

**PRESENTATION OF THE
CONTRACTORS LICENSE BOARD**

TO THE HOUSE COMMITTEE ON
LABOR AND PUBLIC EMPLOYMENT

TWENTY-NINTH LEGISLATURE
Regular Session of 2017

Thursday, February 9, 2017
10:00 a.m.

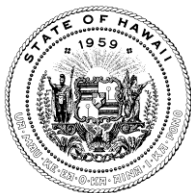
WRITTEN TESTIMONY ONLY

TESTIMONY ON HOUSE BILL NO. 378, RELATING TO LICENSING.

TO THE HONORABLE AARON LING JOHANSON, CHAIR,
AND MEMBERS OF THE COMMITTEE:

My name is Candace Ito, Executive Officer for the Contractors License Board ("Board"), Professional and Vocational Licensing Division, Department of Commerce and Consumer Affairs. The Board has not had an opportunity to review this bill, but will be discussing it at its next Board meeting scheduled for Friday, February 17, 2017. Therefore, it is not able to offer comments or take a position on the measure at this time.

Thank you for the opportunity to provide written testimony on House Bill No. 378.



DAVID Y. IGE
GOVERNOR
SHAN S. TSUTSUI
LT. GOVERNOR

STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
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CATHERINE P. AWAKUNI COLÓN
DIRECTOR
JO ANN M. UCHIDA TAKEUCHI
DEPUTY DIRECTOR

PRESENTATION OF
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
REGULATED INDUSTRIES COMPLAINTS OFFICE

TO THE HOUSE COMMITTEE
ON
LABOR AND PUBLIC EMPLOYMENT

TWENTY-NINTH STATE LEGISLATURE
REGULAR SESSION, 2017

THURSDAY, FEBRUARY 9, 2017
10:00 A.M.

TESTIMONY ON HOUSE BILL NO. 378
RELATING TO LICENSING

TO THE HONORABLE AARON LING JOHANSON, CHAIR,
AND TO THE HONORABLE DANIEL HOLT, VICE CHAIR,
AND MEMBERS OF THE COMMITTEE:

The Department of Commerce and Consumer Affairs ("Department") appreciates the opportunity to testify on House Bill No. 378, Relating to Licensing. My name is Daria Loy-Goto and I am the Complaints and Enforcement Officer for the Department's Regulated Industries Complaints Office ("RICO"). RICO offers testimony in opposition to the bill.

House Bill No. 378 requires an investigator to issue citations to persons whom the investigator determines to be acting in the capacity of or engaging in the business of a contractor without a license.

Under current law, a RICO investigator may issue a citation to an individual engaged in unlicensed contracting. Fines for a first offense can be issued for \$2,500 or 40% of the contract price, with minimum fines increasing for second and third offenses.

In addition to issuing citations, RICO staff also file civil actions in Circuit Court. Possible remedies in Circuit Court actions include (1) permanent injunctions prohibiting future unlicensed activity, (2) civil fines ranging from \$2,500 or 40% of the contract price for a first offense, with minimum fines increasing for second and third offenses, (3) enhanced fines when elderly persons are targeted, (4) enhanced fines for contracting work following an emergency or natural disaster, and (5) orders disconnecting telephone numbers used in advertisements and listings.

Whether a RICO investigator issues a citation or recommends a civil action be filed depends on information obtained during the investigation. Information can include copies of contracts, specifications, and change orders, building permit records, proof of payments made, and information about prior offenses. Additional interviews of property owners, employees, and subcontractors may also be required. Information is rarely available at the project site.

RICO is concerned House Bill No. 378 would limit the ability of a RICO investigator to conduct further investigation before issuing a citation, resulting in minimum \$2,500.00 fines being assessed in virtually every case. In addition to limiting fine amounts, RICO believes the bill would prohibit RICO from pursuing civil actions in any case in which a RICO investigator visits a project and determines an individual to be acting in the capacity of or engaging in the business of a contractor

Testimony on House Bill No. 378

February 9, 2017

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without a license. Such a limitation would prevent RICO from pursuing important civil remedies including court-ordered injunctions and enhanced fines.

While RICO appreciates efforts to enhance tools available to us, we believe the language of House Bill No. 378 unintentionally limits RICO's enforcement in this important area and we respectfully request the bill be held.

Thank you for the opportunity to testify on House Bill No. 378. I will be happy to answer any questions the Committee may have.

Hawai'i Construction Alliance

P.O. Box 179441
Honolulu, HI 96817
(808) 348-8885

February 7, 2017

The Honorable Aaron Ling Johanson, Chair
The Honorable Daniel Holt, Vice Chair
and members
House Committee on Labor & Public Employment
415 South Beretania Street
Honolulu, Hawai'i 96813

RE: Strong Support for HB378, Relating to Licensing

Dear Chair Johanson, Vice Chair Holt, and members:

The Hawai'i Construction Alliance is comprised of the Hawai'i Regional Council of Carpenters; the Laborers' International Union of North America, Local 368; the Operative Plasterers' and Cement Masons' Union, Local 630; International Union of Bricklayers & Allied Craftworkers, Local 1; and the Operating Engineers, Local Union No. 3. Together, the member unions of the Hawai'i Construction Alliance represent 15,000 working men and women in the basic crafts of Hawai'i's construction industry.

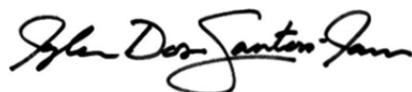
We **strongly support HB378**, which would require an investigator to issue a citation to any person acting in the capacity of or engaging in the business of a contractor within the State without having a required license.

The Hawai'i Construction Alliance has been extremely concerned by the increasing problem of unscrupulous employers not following laws designed to protect the health and safety of Hawai'i workers, including licensing. As was discovered on multiple major jobsites in Ala Moana and Waikiki over the past two years, unlicensed activity is far too abundant in our community.

Currently, HRS §444-10.5 allows an investigator discretion into whether to issue a citation to persons acting as a contractor without a proper license. We believe that in cases of unlicensed activity, such persons should be automatically issued a citation.

We note that HRS §444-10.5 already includes remedies to object to a citation, including a process to request a hearing from the DLIR director, and an appeals process to circuit court.

Mahalo,



Tyler Dos Santos-Tam
Executive Director
Hawai'i Construction Alliance
execdir@hawaiiconstructionalliance.org

IRONWORKERS STABILIZATION FUND

February 8, 2017

Aaron Ling Johanson, Chair
Committee on Labor and Public Employment
House of Representative
State Capitol
415 S. Beretania Street
Honolulu, Hawaii 96813

Dear Honorable Chair Johanson and Members of the Committee on Labor and Public Employment:

Re: Strong Support for HB 378 – Relating to Licensing

We are in strong support of HB 378, Relating to Licensing.

This bill will afford more protection to the general public from persons performing unlicensed activity. The State has determined that at least four (4) years of experience is the minimal requirements for licensed contractor activity in any given license area (HAR §16-77-18; §16-77-39 – 46). Allowing unlicensed activity to go unchecked will encourage unlawful behavior and keep business away from duly licensed contractors that are playing by the rules.

We have seen too many instances where our elderly and most vulnerable have been taken advantage of by those performing unlicensed activity– often times, performing sub-par and unpermitted work, and not completing the project, leaving the property owners to find others to complete or fix the job. We believe this bill will be another step in protecting the people of Hawai`i from being taken advantage of by those willing to perform unlicensed activity.

We strongly support this measure for the working men and women of Hawaii. Thank you for your time and consideration.

holt1 - Joyleanne

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 6, 2017 5:27 PM
To: LABtestimony
Cc: mendezj@hawaii.edu
Subject: *Submitted testimony for HB378 on Feb 9, 2017 10:00AM*

HB378

Submitted on: 2/6/2017

Testimony for LAB on Feb 9, 2017 10:00AM in Conference Room 309

| Submitted By | Organization | Testifier Position | Present at Hearing |
|-----------------------|---------------------|---------------------------|---------------------------|
| Javier Mendez-Alvarez | 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

HB 378

Late testimony

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Email: info@gcawhawaii.org
Website: www.gcawhawaii.org

LATE

GCA of Hawaii

GENERAL CONTRACTORS ASSOCIATION OF HAWAII

Quality People. Quality Projects.

LATE

LATE

February 9, 2017

TO: HONORABLE AARON JOHANSON, CHAIR HONORABLE DANIEL HOLT,
VICE CHAIR AND MEMBERS OF THE HOUSE COMMITTEE ON LABOR
AND EMPLOYMENT

SUBJECT: **COMMENTS REGARDING TO H.B. 378, RELATING TO LABOR.** Requires an
investigator to issue a citation to any person acting in the capacity of or engaging
in the business of a contractor within the State without having a required license.

HEARING

DATE: February 9, 2017
TIME: 10:00 a.m.
PLACE: Conference Room 309

Dear Chair Johanson, Vice Chair Holt and Committee Members,

The General Contractors Association of Hawaii (GCA) is an organization comprised of over five hundred general contractors, subcontractors, and construction related firms. The GCA was established in 1932 and is the largest construction association in the State of Hawaii. The GCA's mission is to represent its members in all matters related to the construction industry, while improving the quality of construction and protecting the public interest.

GCA has comments regarding H.B. 378, Relating to Licensing, which would **require** an investigator of the Regulated Industry Complaints Office (RICO) to issue a citation on any individual or firm acting as a contractor without obtaining a contractor's license as pursuant to Chapter 444, HRS. Furthermore, H.B. 378 would require RICO to issue such a citation immediately upon a finding that the contractor has violated the statutory requirements of the Chapter. The GCA is concerned with H.B. 378, as it removes any discretion on the part of RICO to investigate and administer its authority. The focus of RICO should be to insure compliance and corrective action where warranted. RICO reserves the right to take necessary punitive action as appropriate. RICO should also be granted some discretion on a case by case basis whether to issue a citation.

Thank you for the opportunity to present our views on this matter.

LATE

LATE

LATE

Testimony of
Christopher Delaunay, Government Relations Manager
Pacific Resource Partnership

House Committee on Labor & Public Employment
Representative Aaron Ling Johanson, Chair
Representative Daniel Holt, Vice Chair

HB 378 – Relating to Workers’ Compensation
Thursday, February 9, 2017
10:00 A.M.
State Capitol – Room 309

Aloha Chair Johanson, Vice Chair Holt and members of the Committee:

Pacific Resource Partnership supports HB 378 and its efforts to require an investigator to issue a citation to any person acting in the capacity of or engaging in the business of a contractor within the State without having a license.

Under the current law, investigators have the authority to decide whether or not to issue citations to individuals engaged in the business of a contractor when he or she does not have a license. Strict enforcement of Hawaii’s licensing laws is important to ensure that everyone is treated equally under the law, and held to high standards of workmanship. Therefore, PRP supports HB 378 and its efforts to require investigators to issue citations when individuals are working on a construction project without a license.

Thank you for the opportunity to submit written testimony.

About PRP

Pacific Resource Partnership (PRP) is a not-for-profit organization that represents the Hawaii Regional Council of Carpenters, the largest construction union in the state, and more than 240 of Hawaii’s top contractors. Through this unique partnership, PRP has become an influential voice for responsible construction and an advocate for creating a stronger, more sustainable Hawaii in a way that promotes a vibrant economy, creates jobs and enhances the quality of life for all residents.



LATE

LATE

LATE

TESTIMONY for Measure: HB 378

| | |
|-------------------------------|---|
| Committee | LAB |
| Committee Referrals | LAB |
| Date of Hearing | 02-09-17 |
| Organization | Subcontractors Association of Hawaii |
| Name of Testifier | Tim Lyons |
| Job Title of Testifier | President |
| Position – Circle One | Support / Oppose / Comments |
| Category – Circle One | Fed Govt. / State Govt. / County Govt. / Industry / Private |
| Notes: | Present |