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**Sent:** Friday, February 24, 2017 10:09 AM  
**To:** CPH Testimony  
**Cc:** jmas808@gmail.com  
**Subject:** \*Submitted testimony for SB1130 on Feb 24, 2017 09:30AM\*

**SB1130**

Submitted on: 2/24/2017

Testimony for CPH on Feb 24, 2017 09:30AM in Conference Room 229

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Jeffrey Masatsugu	Carpet, Linoleum and Soft Tile Local Union 1926 Market Recovery Trust Fund	Support	No

Comments:

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

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Friday, February 24, 2017 10:08 AM  
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**SB1130**

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<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Jeffrey Masatsugu	Hawaii Glaziers, Architectural Metal Glassworkers Local Union 1889 AFL-CIO Stabilization Trust Fund	Support	No

Comments:

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<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Jeffrey Masatsugu	Hawaii Tapers Market Recovery Trust Fund	Support	No

Comments:

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**SB1130**

Submitted on: 2/24/2017

Testimony for CPH on Feb 24, 2017 09:30AM in Conference Room 229

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Jeffrey Masatsugu	Painting Industry of Hawaii Labor Management Cooperation Trust Fund	Support	No

Comments:

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Testimony of  
Christopher Delaunay  
Pacific Resource Partnership

Senate Committee on Commerce, Consumer Protection, and Health  
Senator Rosalyn H. Baker, Chair  
Clarence K. Nishihara, Vice Chair

SB 1130 – Licensing  
Friday, February 24, 2017  
9:30 A.M.  
State Capitol – Room 229

Aloha Chair Baker, Vice Chair Nishihara and members of the Committee:

Pacific Resource Partnership **strongly supports** SB 1130 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 required 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.

The amended language in SB 1130 should not preclude RICO from imposing sanctions and penalties against an unlicensed contractor as provided in Chapter 444, Hawaii Revised Statutes, or from pursuing available civil and criminal remedies. The existing language under Section 444-10.5, Hawaii Revised Statutes, states that "In addition to any other remedy available, the investigator may issue citations" to any person acting in the capacity of or engaging in the business of a contractor within the State without having a required license.

Also, the amended language in SB 1130 should not limit the ability of a RICO investigator from conducting further investigations before issuing a citation in order to get the maximum penalty available. However, PRP would support additional language in SB 1130 clarifying this point.

Furthermore, a citation will trigger a cease and desist order, which could stop an unlicensed contractor from working on a project. It would be in the State's best interest to stop unlicensed work on the job to ensure the safety of workers and occupants of the project under construction.



**(Continued From Page 1)**

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.*

**§444-10.5 Citation for unlicensed activity.** (a) In addition to any other remedy available, the investigator may issue citations to persons acting in the capacity of or engaging in the business of a contractor within the State, without having a license previously obtained under and in compliance with this chapter and the rules promulgated thereunder. If the investigator determines that a person is acting in the capacity of, or engaging in the business of, a contractor within this State without having a license to so act or engage, the investigator may issue a citation to such person.

(b) Each citation shall be in writing and shall describe the basis of the citation, including the specific statutory provisions alleged to have been violated, and shall contain an order to cease and desist from the violation, and an assessment of civil penalties as provided in section 444-23. The citation shall also include notice of the sanctions for violating the cease and desist order. All penalties collected under this section shall be deposited in the special fund established under section 26-9.

(c) Service of a citation issued under this section shall be made by personal service whenever possible, or by certified mail, restricted delivery, sent to the last known business or residence address of the person cited.

(d) Any person served with a citation under this section may submit a written request to the director for a hearing, within twenty days from the receipt of the citation, with respect to the violations alleged, the scope of the order to cease and desist, and the amount of the civil penalties assessed.

(e) If the person cited under this section timely notifies the director of the request for a hearing, the director shall afford an opportunity for a hearing under chapter 91. The hearing shall be conducted by the director or the director may designate a hearings officer to hold the hearing. The director or any hearings officer designated by the director shall have the power to issue subpoenas, administer oaths, hear testimony, find facts, and make conclusions of law and issue a final order.

(f) If the person cited under this section does not submit a written request to the director for a hearing within twenty days from the receipt of the citation, the citation shall be deemed a final order of the director.

(g) The director may apply to the appropriate court for a judgment to enforce the provisions of any final order issued by the director or designated hearings officer pursuant to this section, including the provisions to cease and desist and for civil penalties imposed. In any proceeding to enforce the provisions of the final order of the director or designated hearings officer, the director need only show that notice was given, a hearing was held or the time granted for requesting a hearing has run without such a request, and a certified copy of the final order of the director or designated hearings officer.

(h) If any party is aggrieved by the decision of the director or the designated hearings officer, the party may appeal in the manner provided in chapter 91 to the circuit court of the circuit in which the party resides or has the party's principal place of business or in which the action in question occurred; provided that the operation of a cease and desist order shall not be stayed on appeal unless specifically ordered by a court of competent jurisdiction after applying the stay criteria enumerated in section 91-14(c).

(i) The sanctions and disposition authorized under this section shall be separate from and in addition to all other remedies either civil or criminal provided in any other applicable statutory provision. The director may adopt rules under chapter 91 as may be necessary to fully effectuate this section.

(j) The director may apply to the appropriate court for injunctive or any other relief the court deems appropriate, including a fine of not less than \$10,000 for each offense, against any person who violates a cease and desist order. Each day's violation or failure to comply with a cease and desist order shall be deemed a separate offense. The allegations in the citation shall be deemed conclusively established for purposes of a proceeding for permanent or temporary relief to enforce the cease and desist order. [L 1984, c 98, §2; gen ch 1985; am L 2005, c 230, §1]

#### **Cross References**

Unlicensed contracting in door-to-door sales, see §481C-2.5.

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