

DAVID Y. IGE
GOVERNOR

SHAN S. TSUTSUI
LIEUTENANT GOVERNOR



LINDA CHU TAKAYAMA
DIRECTOR

LEONARD HOSHIO
DEPUTY DIRECTOR

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: dlir.director@hawaii.gov

March 14, 2017

To: The Honorable Gilbert S.C. Keith-Agaran, Chair,
The Honorable Karl Rhoads, Vice Chair, and
Members of the Senate Committee on Judiciary and Labor

Date: Tuesday, March 14, 2017
Time: 9:00 am
Place: Conference Room 016

From: Linda Chu Takayama, Director
Department of Labor and Industrial Relations (DLIR)

Re: H.B. No. 347 HD2 Relating to Employment Security

I. OVERVIEW OF PROPOSED LEGISLATION

HB347 HD2 proposes to amend section 383-6, Hawaii Revised Statutes (HRS), by adding definitions and codifying the 20 factors, currently contained in Hawaii Administrative Rules (HAR) 12-5-2, to require that these criteria "shall be used by the department for determining whether an individual could be deemed an independent contractor."

DLIR strongly opposes this measure that, by specifying that a "preponderance" of the 20 factors be met to adjudicate independent contractor status and by defining "client" and "independent contractor," adds more confusion to an already complex determination process. The bill as written defeats the purpose of clarifying the distinction between employment and self-employment, possibly aggravating worker misclassification issues and denying more individuals and families protection. Further, the measure creates contradictions in statutory interpretation, which could delay decision-making and may encourage more appeals.

DLIR notes that one problem it has been confronting is employers falsely identifying employees as independent contractors, which occurred in the Ewa Wing of the Ala Moana Center and the Maile Sky Court Hotel investigations, thereby denying workers' compensation, temporary disability and health care insurance to their workers, and also avoiding payment of unemployment

insurance contributions, federal unemployment taxes, social security and other taxes.

After an adverse court ruling, the Department took steps to address statutory requirements, investigative procedures, and ongoing training, which has resulted in significant improvements in evidentiary findings and quality of audit determinations. Extensive training was conducted in 2015, followed up with continuous monitoring and review of auditor decisions to prevent erroneous rulings.

Complete documentation of evidence and compilation of appeal records have been stressed to support auditors' findings in the event of appeals or judicial reviews. More information pertaining to employment coverage decisions is provided in the comments section below. DLIR has begun posting coverage determinations on the Referee's website at <http://labor.hawaii.gov/esaro/main/master-and-servant-appeals-383-6-hrs/>.

II. CURRENT LAW

The IRS applies the common-law rule for Federal Unemployment Tax Act (FUTA) purposes and developed the 20 point criteria as a guide to gather and evaluate facts relevant to an employer's right to control and direct an individual who performs services, whether that right is exercised or not. Whereas only part "A" of the ABC test must be passed to meet federal conformity requirements, section 383-6, HRS, requires that all three prongs be satisfied to render an independent contractor ruling under state law.

Section 383-6, HRS, provides that services performed by an individual for wages or under any contract of hire shall be deemed to be employment subject to chapter 383, HRS, irrespective of whether the common law relationship of master and servant exists, unless it is shown to the Department that each of 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 is performed or that the service is performed outside of 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.

HAR section 12-5-2 defines terms used in the ABC test and includes the 20 factors intended to be used as a guide in determining whether an individual is an employee under the common law, master-servant criterion. Section 12-5-2 clearly enunciates that the *degree of importance of each factor varies depending on the occupation and the factual context* in which the services are performed. While these 20 elements are normally relied upon, it is not an exhaustive list and other factors may be relevant.

III. COMMENTS ON THE HOUSE BILL

Significant Differences Between HB 347 HD2 and SB 345:

1. HB347 HD2 proposes to codify the 20 factors from HAR §12-5-2, while SB345 proposes to codify new 20 factors that differ from HAR §12-5-2 and IRS Revenue Ruling 87-41, which introduced the guidelines.
2. HB347 HD2 states that “(T)he twenty factors set forth in this subsection **shall be used by the department** for determining whether an individual could be deemed an independent contractor.” SB 345 states that “(T)he twenty factors set forth below **shall be guidelines** for determining whether an individual could be deemed an independent contractor.”
3. HB347 HD2 states that: (A) preponderance of the following twenty factors may indicate a worker is an independent contractor ...” SB 345 states that: (A) preponderance of the following twenty factors **shall** indicate whether an individual is an independent contractor....”

Similar language contained in HB 347 HD2 and SB 345:

1. Adds definitions of “client” and “independent contractor” in subsection (c).
2. Deletes references to master-servant and replaces with “independent contractor” and “employer and employee” in subsection (a)
3. Adds the requirement in subsection (a) that, to overcome the presumption of employment, the Department must determine that a **preponderance** of the 20 factors proposed in the bill has been met and the 3-pronged ABC test is passed.

DLIR has serious concerns regarding HB347 HD2 as the measure creates contradictions in statutory interpretation, which would delay decision-making and may encourage more appeals.

The amendments proposed in Section 2 create conflicts by effectively requiring the application of **three separate** tests to determine employee-employer

relationship:

1. The ABC test in subsection (a);
2. The preponderance of 20 factors in subsections (a) and (b);
3. The definition of “independent contractor” in subsection (c).

Including the new definitions and the preponderance standard is superfluous in that the ABC test encompasses the 20 factors in the A test of control and the substance of the “independent contractor” definition in the C test.

The additional requirements as proposed may confuse employers, who are responsible for determining whether an individual is in employment or self-employment. If applying the wrong standard results in misclassification of workers as independent contractors, employers may be subject to retroactive federal (FUTA, FICA) and state unemployment insurance (UI) taxes as well as assessment of penalties.

DLIR offers the following information for the Committee’s consideration:

- DLIR made 397 determinations of employee or independent contractor status in 2016.
- DLIR determined 313 were covered employment decisions involving 574 individuals.
- DLIR determined 84 were independent contractors involving 169 individuals.

Please find attached the services DLIR determined were either covered employment or independent contractors in 2016.

LEGISLATIVE INTENT

In 1932, in the midst of the Great Depression, Wisconsin became the first state in the U.S. to enact an unemployment insurance law. On August 14, 1935, President Franklin Delano Roosevelt signed into law the Social Security Act, which contained provisions for old age insurance, welfare, and unemployment insurance.

In May 1937, the Supreme Court upheld the Social Security Act as constitutional and by August 1937, the 48 states, Alaska, Hawaii, and the District of Columbia had enacted their own Unemployment Insurance laws.¹

Consistent with the Social Security Act of 1935, Hawaii’s Unemployment Insurance (UI) law was enacted as remedial social legislation with the overall purpose to avoid economic insecurity caused by unemployment. While UI law was established in 1937, the ABC test was included in 1939 to broadly define and interpret “employment” to effectuate the underlying intent of the statute. In 1941, the Legislature added “irrespective of whether the common-law relationship of master and servant exists...” to the presumption of employment, unless ABC provisions

applied.

In 1935, Wisconsin included the ABC test in their UI law. When states were in the process of drafting their UI statutes, the Committee on Legal Affairs of the Interstate Conference of Unemployment Compensation Agencies unanimously agreed that the test of coverage should not be restricted to the master-servant relationship, which might allow creation of legal entities to evade coverage. The Committee recommended Wisconsin's ABC test for all state laws.

DLIR notes that nearly 80 years of legislative history and UI philosophy would be reversed for reasons that are unclear.

¹ <https://www.dol.gov/ocia/pdf/75th-anniversary-summary-final.pdf>

2016 Covered Worker Determinations

<u>Branch</u>	<u>Services</u>	<u># Covered</u>
Maui	Construction	2
Maui	Ukulele Instructor	1
Maui	Laborer	37
Maui	Skills Trainer	1
Maui	Sales	4
Maui	Grant Developer	1
Maui	Embroiderer	1
Maui	Billing Clerk	1
Maui	Office manager	2
Maui	Realtor assistant	1
Maui	Tour Driver	2
Maui	Remodeling services	1
Maui	Massage Therapist	14
Maui	Installation/design	1
Maui	Registrar	1
Maui	CAD Designer	1
Maui	Caretaker	1
Maui	Fundraiser	1
Maui	Baker	1
Maui	Tilesetter	1
Maui	Doctor	1

Maui	Maintenance	2
Maui	Kite Repairer	1
Maui	Service Workers	39
Maui	Corporate officer	4
Maui	Executive Director	1
Maui	Babysitter	1
Maui	Surf Instructor	1
Maui	Real estate sales	1
Maui	Conference Assistant	1
Maui	Bookkeeper/Accountant	1
Maui	Restaurant service worker	1
Maui	Chef	1

Oahu	Outreach Specialist	1
Oahu	Draftsman	1
Oahu	Dentist	1
Oahu	Maintenance	2
Oahu	Cleaner	9
Oahu	Massage Therapist	6
Oahu	Drivers	51
Oahu	Bookkeepers	12
Oahu	Veterinarian	2
Oahu	Graphic Designer	1
Oahu	Sales	11
Oahu	Car detailer	1
Oahu	Translator	2
Oahu	Demonstrator	7
Oahu	Home sewer	1
Oahu	Product Demonstrator	2
Oahu	Truck Driver	1
Oahu	Software developer	1
Oahu	Laborer	4
Oahu	ice cream maker	1
Oahu	Planner	1
Oahu	Administrator	1
Oahu	Videographer	2

Oahu	Project manager	2
Oahu	Paralegal	1
Oahu	Pharmacist	1
Oahu	Mechanic	1
Oahu	Massage therapist	3
Oahu	Manicurist	2
Oahu	Administrative Asst	3
Oahu	Marketing Representative	2
Oahu	DJ	1
Oahu	Teacher	2
Oahu	Summer intern	1
Oahu	Trainer	2
Oahu	Innkeeper	1
Oahu	Cashier	1
Oahu	Service workers	4
Oahu	Electrician/helper	8
Oahu	Archeologist	1
Oahu	Caregiver	4
Oahu	Drywall; carpenter	5
Oahu	Doctor	14
Oahu	Transcriber	1
Oahu	Surfboard repair	1
Oahu	Sonar Operator	1
Oahu	Esthetician	5

Oahu	Auto painter	1
Oahu	Fisherman	28
Oahu	Computer technology	1
Oahu	Tour Driver	3
Oahu	Camp Worker	1
Oahu	Yoga Instructor	1
Oahu	Pharmaceutical Representative	1
Oahu	Medical billing clerk	1
Oahu	Counter help	1
Oahu	Musician	7
Oahu	Field Surveyor	1
Oahu	Appliance Repairer	1
Oahu	Consultant	2
Oahu	Medical services	9
Oahu	Diving Instructor	1
Oahu	Carpenter/Helper	4
Oahu	Imu Preparer	1
Oahu	Secretary	1
Oahu	Nurse Educator	1
Oahu	Painter	17
Oahu	Landscaper	1
Oahu	Tree trimmer	1
Oahu	Insurance Specialist	1
Oahu	Screenwriter/video editor	2

Oahu	Events Coordinator	4
Oahu	Projects Manager	1
Oahu	Technical Writer	1
Oahu	Merchandiser	1
Oahu	Cruise ship workers	17
Oahu	Surf Instructor	1
Oahu	Phlebotomist	1
Oahu	Vending machine repairman	1
Oahu	Bus chaperone	1
Oahu	Instructor	1
Oahu	DMV Helper	1
Oahu	Draftsman	1
Oahu	Tattoo artist	1
Oahu	Waitress	20
Oahu	Repair/maintenance	10
Oahu	Chorus performers	20
Oahu	Optometrist	1
Oahu	Kitchen helper	1
Oahu	Janitor	1
Oahu	Location manager	1
Oahu	Laborer	4
Oahu	Office helper	1
Oahu	Emissions tester	1
Oahu	Tile setter	1

Oahu	Phone sales	1
Oahu	Lab Director	1
Oahu	Researcher; administrator	2
Oahu	Nurse	1
Oahu	Engagement Specialist	1
Oahu	Domestic Services	2
Oahu	Tour guide	1
Oahu	Marketing/PR	2
Oahu	Telecom Installer	1
Oahu	Clerical	1
Oahu	Marine services	1
Oahu	Contractor	1
Oahu	Scientist	1
Oahu	Account Manager	1
Oahu	Blinds Installer	1
Oahu	Reservations manager	1
Oahu	Supervisor	1
Oahu	Bike Rider	1
Oahu	Program Coordinator	1
Oahu	Model	1
Oahu	Web programmer	1
Oahu	Hair stylists	9
Oahu	Administrative services	1
Oahu	CAD draftsman	1

Oahu	Dock workers	3
Oahu	Boat repair/maintenance	6

Hawaii	Laborer	1
Hawaii	Receptionist/Insurance research	2
Hawaii	Receptionist	3
Hawaii	Automation engineer	1
Hawaii	Internet servicer	1
Hawaii	Production Assistant	1
Hawaii	Transcriber	1
Hawaii	Mobile Road Service	1
Hawaii	Sales;photography;laborer	12
Hawaii	Farm supply workers	5
Hawaii	Tax preparer	1
Hawaii	Teacher's Aide	1
Hawaii	Consultant	1
Hawaii	Janitor	1

2016 Independent Contractor Determinations

<u>Branch</u>	<u>Services</u>	<u># IC</u>
Maui	Photography and web design	1
Oahu	Family Engagement Specialist	1
Oahu	CPA, Web Programmer, copywriter	3
Hawaii	Paving, Payroll, Landscape Maintenance	3
Oahu	Administrative	1
Hawaii	Maintenance, attorney	2
Oahu	Information technology consultant	1
Maui	Carpet Installer	1
Oahu	Singer	1
Maui	Babysitter	1
Maui	Landscaping/Maintenance	1
Oahu	Legal messenger	1
Oahu	Attorney; seminar solicitor	2
Oahu	Counselor	1
Hawaii	Construction worker, handyman, Draftsman, architect, special duty officer	12
Hawaii	Scanner; computer maintenance	2
Maui	Bookkeeper	1
Oahu	Event Coordinator	1
Oahu	Cultural Monitor	1
Oahu	Electrician; plumber	3

Oahu	Singer	1
Hawaii	Website maintenance; IT services; legal Services	4
Hawaii	Towing; Repossessing cars	5
Maui	Consultant	1
Maui	Handyman	1
Maui	Cleaning business	1
Oahu	Counselor	1
Oahu	Bookkeeper	1
Oahu	Graphic designer	1
Oahu	Media Production	1
Hawaii	Medical Billing	1
Hawaii	Drone repairman; magician	2
Maui	Maintenance	2
Oahu	Handyman	1
Oahu	Consultant	1
Oahu	Painter, demolition, electrician Drywall framing, sheet metal work	11
Oahu	Design & drafting	3
Oahu	Consultant	1
Maui	Tile setter; painter; consultant	3
Oahu	Marketing consultant	1
Oahu	Program facilitator	1
Maui	Grant writer	1

Maui	Computer repair	1
Oahu	Window washing	1
Hawaii	Security installation; cleaner	2
Hawaii	Accountant; handyman	5
Hawaii	Auto body repair; cleaner; graphic designer; handyman; towing service	7
Oahu	Hula instructor	1
Oahu	Computer file conversion	1
Oahu	Graphic designer; product demonstrators; Sales representatives	6
Oahu	CPA	1
Hawaii	Cleaner; computer repair	2
Oahu	Mortgage specialist	1
Maui	Crystal Rainbows LLC	2
Maui	Sales	1
Maui	Construction	1
Maui	Hair straightener	1
Oahu	Cultural Consultant	1
Oahu	Computer maintenance	1
Hawaii	Musicians; accountant; marketing Consultant; bookkeeper; handyman	9
Hawaii	Landscaper	1
Oahu	CPA	1
Oahu	Contractor	1

Maui	Property manager	1
Maui	Clothing sales	1
Maui	Travel consultant	1
Maui	Private tour guide	1
Maui	Real estate consultant	1
Hawaii	Bookkeeper	1
Hawaii	Payroll service provider	1
Oahu	Construction	1
Oahu	Photographer	1
Maui	Auto repair; drywall subcontractor	3
Oahu	Cleaner	1
Oahu	Interior designer; transaction coordinator; Handyman; photographer	4
Oahu	Consultant	1
Hawaii	Bookkeeper; painters	3
Hawaii	Accountant; attorney; graphic designer; Maintenance	6
Hawaii	AC repair; drywall installer; binder designer; tile installer; pool repair; IT service; rock wall builder; carpet installers; concrete worker	10

**Testimony to the Senate Committee on Judiciary and Labor
Tuesday, March 14, 2017 at 9:00 A.M.
Conference Room 016, State Capitol**

RE: HOUSE BILL 347 HD2 RELATING TO EMPLOYMENT SECURITY

Chair Keith-Agaran, Vice Chair Rhoads, and Members of the Committee:

The Chamber of Commerce Hawaii ("The Chamber") would like to **provide comments** regarding HB 347 HD2, which clarifies Hawaii's employment security law for independent contractors by requiring the use of twenty factors by the Department of Labor Industrial Relations when determining whether an individual is considered an independent contractor; requires the Director of Labor and Industrial Relations to report to the Legislature prior to the Regular Session of 2018 regarding guidelines developed by the unemployment insurance coverage committee; requires an annual report to the Legislature regarding covered employment determinations.

The Chamber is Hawaii's leading statewide business advocacy organization, representing approximately 1,600+ 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 independent contractors are an important part of Hawaii's business community and economy. We have seen too much of a broad interpretation in the current law as to who qualifies as an independent contractor vs. an employee of a company. However, we do have some concerns and ask that the following subsections be deleted from Section 2:

- (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;
- (2) The service is either outside the usual course of the business for which the service is performed or that the service is performed outside of 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.

While we have some concerns, we ask that the bill be passed for further discussion. Thank you for the opportunity to testify.



HAWAII GOVERNMENT EMPLOYEES ASSOCIATION

AFSCME Local 152, AFL-CIO

RANDY PERREIRA, Executive Director • Tel: 808.543.0011 • Fax: 808.528.0922

The Twenty-Ninth Legislature, State of Hawaii
The Senate
Committee on Judiciary and Labor

Testimony by
Hawaii Government Employees Association

March 14, 2017

H.B. 347, H.D. 2 - RELATING TO
EMPLOYMENT SECURITY

The Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO opposes the purpose and intent of H.B. 347, H.D. 2 which changes the employment security law for independent contractors by requiring the use of twenty factors by the Department of Labor Industrial Relations. Independent contractors do not have the ability to claim for workers compensation nor can they collect unemployment insurance. Passage of this legislation will adversely affect many workers and we respectfully request the Committee to defer this measure.

Thank you for the opportunity to testify in opposition of the above legislation.

Respectfully submitted,

Randy Perreira
Executive Director



Randy Perreira
President

HAWAII STATE AFL-CIO

345 Queen Street, Suite 500 • Honolulu, Hawaii 96813

Telephone: (808) 597-1441

Fax: (808) 593-2149

The Twenty-Ninth Legislature, State of Hawaii
Hawaii State Senate
Committee on Judiciary and Labor

Testimony by
Hawaii State AFL-CIO
March 14, 2017

H.B. 347, H.D. 2 – RELATING TO
EMPLOYMENT SECURITY

The Hawaii State AFL-CIO strongly opposes H.B. 347, H.D. 2 which clarifies Hawaii's employment security law for independent contractors by requiring the use of twenty factors by the Department of Labor Industrial Relations when determining whether an individual is considered an independent contractor and requires the Director of Labor and Industrial Relations to report to the Legislature prior to the Regular Session of 2018 regarding guidelines developed by the unemployment insurance coverage committee.

The Hawaii State AFL-CIO is concerned changing the independent contractor law could be detrimental to a number of workers in the state of Hawaii. Independent contractors have several disadvantages such as not having the ability to collect unemployment insurance or claim workers' compensation. As a result, the Hawaii State AFL-CIO strongly urges the Committee on Judiciary and Labor to defer H.B. 347, H.D. 2 indefinitely.

Thank you for the opportunity to testify.

Respectfully submitted,

Randy Perreira
President



HOUSE OF REPRESENTATIVES
The Twenty-Ninth Legislature
Regular Session of 2017

COMMITTEE ON JUDICIARY AND LABOR
Senator Gilbert S.C. Keith-Agaran, Chair
Senator Karl Rhoads, Vice Chair

RE: HB 347 HD2 - RELATING TO EMPLOYMENT SECURITY

Date:	Tuesday, March 14, 2017
Time:	9:00 A.M.
Conference Room 016 State Capitol 415 South Beretania Street	

Aloha Chair Keith-Agaran, Vice Chair Rhoads and Members of the Committee,

We are the representatives of the film and entertainment industry unions, Brenda Ching, SAG-AFTRA Hawaii Local, Irish Barber, I.A.T.S.E. Local 665, Steve Pearson, American Federation of Musicians' Local 677 and Wayne Kaululaau, Hawaii Teamsters & Allied Workers Local 996. Collectively, we represent over 1700 members who work in film, television, music and new media productions as performers, crew, musicians and drivers in Hawaii.

We **strongly oppose** HB 347 HD 2 which proposes to modify §383-6 of the Hawaii Revised Statutes. Many workers would likely be negatively affected by this measure, particularly those who work in the creative fields. Many creative professionals work in different locations and situations and are regularly misclassified as independent contractors. This not only tends to suppress the wages in these areas, but also places an increased tax burden on those workers while denying them protections granted by the National Labor Relations Act and the Fair Labor Standards Act. We feel this proposal would only serve to muddle the definition of employee rather than clarify it.

In a recent example, orchestral musicians in three states were misclassified by management as independent contractors. This classification was made primarily to [prevent the musicians from organizing](#). After initially being dismissed, the [NLRB ruled](#) that they were employees, not contractors. The case eventually made its way to the US Court of Appeals and the [D.C. Circuit Court ruled in favor of the musicians](#) last year.

On a larger scale, this proposal has the potential to run afoul of Federal Labor Laws. In July 2015, the U.S. Department of Labor issued [new guidelines](#) on the misclassification of employees as independent contractors:

- “ A worker who is economically dependent on an employer is suffered or permitted to work by the employer. Thus, applying the economic realities test in view of the expansive definition of “employ” under the Act, most workers are employees under the [Fair Labor Standards Act](#). ”
- “ **...the economic realities of the relationship, and not the label an employer gives it, are determinative.** Thus, an agreement between an employer and a worker designating or labeling the worker as an independent contractor is not indicative of the economic realities of the working relationship and is not relevant to the analysis of the worker’s status. ”



SAG-AFTRA



Musicians' Association of Hawai'i



Providing clarity to both employers and workers would be welcomed, however we believe that this could be achieved through education, outreach, and enforcement of current laws versus amending the State Statues.

We appreciate the legislature's strong support of the industry and Hawaii's creative professionals. Thank you for giving us the opportunity to offer testimony on this measure.

Brenda Ching
SAG-AFTRA Hawaii

Irish Barber
I.A.T.S.E. Local 665

Steve Pearson
A.F.M. Local 677

Wayne Kaululaau
Teamsters Local 996

From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc:
Subject: Submitted testimony for HB347 on Mar 14, 2017 09:00AM
Date: Monday, March 13, 2017 2:06:10 AM

HB347

Submitted on: 3/13/2017

Testimony for JDL on Mar 14, 2017 09:00AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Brien Matson	Individual	Oppose	No

Comments: As a former President of the Hawaii Musicians' Union local 677, and as a freelance musician, I agree with the testimony of the Hawaii chapters of SAG-AFTRA, I.A.T.S.E, Musicians' Association, and the Teamsters. I strongly oppose HB 347 HD 2 which proposes to modify §383-6 of the Hawaii Revised Statutes. Many workers would likely be negatively affected by this measure, particularly those who work in the creative fields. Many creative professionals work in different locations and situations and are regularly misclassified as independent contractors. This not only tends to suppress the wages in these areas, but also places an increased tax burden on those workers while denying them protections granted by the National Labor Relations Act and the Fair Labor Standards Act. I feel this proposal would only serve to muddle the definition of employee rather than clarify it.

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

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

From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc:
Subject: *Submitted testimony for HB347 on Mar 14, 2017 09:00AM*
Date: Monday, March 13, 2017 1:36:02 PM

HB347

Submitted on: 3/13/2017

Testimony for JDL on Mar 14, 2017 09:00AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Luly Unemori	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.

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

From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc:
Subject: Submitted testimony for HB347 on Mar 14, 2017 09:00AM
Date: Monday, March 13, 2017 2:24:15 PM

HB347

Submitted on: 3/13/2017

Testimony for JDL on Mar 14, 2017 09:00AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Thomas Cook	Individual	Support	No

Comments: Please help our small business in Hawaii. This is not an attempt to circumvent the labor laws. This adds clarity for the Department of Labor so they allow people to work when they are not an employee but providing a service. I am a general Contractor and support license laws and employment laws. This clarifies the in between. Thank you Thomas Cook on Maui

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

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