to larger wedding companies which then limits the opportunities for officiants such as myself.

Therefore, I support HB1213 to make it clear that I am an Independent Contractor to the clients who are interested in hiring me, as well as the state.

Thank you for the opportunity to provide testimony and please support HB1213.
Sincerely,

Boyd Lyons
CMS Group/Independent Wedding Officiant
Honolulu, Hawaii 96818

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, February 05, 2015 7:29 AM
To: LABtestimony
Cc: elhawaiiiano76@gmail.com
Subject: Submitted testimony for HB1213 on Feb 6, 2015 09:00AM

HB1213

Submitted on: 2/5/2015

Testimony for LAB on Feb 6, 2015 09:00AM in Conference Room 309

Submitted By	Organization	Testifier Position	Present at Hearing
Kanoe Braun	Individual	Support	No

Comments: Aloha, I am writing in support of HB1213. I currently choose to perform doorman services as an independent contractor under the name Lokomaikai Productions. Through this business, I serve multiple clients in a given tax year and am not an employee of my customers. I realize this means that I do not receive employment benefits and that I am required to have my own materials and equipment, insurance, health coverage, etc. In a changing economic environment, being an independent contractor allows me to have flexibility in my schedule, work on a part-time basis, and work for multiple companies. This ability to operate my business freely and independently works best for my family and affords me the opportunity to earn more. Therefore, I support HB1213 to make it clear that I am an Independent Contractor to the clients who are interested in hiring me, as well as the state. Thank you for the opportunity to provide testimony and please support HB1213. Sincerely, Kanoe Braun

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From: Maryann Songsong <melesongsong@msn.com>
Sent: Thursday, February 05, 2015 8:24 AM
To: LABtestimony
Subject: In Support of HB1213

Aloha,

I am writing in support of HB1213. I currently choose to perform services as a musician and independent contractor under my business name, MKC Enterprises. Through this business, I serve multiple clients in a given tax year and am not an employee of my customers. I realize this means that I do not receive employment benefits and that I am required to have my own materials and equipment, insurance, health coverage, etc.

In a changing economic environment, being an independent contractor allows me to be my own boss, have flexibility in my work schedule, work on a part-time basis, care for my children, work for multiple companies and earn more money.

Therefore, I support HB1213 to make it clear that I am an Independent Contractor to the clients who are interested in hiring me, as well as the state.

Thank you for the opportunity to provide testimony and please support HB1213.

Sincerely,
Maryann Songsong

02/05/2015

Aloha, I am writing in support of HB1213.

I currently choose to perform entertainment services as an independent contractor under the name Kalalea. Through this business, I serve multiple clients in a given tax year and am not an employee of my customers. I realize this means that I do not receive employment benefits and that I am required to have my own materials and equipment, insurance, health coverage, etc.

In a changing economic environment, being an independent contractor allows me to work for multiple clients throughout the year. Often I am only hired by each client once or twice a year, but I have so many varied clients that call upon us for our services that I am able to continue to offer dance performances for weddings and special events.

Therefore, I support HB1213 to make it clear that I am an Independent Contractor to the clients who are interested in hiring me, as well as the state.

Thank you for the opportunity to provide testimony and please support HB1213.

Sincerely,

Hellen Cameron

Director

Kalalea Fire

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, February 05, 2015 9:11 AM
To: LABtestimony
Cc: jwalsh@atlantisadventures.com
Subject: Submitted testimony for HB1213 on Feb 6, 2015 09:00AM

HB1213

Submitted on: 2/5/2015

Testimony for LAB on Feb 6, 2015 09:00AM in Conference Room 309

Submitted By	Organization	Testifier Position	Present at Hearing
Jim Walsh	Individual	Support	No

Comments: Aloha, I am writing on behalf of Atlantis Adventures in support of HB1213. Our company (has or may) periodically hire Independent Contractors to perform specific services over a defined period of time. Therefore, we appreciate this opportunity to clarify who qualifies as an Independent Contractor with the state as more and more individuals are seeking contracts as sole proprietors and past rulings by the Department of Labor & Industrial Relations make it unclear as to how sole proprietors will be treated. By passing this bill, all parties can move forward with the relationship knowing where they stand. Thank you for the opportunity to provide testimony and please support HB1213. Sincerely, Jim Walsh

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From: mailinglist@capitol.hawaii.gov
Sent: Thursday, February 05, 2015 9:32 AM
To: LABtestimony
Cc: kellyboydelima@gmail.com
Subject: Submitted testimony for HB1213 on Feb 6, 2015 09:00AM

HB1213

Submitted on: 2/5/2015

Testimony for LAB on Feb 6, 2015 09:00AM in Conference Room 309

Submitted By	Organization	Testifier Position	Present at Hearing
Kelly Boy De Lima	Individual	Comments Only	No

Comments: Aloha, I am writing in support of HB1213. I currently choose to perform Music services as an independent contractor under the name Kellyboyproductions AKA the musical group Kapena. Through this business, I serve multiple clients in a given tax year and I am not an employee of my customers. I realize this means that I do not receive employment benefits and that I am required to have my own materials and equipment, insurance, health coverage, etc. In a changing economic environment, being an independent contractor allows me to be an independent contractor, the ability to be your own boss, have flexibility in your schedule, work on a part-time basis, work for multiple companies, and earn more money, etc.). Therefore, I support HB1213 to make it clear that I am an Independent Contractor to the clients who are interested in hiring me, as well as the state. Thank you for the opportunity to provide testimony and please support HB1213. Sincerely, Kelly Boy De Lima

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From: mailinglist@capitol.hawaii.gov
Sent: Thursday, February 05, 2015 10:04 AM
To: LABtestimony
Cc: hacha5555@yahoo.com
Subject: *Submitted testimony for HB1213 on Feb 6, 2015 09:00AM*

HB1213

Submitted on: 2/5/2015

Testimony for LAB on Feb 6, 2015 09:00AM in Conference Room 309

Submitted By	Organization	Testifier Position	Present at Hearing
Henry K Makua	Individual	Support	No

Comments:

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From: mailinglist@capitol.hawaii.gov
Sent: Thursday, February 05, 2015 10:04 AM
To: LABtestimony
Cc: bob@whalersrealty.com
Subject: Submitted testimony for HB1213 on Feb 6, 2015 09:00AM

HB1213

Submitted on: 2/5/2015

Testimony for LAB on Feb 6, 2015 09:00AM in Conference Room 309

Submitted By	Organization	Testifier Position	Present at Hearing
Robert J Cartwright	Individual	Comments Only	No

Comments: Aloha, I am writing on behalf of Whalers Realty Inc in support of HB1213. Our company has periodically hired Independent Contractors to perform specific services over a defined period of time. Therefore, we appreciate this opportunity to clarify who qualifies as an Independent Contractor with the state as more and more individuals are seeking contracts as sole proprietors and past rulings by the Department of Labor & Industrial Relations make it unclear as to how sole proprietors will be treated. By passing this bill, all parties can move forward with the relationship knowing where they stand. Thank you for the opportunity to provide testimony and please support HB1213. Sincerely, Robert J Cartwright

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Aloha, I am writing in support of HB1213.

I currently choose to perform music services as an independent contractor under the name Soul Kitchen. Through this business, I serve multiple clients in a given tax year and am not an employee of my customers. I realize this means that I do not receive employment benefits and that I am required to have my own materials and equipment, insurance, health coverage, etc.

In a changing economic environment, being an independent contractor allows me the ability to be my own boss, have flexibility in my schedule, work on a part-time basis, work for multiple companies, and earn more money.

Therefore, I support HB1213 to make it clear that I am an Independent Contractor to the clients who are interested in hiring me, as well as the state.

Thank you for the opportunity to provide testimony and please support HB1213.

Sincerely,

Michael Elam
Soul Kitchen

Aloha, I am writing in support of HB1213.

I currently choose to perform Shell Jewelry services as an independent contractor under the name Raenel Leauanae dba Raenel Leauanae. Through this business, I serve multiple clients in a given tax year and am not an employee of my customers. I realize this means that I do not receive employment benefits and that I am required to have my own materials and equipment, insurance, health coverage, etc.

In a changing economic environment, being an independent contractor allows me to work on a part-time basis and earn more money.

Therefore, I support HB1213 to make it clear that I am an Independent Contractor to the clients who are interested in hiring me, as well as the state.

Thank you for the opportunity to provide testimony and please support HB1213.

Sincerely,

Raenel Leauanae

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, February 05, 2015 10:48 AM
To: LABtestimony
Cc: andy@whalersrealty.com
Subject: Submitted testimony for HB1213 on Feb 6, 2015 09:00AM

HB1213

Submitted on: 2/5/2015

Testimony for LAB on Feb 6, 2015 09:00AM in Conference Room 309

Submitted By	Organization	Testifier Position	Present at Hearing
Andy Marchello	Individual	Support	No

Comments: Aloha, I am writing in support of HB1213. I currently choose to perform Realtor services as an independent contractor under the name Whalers Realty Inc. Through this business, I serve multiple clients in a given tax year and am not an employee of my customers. I realize this means that I do not receive employment benefits and that I am required to have my own materials and equipment, insurance, health coverage, etc. In a changing economic environment, being an independent contractor allows me to (list benefits to you of being an independent contractor, such as: the ability to be your own boss, have flexibility in your schedule, work on a part-time basis, work for multiple companies, earn more money, etc.). Therefore, I support HB1213 to make it clear that I am an Independent Contractor to the clients who are interested in hiring me, as well as the state. Thank you for the opportunity to provide testimony and please support HB1213. Sincerely, Andy Marchello

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B E V G A N N O N
R E S T A U R A N T S

900 HALI'IMAILE ROAD, HALI'IMAILE, MAUI, HI 96768 • PHONE 808-572-2666 • E: DOLE900@AOL.COM

Aloha, I am writing on behalf of Bev Gannon Restaurants in support of HB1213.

Our company has periodically hire Independent Contractors to perform specific services over a defined period of time. Therefore, we appreciate this opportunity to clarify who qualifies as an Independent Contractor with the state as more and more individuals are seeking contracts as sole proprietors and past rulings by the Department of Labor & Industrial Relations make it unclear as to how sole proprietors will be treated.

By passing this bill, all parties can move forward with the relationship knowing where they stand.

Thank you for the opportunity to provide testimony and please support HB1213.

Sincerely,

Bev Gannon
Bev Gannon Restaurants
900 Haliimaile Road
Haliimaile, Hawaii 96768



www.bevgannonrestaurants.com

Aloha, I am writing in support of HB1213.

I currently choose to perform Emcee, Event Host services as an independent contractor under my name. While I am currently employed full time at iHeartMedia as a radio DJ, I'm also frequently called to Emcee for corporate events and private functions. Through this business, I serve multiple clients in a given tax year and am not an employee of my customers. I realize this means that I do not receive employment benefits and that I am required to have my own materials and equipment, insurance, health coverage, etc.

In a changing economic environment, being an independent contractor allows me to earn extra income to supplement my monthly bills (mortgage, food, living expenses), and do a job that I enjoy for a variety of different employers and at a host of different locations state wide.

Therefore, I support HB1213 to make it clear that I am an Independent Contractor to the clients who are interested in hiring me, as well as the state.

Thank you for the opportunity to provide testimony and please support HB1213.

Sincerely,
Mark "Maleko" McDonnell
Star 101.9-FM, iHeartMedia Honolulu

Aloha, I am writing in support of HB1213.

I currently choose to perform music/entertainment services as an independent contractor under the name Eric Lee & Lee Enterprises. Through this business, I serve multiple clients in a given tax year and am not an employee of my customers. I realize this means that I do not receive employment benefits and that I am required to have my own materials and equipment, insurance, health coverage, etc.

In a changing economic environment, being an independent contractor allows me to be my own boss, have flexibility in my schedule, work on a part-time basis, work for multiple companies, and ultimately earn more money.

Therefore, I support HB1213 to make it clear that I am an Independent Contractor to the clients who are interested in hiring me, as well as the state.

Thank you for the opportunity to provide testimony and please support HB1213.

Sincerely,

A handwritten signature in black ink that reads "Eric Lee". The signature is written in a cursive, flowing style.

Eric Lee

Aloha, I am writing in support of HB1213.

I currently choose to perform Real Estate services as an independent contractor under the name Whalers Realty Inc. Through this business, I serve multiple clients in a given tax year and am not an employee of my customers. I realize this means that I do not receive employment benefits and that I am required to have my own materials and equipment, insurance, health coverage, etc.

In a changing economic environment, being an independent contractor allows me to be my own boss which allows me to have flexibility in my schedule, work on a part-time basis, work for multiple companies and earn more money.

Therefore, I support HB1213 to make it clear that I am an Independent Contractor to the clients who are interested in hiring me, as well as the state.

Thank you for the opportunity to provide testimony and please support HB1213.

Sincerely,

Derek Escalera

Realtor(B), GRI, SFR

Aloha, I am writing in support of HB1213.

I currently choose to perform Emcee services as an independent contractor under the name RicardoWEPA. Through this business, I serve multiple clients in a given tax year and am not an employee of my customers. I realize this means that I do not receive employment benefits and that I am required to have my own materials and equipment, insurance, health coverage, etc.

In a changing economic environment, being an independent contractor allows me the ability to be my own boss, have flexibility in my work schedule, work on a part-time basis if need be, work for multiple companies, and earn extra income.

Therefore, I support HB1213 to make it clear that I am an Independent Contractor to the clients who are interested in hiring me, as well as the state.

Thank you for the opportunity to provide testimony and please support HB1213.

Sincerely,

Ricardo R. Rosas

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, February 05, 2015 12:21 PM
To: LABtestimony
Cc: alohajeremy@gmail.com
Subject: *Submitted testimony for HB1213 on Feb 6, 2015 09:00AM*

HB1213

Submitted on: 2/5/2015

Testimony for LAB on Feb 6, 2015 09:00AM in Conference Room 309

Submitted By	Organization	Testifier Position	Present at Hearing
Jeremy Hirokawa	Individual	Support	No

Comments:

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Aloha, I am writing in support of HB1213.

I currently choose to perform Music Entertainment services as an independent contractor under the name Brad Kawakami DBA No'eau Productions. Through this business, I serve multiple clients in a given tax year and am not an employee of my customers. I realize this means that I do not receive employment benefits and that I am required to have my own materials and equipment, insurance, health coverage, etc.

In a changing economic environment, being an independent contractor allows me to (list benefits to you of being an independent contractor, such as: the ability to be your own boss, have flexibility in your schedule, work on a part-time basis, work for multiple companies, earn more money, etc.).

Therefore, I support HB1213 to make it clear that I am an Independent Contractor to the clients who are interested in hiring me, as well as the state.

Thank you for the opportunity to provide testimony and please support HB1213.

Sincerely,

Bradley N.T. Kawakami

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, February 05, 2015 12:38 PM
To: LABtestimony
Cc: eric@whalersrealty.com
Subject: Submitted testimony for HB1213 on Feb 6, 2015 09:00AM
Attachments: support of HB1213.pages

HB1213

Submitted on: 2/5/2015

Testimony for LAB on Feb 6, 2015 09:00AM in Conference Room 309

Submitted By	Organization	Testifier Position	Present at Hearing
Eric Teele	Individual	Support	No

Comments:

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Aloha, I am writing on behalf of Beach Activities of Maui, Inc in support of HB1213.

Our company has periodically hired Independent Contractors to perform specific services over a defined period of time. Therefore, we appreciate this opportunity to clarify who qualifies as an Independent Contractor with the state as more and more individuals are seeking contracts as sole proprietors and past rulings by the Department of Labor & Industrial Relations make it unclear as to how sole proprietors will be treated.

By passing this bill, all parties can move forward with the relationship knowing where they stand.

Thank you for the opportunity to provide testimony and please support HB1213.

Sincerely,

David C Weiss
Executive Vice President
Beach Activities of Maui, Inc.

Aloha, I am writing in support of HB1213.

I currently choose to perform musical, speaking, and other services as an independent contractor under the name Dan Del Negro Productions, Inc. Through this business, I serve multiple clients in a given tax year and am not an employee of my customers. I realize this means that I do not receive employment benefits and that I am required to have my own materials and equipment, insurance, health coverage, etc.

In a changing economic environment, being an independent contractor allows me to be my own boss, have flexibility in my schedule, work on a part-time basis, work for multiple companies, earn more money, etc. In addition, I prefer to pay withholding taxes, unemployment insurance, etc., through my corporation on a (currently) quarterly basis, rather than having my customers deduct these payments from every paycheck (most of which are for 1 days' work at a time).

Therefore, I support HB1213 to make it clear that I am an Independent Contractor to the clients who are interested in hiring me, as well as the state.

Thank you for the opportunity to provide testimony and please support HB1213.

Sincerely,



Daniel J. Del Negro

President, Dan Del Negro Productions, Inc.

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, February 05, 2015 1:50 PM
To: LABtestimony
Cc: maucloset@aol.com
Subject: Submitted testimony for HB1213 on Feb 6, 2015 09:00AM

HB1213

Submitted on: 2/5/2015

Testimony for LAB on Feb 6, 2015 09:00AM in Conference Room 309

Submitted By	Organization	Testifier Position	Present at Hearing
DEBRA FINKIEWICZ	Individual	Support	No

Comments: Aloha, I am a business owner of The Maui Closet Company, at 310 Hukilike Street, Kahului, Maui, Hi. Our company has periodically hired independent Contractors to perform specific service over a defined period of time. Therefore, we appreciate this opportunity to clarify who qualifies as an Independent Contractor with the state as more and more individuals are seeking contracts as sole proprietors and past ruling by the Department of Labor and Industrial Relations make it unclear as to how sole proprietors will be treated. By passing this bill, all parties can move forward with the relationship knowing where they stand. Mahalo, Debbie Finkiewicz, president, The Maui Closet Company

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Aloha, I am writing in support of HB1213.

I currently choose to perform Polynesian Entertainment services as an independent contractor under the name Manutea Nui E. Through this business, I serve multiple clients in a given tax year and am not an employee of my customers. I realize this means that I do not receive employment benefits and that I am required to have my own materials and equipment, insurance, health coverage, etc.

In a changing economic environment, being an independent contractor allows me the ability to be my own boss, have flexibility in my schedule, work on a part-time basis, work for multiple companies, earn more money, so I can provide for my family.

Therefore, I support HB1213 to make it clear that I am an Independent Contractor to the clients who are interested in hiring me, as well as the state.

Thank you for the opportunity to provide testimony and please support HB1213.

Sincerely,

Joeylene Dang

February 5, 2015

Gregory Sardinha
Dba Po'okela
1605 Ulupii Place
Kailua, HI 96734

Aloha, I am writing in support of HB1213.

I currently choose to perform entertainment services as an independent contractor under the name Gregory Sardinha dba Po'okela. Through this business, I serve multiple clients in a given tax year and am not an employee of my customers. I realize this means that I do not receive employment benefits and that I am required to have my own materials and equipment, insurance, health coverage, etc.

In a changing economic environment, being an independent contractor allows me to be the owner of my own business and the opportunity to utilize my entrepreneurial skills and abilities which allows me to earn more money, have flexibility in my schedule and work for multiple interesting companies.

Therefore, I support HB1213 to make it clear that I am an Independent Contractor to the clients who are interested in hiring me, as well as the state.

Thank you for the opportunity to provide testimony and please support HB1213.

Sincerely,


Gregory Sardinha

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, February 05, 2015 2:57 PM
To: LABtestimony
Cc: chandra_krown@yahoo.com
Subject: Submitted testimony for HB1213 on Feb 6, 2015 09:00AM

HB1213

Submitted on: 2/5/2015

Testimony for LAB on Feb 6, 2015 09:00AM in Conference Room 309

Submitted By	Organization	Testifier Position	Present at Hearing
chandra krown	Individual	Comments Only	No

Comments: Aloha, I am writing in support of HB1213. I currently choose to perform dance services as an independent contractor under the name (chandra Krown). Through this business, I serve multiple clients in a given tax year and am not an employee of my customers. I realize this means that I do not receive employment benefits and that I am required to have my own materials and equipment, insurance, health coverage, etc. In a changing economic environment, being an independent contractor allows me to have the ability to be my own boss, have flexibility in my schedule, work on a part-time basis, work for multiple companies, earn more money, and other such benefits. Therefore, I support HB1213 to make it clear that I am an Independent Contractor to the clients who are interested in hiring me, as well as the state. Thank you for the opportunity to provide testimony and please support HB1213. Sincerely, Chandra

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From: mailinglist@capitol.hawaii.gov
Sent: Thursday, February 05, 2015 3:06 PM
To: LABtestimony
Cc: pluta@maui.net
Subject: Submitted testimony for HB1213 on Feb 6, 2015 09:00AM

HB1213

Submitted on: 2/5/2015

Testimony for LAB on Feb 6, 2015 09:00AM in Conference Room 309

Submitted By	Organization	Testifier Position	Present at Hearing
Joseph D Pluta	Individual	Support	No

Comments: I strongly support HB1213. This bill must pass to stop confusion about legitimate qualifications for designation as Independent Contractors. Currently there is ambiguity that has only been able to be clarified with expensive litigation. Clarification is in the overall best interests of the people of the State of Hawaii and those who employ and are employed as Independent Contractors. Thank you. Warm Regards, Joseph D Pluta, Owner JOSEPH D PLUTA REALTY LLC 181 Lahainaluna Road, Suite I PO Box 12278 Lahaina, HI 96761 (808) 661-7990

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From: mailinglist@capitol.hawaii.gov
Sent: Thursday, February 05, 2015 3:27 PM
To: LABtestimony
Cc: josh@desilvadmc.com
Subject: Submitted testimony for HB1213 on Feb 6, 2015 09:00AM

HB1213

Submitted on: 2/5/2015

Testimony for LAB on Feb 6, 2015 09:00AM in Conference Room 309

Submitted By	Organization	Testifier Position	Present at Hearing
Joshua DeSilva	DeSilva Meeting Consultants	Support	No

Comments: Testimony for Companies/Industries That Hire Independent Contractors Aloha, I am writing on behalf of DeSilva Meeting Consultants, Inc. in support of HB1213. Our company periodically hires Independent Contractors to perform specific services over a defined period of time. Therefore, we appreciate this opportunity to clarify who qualifies as an Independent Contractor with the state as more and more individuals are seeking contracts as sole proprietors and past rulings by the Department of Labor & Industrial Relations make it unclear as to how sole proprietors will be treated. By passing this bill, all parties can move forward with the relationship knowing where they stand. Thank you for the opportunity to provide testimony and please support HB1213. Sincerely, Josh DeSilva, President

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From: mailinglist@capitol.hawaii.gov
Sent: Thursday, February 05, 2015 3:37 PM
To: LABtestimony
Cc: rikita808@gmail.com
Subject: Submitted testimony for HB1213 on Feb 6, 2015 09:00AM

HB1213

Submitted on: 2/5/2015

Testimony for LAB on Feb 6, 2015 09:00AM in Conference Room 309

Submitted By	Organization	Testifier Position	Present at Hearing
Rikita Turner	Avante-Guard LLC	Support	No

Comments: Aloha, I am writing in support of HB1213. I currently choose to perform dance and artistic services as an independent contractor under the name Avante-Guard LLC. Through this business, I serve multiple clients in a given tax year and am not an employee of my customers. I realize this means that I do not receive employment benefits and that I am required to have my own materials and equipment, insurance, health coverage, etc. In a changing economic environment, being an independent contractor allows me to be my own boss, have a flexible schedule, and work on a part-time or full time basis (depending on the week). I am also able to gain more work because I have the ability to work for multiple companies and earn more money because one business never has enough work. Therefore, I support HB1213 to make it clear that I am an Independent Contractor to the clients who are interested in hiring me, as well as the state. Thank you for the opportunity to provide testimony and please support HB1213. Sincerely, Rikita Turner owner, Avante-Guard LLC

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Aloha, I am writing on behalf of Island Events LLC , in support of HB1213.

Our company has had opportunity to periodically hire “Independent Contractors” to perform specific services over a defined period of time. Upon learning of the employment laws we have discontinued this practice and now hire all workers as “employees” as the law dictates – however it is still very confusing as to who qualifies as an independent contractor and who does not. It is costly for us to have all IC be employees but we do it as it is too difficult to know who should and should not be an IC or an Employee. It costs time, money and talent to have the current system in place.

Therefore, we appreciate this opportunity to clarify who qualifies as an Independent Contractor with the state as more and more individuals are seeking contracts as sole proprietors and past rulings by the Department of Labor & Industrial Relations make it unclear as to how sole proprietors will be treated.

By passing this bill, all parties can move forward with the relationship knowing where they stand.

Thank you for the opportunity to provide testimony and please support HB1213.

Sincerely,

(Your Name)



Testimony to the House Committee on Labor & Public Employment
Friday, February 6, 2015 at 9:00 a.m.
State Capitol - Conference Room 309

RE: HOUSE BILL 1213 RELATING TO EMPLOYMENT SECURITY

Aloha Chair Nakashima, Vice Chair Keohokalole and members of the committee:

We are Melissa Pannell and John Knorek, the Legislative Committee co-chairs for the Society for Human Resource Management – Hawaii Chapter (“SHRM Hawaii”). SHRM Hawaii represents nearly 1,000 human resource professionals in the State of Hawaii. Our members are responsible for balancing the interests of employers and employees on a daily basis. Human resource professionals are keenly attuned to the needs of employers and employees. We are the frontline professionals responsible for businesses’ most valuable asset: human capital.

We are writing to support HB 1213, which allows the department of labor and industrial relations to set criteria for independent contractor status. It establishes criteria for when the department shall presume an individual is an independent contractor. It requires the department to certify independent contractors and requires independent contractors to provide a written copy of certification to each customer. It places the burden of proving an employee-employer relationship on the certified independent contractor if the contractor files an unemployment insurance benefits claim against a customer. We believe that this bill would help promote clarity and facilitate business operations.

Please favorably consider this bill. We look forward to being a part of the continuing dialogue concerning it and other measures. Thank you for the opportunity to testify.



SHRM Hawaii, P. O. Box 3175, Honolulu, Hawaii (808) 447-1840



**Before the House Committee on Labor
and Public Employment**

DATE: Friday, February 6, 2015

TIME: 9:00 A.M.

PLACE: Conference Room 309

Re: HB 1213 Relating to Employment Security

Testimony of Melissa Pavlicek for NFIB Hawaii

We are testifying on behalf of the National Federation of Independent Business (NFIB) in opposition to HB 1213 relating to employment security. NFIB Hawaii respectfully **supports** this measure.

HB 1213 aims to allow the Department of Labor and Industrial Relations to set criteria for independent contractor status. The measure will establish criteria for applicable definitions that the department shall use to deem that an individual is an independent contractor. The language further charges the department to certify independent contractors and requires independent contractors to provide a written copy of certification to each customer. Finally, the measure places the burden of proving an employee-employer relationship on the certified independent contractor if the contractor files an unemployment insurance benefits claim against a customer.

This bill appears designed to address a chasm that exists in Hawaii's current employment and labor law. The benefits of this measure are set to improve the working conditions, opportunities, and security of those who are self-employed and/or those seeking to utilize their services.

We look forward to engaging in continued conversation and mahalo the legislature for its consideration.

February 6, 2015

The Honorable Mark Nakashima, Chair
House Committee on Labor & Public Employment
State Capitol, Room 309
Honolulu, Hawaii 96813

RE: H.B. 1213, Relating to Employment Security

HEARING: Friday, February 6, 2015, at 9:00 a.m.

Aloha Chair Nakashima, Vice Chair Keohokalole and Members of the Committee:

I am Myoung Oh, Government Affairs Director, here to testify on behalf of the Hawai'i Association of REALTORS® ("HAR"), the voice of real estate in Hawai'i, and its 8,400 members. HAR **opposes** H.B. 1213 which changes the definition of independent contractor.

The majority of our 8,400 members practice as independent contractors. The independent contractor relationships underpin the practice and business of real estate which is characterized by highly flexible, independent business professionals that provide individualized service to Hawai'i's real estate consumers.

Under H.B. 1213, the current definition of independent contractor contained in Hawai'i Revised Statutes §383-6 (which this bill seeks to delete) is consistent with well-established legal standards for independent contractors, in particular the concept of control. In short, independent contractors are free to control the time spent, manner and nature of the services they provide consistent with applicable law.

Unfortunately, HB1213 eliminates the stability and predictability of the definition and creates legal risks because it changes the well understood language of the statute and seeks to replace it with yet to be developed rules, in effect creating a new legal regime.

Moreover, HB1213 imposes certain legal requirements that directly conflicts with real estate licensing law. For example, HB1213 would require real estate licensees to register as a separate business entity with the Department of Commerce and Consumer Affairs. Hawai'i licensing law, however, requires real estate sales persons to associate with a licensed broker and prohibits any attempt to practice as a separate real estate entity.

Mahalo for the opportunity to testify.



Chamber of Commerce HAWAII

The Voice of Business

**Testimony to the House Committee on Labor & Public Employment
Friday, February 6, 2015 at 9:00 A.M.
Conference Room 309, State Capitol**

RE: HOUSE BILL 1213 RELATING TO EMPLOYMENT SECURITY

Chair Nakashima, Vice Chair Keohokalole, and Members of the Committee:

The Chamber of Commerce of Hawaii ("The Chamber") **supports** HB 1213, which allows the department of labor and industrial relations to set criteria for independent contractor status and establishes criteria for when the department shall presume an individual is an independent contractor. Further requires the department to certify independent contractors and requires the independent contractors to provide a written copy of certification to each customer. Also places the burden of proving an employer-employee relationship on the certified independent contractor if the contractor files an unemployment insurance benefits claim against a customer.

The Chamber is the largest business organization in Hawaii, representing over 1,000 businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of members and the entire business community to improve the state's economic climate and to foster positive action on issues of common concern.

The Chamber believes it is necessary for independent contractors to be defined. There is too much left to interpretation in the current law as to who qualifies as an independent contractor vs. an employee of a company. As more independent contracts are emerging in the ever-changing economic environment, clarification of who qualifies as an independent contractor would offer proper protection to legitimate independent contractors and the business that they contract with.

Thank you for the opportunity to testify.

The Twenty-Eighth Legislature
Regular Session of 2015

HOUSE OF REPRESENTATIVES
Committee on Labor and Public Employment
Rep. Mark M. Nakashima, Chair
Rep. Jarrett Keohokalole, Vice Chair
State Capitol, Conference Room 309
Friday, February 6, 2015; 9:00 a.m.

**STATEMENT OF THE ILWU LOCAL 142 ON H.B. 1213
RELATING TO EMPLOYMENT SECURITY**

The ILWU Local 142 **opposes** H.B. 1213, which allows the Department of Labor and Industrial Relations to set criteria for independent contractor status and certify them, requires the independent contractor to provide the certification to each customer, and places the burden of proof of an employer-employee relationship on the certified independent contractor when filing an unemployment insurance claim.

Rules for determining whether an independent contractor already exist and have been publicized by the Department of Labor and Industrial Relations. The criteria are available for review in the Department's Handbook for Employers on Unemployment Insurance (December 2012). Page four of that handbook states that to be considered an independent contractor, the "ABC Test" must be satisfied:

- A. Individual must be free from control or direction;
- B. Service must be performed outside the usual course of business or place of business; and
- C. Individual must be customarily engaged in an independent occupation, trade, profession or business of the same nature as that involved in the contract of service.

It is completely unrealistic, unworkable and unproductive to require the Department to certify individuals as independent contractors since an individual's status as an independent contractor depends on the facts of the relationship between the contractor and customer. In some circumstances, an employer-employee relationship will be formed where there is sufficient control, the service rendered is part of the customer's usual business, and the individual is not customarily engaged in an independent profession or business. However, it is simply impossible to determine and certify in advance that a particular relationship is or is not an employment or independent contractor relationship. If the circumstances of the relationship change, what begins as an independent contractor relationship may evolve into an employment relationship and vice versa. A single, all-encompassing determination of independent contractor status is simply not possible.

It is also unnecessary, as H.B. 1213 proposes, to require an individual to prove an employee-employer relationship exists for unemployment benefit purposes. An employer is always free to object to the payment of unemployment insurance on the basis that the Claimant was not an employee but merely an independent contractor. However, once the Legislature begins to enact laws that affect the eligibility for unemployment insurance, it begins to enter the area where the federal government has outlined broad criteria to states to whom it provides unemployment insurance funding. Before any bill like H.B. 1213 is entertained, its proponents must provide a careful analysis of how their attempt to affect employee eligibility are within federal mandates and how legislative action would not conflict with federal requirements and would not endanger federal support for Hawaii's unemployment program.

This bill may have been motivated by a situation where an individual hired as an independent contractor subsequently applied for and received unemployment benefits, claiming an employer-employee relationship existed. Rather than redefining independent contractor status, the simplest course of action to avoid such situations would be to ask the proposed independent contractor the following: (1) does he have a general excise tax license; (2) does he have workers' compensation insurance; (3) is he incorporated as a separate business; and (3) does he have other clients besides the customer. Requiring the Department to certify all independent contractors would be burdensome, unnecessary, and a waste of time and resources.

For these reasons, the ILWU respectfully requests that H.B. 1213 be held. Thank you for the opportunity to provide testimony on this matter.

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, February 05, 2015 3:54 PM
To: LABtestimony
Cc: worldofaloha@hawaii.rr.com
Subject: Submitted testimony for HB1213 on Feb 6, 2015 09:00AM

HB1213

Submitted on: 2/5/2015

Testimony for LAB on Feb 6, 2015 09:00AM in Conference Room 309

Submitted By	Organization	Testifier Position	Present at Hearing
Linda Wong	Individual	Support	No

Comments: We are in support of HB 1213. We run a wedding business and hire ministers, singers, organists, and musicians, etc. as independent contractors. These people sign an independent contractor's document, have their own GET Licenses, and are issued a 1099 by our company. We are in full support of this measure to clarify the law. Aloha, Linda Wong and Danny Kaleikini, World of Aloha

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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From: mailinglist@capitol.hawaii.gov
Sent: Thursday, February 05, 2015 4:02 PM
To: LABtestimony
Cc: ChrisMurphysMusic@gmail.com
Subject: Submitted testimony for HB1213 on Feb 6, 2015 09:00AM
Attachments: Scan0033.jpg

HB1213

Submitted on: 2/5/2015

Testimony for LAB on Feb 6, 2015 09:00AM in Conference Room 309

Submitted By	Organization	Testifier Position	Present at Hearing
Christopher Murphy	Individual	Support	No

Comments:

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From: mailinglist@capitol.hawaii.gov
Sent: Thursday, February 05, 2015 4:19 PM
To: LABtestimony
Cc: paolino@hawaii.rr.com
Subject: Submitted testimony for HB1213 on Feb 6, 2015 09:00AM
Attachments: HB1213

HB1213

Submitted on: 2/5/2015

Testimony for LAB on Feb 6, 2015 09:00AM in Conference Room 309

Submitted By	Organization	Testifier Position	Present at Hearing
Paul Marchetti	Individual	Support	No

Comments: Aloha, I am writing in support of HB1213. I currently choose to perform Music services as an independent contractor under the name Paolino Productions LLC, Through this business, I serve multiple clients in a given tax year and am not an employee of my customers. I realize this means that I do not receive employment benefits and that I am required to have my own materials and equipment, insurance, health coverage, etc. In a changing economic environment, being an independent contractor allows me to work as a Musician in the same way musicians work all over the world, such as the ability to be my own boss, have flexibility in my schedule as it is always changing, work for multiple companies, hire independent contractors if I need to for temporary work situations, and earn more money. If I and other musicians could not work as independent contractors we would not be able to survive as musicians in Hawaii. I think Music is a great think for Hawaii. I have worked as an independent contractor in Hawaii for 35 years and I have always paid my taxes. Therefore, I support HB1213 to make it clear that I am an Independent Contractor to the clients who are interested in hiring me, as well as the state. Thank you for the opportunity to provide testimony and please support HB1213. Sincerely, Paul Marchetti

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Aloha, I am writing in support of HB1213.

I currently choose to perform entertainment services as an independent contractor. Through this business, I serve multiple clients in a given tax year and am not an employee of my customers. I realize this means that I do not receive employment benefits and that I am required to have my own materials and equipment, insurance, health coverage, etc.

In a changing economic environment, being an independent contractor allows me to perform as a part time entertainer in addition to holding a regular full-time job.

Therefore, I support HB1213 to make it clear that I am an Independent Contractor to the clients who are interested in hiring me, as well as the state.

Thank you for the opportunity to provide testimony and please support HB1213.

Sincerely,

Wayne Shishido

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, February 05, 2015 4:38 PM
To: LABtestimony
Cc: macjac@hawaii.rr.com
Subject: *Submitted testimony for HB1213 on Feb 6, 2015 09:00AM*

HB1213

Submitted on: 2/5/2015

Testimony for LAB on Feb 6, 2015 09:00AM in Conference Room 309

Submitted By	Organization	Testifier Position	Present at Hearing
Henry Molina	Entertainment Maui LLC	Support	No

Comments:

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Aloha, I am writing in support of HB1213.

I currently choose to perform music entertainment services as an independent contractor under the name Nino Toscano. Through this business, I serve multiple clients in a given tax year and am not an employee of my customers. I realize this means that I do not receive employment benefits and that I am required to have my own materials and equipment, insurance, health coverage, etc.

In a changing economic environment, being an independent contractor allows me to work when I feel like, choose my attires, choose the equipment and instruments that I want to use, choose the material that I would perform at the event.

Therefore, I support HB1213 to make it clear that I am an Independent Contractor to the clients who are interested in hiring me, as well as the state.

Thank you for the opportunity to provide testimony and please support HB1213.

Sincerely,

Nino Toscano

Support H 1213

Aloha, I am writing in support of HB1213.

I currently choose to perform musical services as an independent contractor under the name Robert Shinoda. Through this business, I serve multiple clients in a given tax year and am not an employee of my customers. I realize this means that I do not receive employment benefits and that I am required to have my own materials and equipment, insurance, health coverage, etc.

In a changing economic environment, being an independent contractor allows me to be my own boss, plan my work schedule as to maximize my time and talent, work for multiple companies, earn more money, etc.).

Therefore, I support HB1213 to make it clear that I am an Independent Contractor to the clients who are interested in hiring me, as well as the state.

Thank you for the opportunity to provide testimony and please support HB1213.

Sincerely,

Robert Shinoda

QUERUBIN & ASSOCIATES LLC

PO Box 330317
Kahului, HI 96733
Daniel Querubin
Phone (808) 268-6737
Email daniel.querubin@gmail.com

2/5/2015

Aloha, I am writing in support of HB1213.

I am a Member-Manager of **QUERUBIN & ASSOCIATES, LLC** dba **CANE FIRE MUSIC**. Through this business, I currently choose to perform MUSICIAN services as an independent contractor. I serve multiple clients in a given tax year and am not an employee of my customers. I realize this means that I do not receive employment benefits and that I am required to have my own materials and equipment, insurance, health coverage, etc. In a changing economic environment, being an independent contractor allows me to be more flexible with my time and contract commitments as well as choose how and when I perform my services.

My company may also periodically hire Independent Contractors to perform specific services over a defined period of time. Therefore, I appreciate this opportunity to clarify who qualifies as an Independent Contractor with the state as more and more individuals are seeking contracts as sole proprietors and past rulings by the Department of Labor & Industrial Relations make it unclear as to how sole proprietors will be treated.

By passing this bill, all parties can move forward with the relationship knowing where they stand.

Thank you for the opportunity to provide testimony and please support HB1213.

Sincerely,

Daniel Querubin
President
Querubin & Associates, LLC

Aloha, I am writing in support of HB1213.

I currently choose to perform music services as an independent contractor under the name Sharene Taba. Through this business, I serve multiple clients in a given tax year and am not an employee of my customers. I realize this means that I do not receive employment benefits and that I am required to have my own materials and equipment, insurance, health coverage, etc.

In a changing economic environment, being an independent contractor allows me to schedule work around my families needs, and not be dependent on one source of income.

Therefore, I support HB1213 to make it clear that I am an Independent Contractor to the clients who are interested in hiring me, as well as the state.

Thank you for the opportunity to provide testimony and please support HB1213.

Aloha & Mahalo,

Sharene Taba

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, February 05, 2015 11:10 PM
To: LABtestimony
Cc: deantaba@earthlink.net
Subject: Submitted testimony for HB1213 on Feb 6, 2015 09:00AM

HB1213

Submitted on: 2/5/2015

Testimony for LAB on Feb 6, 2015 09:00AM in Conference Room 309

Submitted By	Organization	Testifier Position	Present at Hearing
Dean Taba	Individual	Support	No

Comments: Aloha, I am writing in support of HB1213. I currently choose to perform musician services as an independent contractor under the name Dean Taba. Through this business, I serve multiple clients in a given tax year and am not an employee of my customers. I realize this means that I do not receive employment benefits and that I am required to have my own materials and equipment, insurance, health coverage, etc. In a changing economic environment, being an independent contractor allows me to control my own schedule. Therefore, I support HB1213 to make it clear that I am an Independent Contractor to the clients who are interested in hiring me, as well as the state. Thank you for the opportunity to provide testimony and please support HB1213. Sincerely, Dean Taba

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Island Landscape

TESTIMONY IN STRONG SUPPORT OF HB 1213
RELATING TO EMPLOYMENT SECURITY

HEARING BEFORE THE HOUSE COMMITTEE ON
LABOR & PUBLIC EMPLOYMENT

State Capitol, Room 309

February 6, 2015

9 AM

Aloha Chair Nakashima, Vice Chair Keohokalole, and Members of the Committee:

I am writing in strong support of HB1213.

As a sole proprietor, I am hired as an independent contractor to perform landscaping services for multiple clients in a given tax year and am not an employee of my clients. I well understand that this means that I do not receive employment benefits and am required to cover certain costs. This comes with being in business for myself, which I have freely chosen to do.

Additionally, I must sometimes hire other independent contractors to perform specific services that I do not regularly provide to meet a client's particular needs. Therefore, this bill allows me to make it clear for my client's that I am an independent contractor, while also providing me with assurances that those whom I contract with that meet this independent contractor definition will be considered such by the state. This will avoid confusion and prevent future determinations by DLIR to the contrary.

Mahalo for the opportunity to testify on this measure. I ask for your support of HB1213 as well.

Sincerely,

Brian Kashima
Owner

From: mailinglist@capitol.hawaii.gov
Sent: Friday, February 06, 2015 12:43 AM
To: LABtestimony
Cc: duanefeig808@hotmail.com
Subject: Submitted testimony for HB1213 on Feb 6, 2015 09:00AM

HB1213

Submitted on: 2/6/2015

Testimony for LAB on Feb 6, 2015 09:00AM in Conference Room 309

Submitted By	Organization	Testifier Position	Present at Hearing
Duane Feig	Individual	Comments Only	No

Comments: Aloha, I am writing in support of HB1213. I currently choose to perform entertainment services as an independent contractor under the name DNK Productions LLC. Through this business, I serve multiple clients in a given tax year and am not an employee of my customers. I realize this means that I do not receive employment benefits and that I am required to have my own materials and equipment, insurance, health coverage, etc. In a changing economic environment, being an independent contractor allows me to (list benefits to you of being an independent contractor, such as: the ability to be your own boss, have flexibility in your schedule, work on a part-time basis, work for multiple companies, earn more money, etc.). Therefore, I support HB1213 to make it clear that I am an Independent Contractor to the clients who are interested in hiring me, as well as the state. Thank you for the opportunity to provide testimony and please support HB1213. Sincerely, Duane Feig

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