

SCR 27

SD 1

SENATE CONCURRENT RESOLUTION

REQUESTING THE AUDITOR TO CONDUCT A SUNRISE REVIEW OF THE
LICENSURE AND REGULATION OF HOME INSPECTORS.

1 WHEREAS, S.B. No. 2403, introduced during the Regular
2 Session of 2018, proposes the licensure and regulation of home
3 inspectors; and

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5 WHEREAS, persons who act or hold themselves out as home
6 inspectors are not presently required to be licensed, certified,
7 registered, or otherwise regulated by the State; and

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9 WHEREAS, home inspectors render oral or written opinions on
10 the current condition of the major systems and components in
11 condominiums, townhouses, single family residences, or
12 commercial properties, which can have a significant impact on a
13 buyer's decision to purchase a home; and

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15 WHEREAS, section 26H-6, Hawaii Revised Statutes, requires
16 new measures, subjecting unregulated professions and vocations
17 to licensing or other regulatory controls, to be referred to the
18 Auditor for analysis; now, therefore,

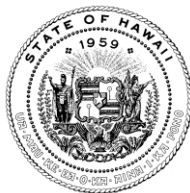
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20 BE IT RESOLVED by the Senate of the Twenty-ninth
21 Legislature of the State of Hawaii, Regular Session of 2018, the
22 House of Representatives concurring, that the Auditor is
23 requested to conduct a sunrise review of the licensure and
24 regulation of home inspectors, as proposed by S.B. No. 2403,
25 Regular Session of 2018; and

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27 BE IT FURTHER RESOLVED that the Auditor is further
28 requested to submit findings and recommendations, including any
29 proposed legislation, to the Legislature no later than twenty
30 days prior to the convening of the Regular Session of 2019; and
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32



1 BE IT FURTHER RESOLVED that a certified copy of this
2 Concurrent Resolution be transmitted to the Auditor.
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DAVID Y. IGE
GOVERNOR

DOUGLAS S. CHIN
LIEUTENANT GOVERNOR

**STATE OF HAWAII
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DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS**

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**PRESENTATION OF THE
PROFESSIONAL AND VOCATIONAL LICENSING DIVISION**

TO THE HOUSE COMMITTEE ON
CONSUMER PROTECTION AND COMMERCE

TWENTY-NINTH LEGISLATURE
Regular Session of 2018

Thursday, April 12, 2018
2:00 p.m.

**TESTIMONY ON SENATE CONCURRENT RESOLUTION NO. 27, S.D. 1, REQUESTING
THE AUDITOR TO CONDUCT A SUNRISE REVIEW OF THE LICENSURE AND
REGULATION OF HOME INSPECTORS.**

TO THE HONORABLE ROY M. TAKUMI, CHAIR, AND MEMBERS OF THE COMMITTEE:

The Department of Commerce and Consumer Affairs (“Department”) appreciates the opportunity to testify in support of S.C.R. 27, S.D. 1. My name is Celia Suzuki, and I am the Licensing Administrator of the Department’s Professional and Vocational Licensing Division.

S.C.R. 27, S.D. 1 requests that the Auditor perform a sunrise review of S.B. 2403, Relating to Home Inspectors, introduced during the Regular Session of 2018. The sunrise analysis would be conducted pursuant to Hawaii Revised Statutes (“HRS”) section 26H-6. The Auditor’s analysis would set forth the probable effects of the proposed regulatory measure, assess whether its enactment is consistent with the purposes of HRS section 26H-2, and assess alternate forms of regulation. The Department agrees that a sunrise study should be completed by the Auditor before home inspectors are regulated.

Thank you for the opportunity to provide testimony in support of S.C.R. 27, S.D. 1.

To: The Senate Committee on Consumer Protection and Commerce

Roy M. Takumi, Chair

Linda Ichiyama, Vice Chair

Members:

Henry J.C. Aquino

Ken Ito

Aron Ling Johanson

Mathew S. Lopresti

John M. Mizuno

Calvin K.Y. Say

James Kunani Tokioka

Ryan I. Yamani

Bob McDermott

Regarding: Resolution SCR27 SD1

Aloha Senators, Representatives,

This is to reiterate my testimony previously given:

Thank you for hearing this very important effort to require the State Auditor to conduct a Sunrise Review, to establish the need for regulation and licensing for the Professional Home Inspection Industry here in Hawaii.

I submit my testimony to you on behalf of HAHI, the Hawaii Association of Home Inspectors, of which I am the founder and President. I have been a Professional Home Inspector for over 13 years now in Honolulu and have an outstanding litigation and arbitration-free record.

I also submit my testimony as a real estate licensee in good standing, in the State of Hawaii with Captain Cook Real Estate. I do both professionals very well, with full separation to prevent conflict of interest.

Senators, it is imperative SCR27 SD1 move forward, so it ultimately clears the House and reaches the Auditor... who I am confident will find there is most definitely a need to regulate this industry- just as 33 States (65%) have already had the wisdom to do so.

Right now, consumers are at very high risk of receiving an inferior, superficial home inspection. As it is now, anyone can begin inspecting houses in Hawaii- without any related background, background check, related education, supervision; they (we) can operate unchecked, without risk of discipline or losing a license, if we fail to do our job correctly. I think that is an injustice to the people of Hawaii.

I can tell you without reservation that some in my industry need more education and ongoing training, as both new and seasoned home inspectors are missing major problems.

I can also tell you professionalism and ethics are severely lacking in some cases.

If a home inspector misses an important structural issue, occupants can be injured or perish- or end up buying a problem home they will have trouble selling later.

If a home inspector is not knowledgeable or proactive in electrical systems, occupants can be seriously injured, or perish. Or, they may have to spend a large (unplanned) sum of money to remedy the problem and resolve the risk.

If a home inspector is not safety conscious- and does not recommend replacing known to be hazardous electrical panels for example, occupants can perish.

If a home inspector misses an important plumbing issue, floods can occur where they were preventable had the inspector been more knowledgeable.

If a home inspector does not recommend smoke alarms- and does not elaborate on high rise units without fire suppression systems, such as how to be proactive to prevent and deal with a fire should one occur, occupants can perish just as they did in the recent Marco Polo fire where 4 perished, as well as the one last week in Makiki, where 1 perished. Those were all preventable deaths. It is my position that had regulation already been in place, those occupants may have lived smarter, and survived because there is a good chance they would have been better informed. As would building management.

I am in this business because I care deeply about consumers. Not too long ago, I made the newspaper when I brought up unsafe window conditions in the brand-new Ritz Carlton. I also provided the Honolulu Fire Department important information about unit 2602 in the Marco Polo they did not have, and they were thankful. I have also corrected many Realtors on inspections when things I stated were repeated erroneously.

If home inspectors do not have the right training and ethics, they may not catch or recommend replacement of improper use of materials in a high-rise for example, that can lead to a fire. This would be a situation where a superficial inspector was involved.

I recently inspected a home for a Buyer where the Seller had hired another inspector to inspect the home as it came on the market. That inspector missed approximately \$100,000 in obvious defects, that either were not on his report at all, or he misidentified.

Another inspector flooded a home recently; it is alleged he dropped a tool in the bathtub and pierced it and did not notice that. He then filled the tub and went outside to inspect the exterior. He flooded the home, and then tried to get out of paying for damages, per the top producer from a prominent brokerage who called me and told me about it.

Similarly, I have seen numerous inspection reports from competitors, and found them severely lacking- or simply blanket referrals to the trades to identify the problems, rather than providing more helpful information. Many do this because they do not have a good working knowledge of the various systems and components.

Some opponents of Regulation will try to convince you it is not needed, that all is well because they belong to a national home inspection organization. I disagree. My argument is multi-faceted:

- 1.) Neither ASHI or InterNACHI- the two most popular national organizations, can provide a local component of vesting, supervision or disciplinary action. All they can do is warn or terminate a Membership if a problem occurs, but the inspector is still free to operate unchecked- because we have no Regulation.
- 2.) Only 22 inspectors (...ASHI Certified Inspectors) were required to take supervised exams for Certification. 22 inspectors- out of more than 100 Inspectors operating in Hawaii.
- 3.) InterNACHI's exam for Certification is an open book, online, non-supervised exam. It is my position this is not a credible process. As a result, inspectors have an appearance of credibility, but it puts consumers at risk who do not understand their exam was not proctored. It is my position a proctored exam process is superior- and will produce a better inspector. I could respect this organization a lot more if they switched to a proctored exam system.
- 4.) I started HAHl for several reasons, mainly to seriously up the ante- through better Standards of Practice and Code of Ethics than ASHI or InterNACHI, to better protect consumers. I modeled it after my own successful practice. It is an organization for those who wish to add an outstanding credential. That said, the State of Hawaii would be wise to mandate the ASHI SOP and COE as the baseline operating Standards, as well as the NHIE (National Home Inspectors Examination), as these are already widely relied upon and are more palatable to those in my industry. However, membership in ASHI should NOT be mandated; it would be unnecessary with State regulation in place.

The need for regulation is most certainly there. I will argue that once this reaches the Auditor's desk- once he communicates with HAR (Hawaii Association of Realtors) who will pole their large Membership for issues involving home inspectors (and they will discover there are many), when the Hawaii DCCA becomes involved, when the Auditor reviews the numerous Civil Court cases involving home inspectors, and when the Auditor speaks to the large legal firms who have handled cases involving home inspectors, he will conclude both regulation and licensing are needed and wise, to protect consumers.

As a note, both HAR and DCCA support this Resolution and I am very thankful for their support.

The opposition would have you believe regulation for my industry will cause harm. I have yet to here a sensible, valid reason how. Most has been wild speculation, as well as dishonest, that cannot be substantiated. It is easy to see how some in my industry would like things to stay as they are. I mean it's pretty attractive: No supervision, operate however they want environment, with no entry requirements or professional or ethical mandates. This is an industry where someone can easily gross \$75,000 per year starting out. It is a very attractive industry, and a way to make cash fast. That's fine, but we must make sure the guys have the knowledge, and operate in a more control environment to protect Hawaii's consumers.

It bears mentioning that home inspectors in Hawaii are the only party to a real estate transaction that are not licensed, yet they (we) provide one of the most important functions. People can be injured or die- or lose their life savings if the job is not done very well.

I urge each of you to think about yourself and those you love... buying a home, perhaps the largest financial transaction you will ever make. You rely on a home inspector to have considerable working knowledge of the major systems and components. Yet, you are gambling hiring these individuals- especially the ones with NO construction or renovation related background, or who may be lacking in other areas.

Many consumers leave it up to their Realtor to hire the home inspector. This can be fine, except where the Realtor leans toward recommending an inspector who is known to be less thorough than a prominent one, in the interest of keeping the deal alive. It happens. After all, inspectors who market widely to Realtors need to keep the referrals coming in.

Regulation, in my opinion, will not hurt anyone- in the inspection business or on the real estate sales side. Quite the opposite. It will help everyone involved in the transaction. It is in everyone's interest to have an inspector with a strong related background and education- who is thorough to a fault, who produces an easy to understand factual report product, who is acting in the best interest of the consumer, who is honest, professional and ethical. Yet, many are not.

We cannot rely on Sellers to always disclose completely and honestly. In my experience, Seller's Disclosures are usually vague, incomplete, and occasionally, purposely misleading. This is where a great home inspector can help protect a consumer.

If I felt everything was OK in my industry, I would not subject myself to the abuses I have encounter from some of my competitors, who, based on all appearances only wish this effort to go away. I can say without reservation and based on conduct from some in my industry recently, that the professional and ethical side alone most definitely needs to be addressed through regulation – and only regulation, where there is a risk of loosing a license, will cause the change we need.

Some opponents will claim regulation won't help anything, that the "bad" inspectors won't get business if they screw up. Here is my argument: Let's remove regulation for the real estate industry, and all the other regulated industries for that matter- and sit back and watch the number of problems explode to an unmanageable, nightmarish point.

No, regulation is not a fix all. But it will help prevent problems and make sure folks are well qualified to operate in this industry.

I am simply blowing the whistle that there are indeed numerous problems in my industry, and I really hope the State of Hawaii has the wisdom to put regulation in place.

If there is anything I (or my organization) can do to help, please let me know.

Respectfully,

Wayne R. Blackburn, President

Hawaii Association of Home Inspectors

Inspector Homes, LLC

Master-Level Inspector

Realtor-Associate, RS 78659

Captain Cook Real Estate

808-393-7939

SCR-27-SD-1

Submitted on: 4/11/2018 4:36:40 PM

Testimony for CPC on 4/12/2018 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Charmaine Doran	Individual	Support	Yes

Comments:

Home Inspectors play a vital role in residential real estate transactions. Local Buyers, local residents, rely heavily on inspectors to validate safety and minimize risk. Home inspectors must be highly qualified, certified and operate equitably within an industry that is regulated (i.e. lenders, realtors, appraisers) to maximize consumer protections and ensure the continuance of a robust market. This legislation is a step in that direction.

SCR-27-SD-1

Submitted on: 4/11/2018 4:48:17 PM

Testimony for CPC on 4/12/2018 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Margaret Murchie	Individual	Support	No

Comments:

I think it is important that we, Realtors, weigh in here for some sort of assurance of national certification and/or insurance on the part of some of these self proclaimed inspectors. It is so important to our business. I have personally paid for things broken by the inspectors who perhaps are not familiar with the proper operation of some appliances. Plumbers and electricians have to have certification but some of these "inexperienced, untrained people" are touching electric, plumbing, walking on roofs, etc. Some just hang a shingle, perhaps take an online course and go to town with agents or buyers looking for a less expensive bill. They leave us paying the bills oftentimes. Some do not have any insurance, business acumen or certification of any type. I recently had a very bad experience with one of these guys who caused quite a bit of damage, leaving a tub on a second floor running. I had to coordinate the repairs and have mold inspections. He was in some "business networking group" with a seasoned Realtor, who represented the buyer. Luckily I came in with the manager and we were able to stop the water flow, put "humpty dumpty" together again at considerable cost to me including losing the sale and now having to disclose to any future buyers the "issue" regardless of the fact it was fixed. Sellers' agents are now having to vet the inspectors. There are quite a few "new inspection companies", some of whom I noticed lobbied quite heavily for no regulation. Not only did it cost me time and money, it was aggravating to have to deal directly with this guy, who was a bully and not taking responsibility for his actions. The other buyer's agent blew it off and recommended that the seller pay through his insurance. I would have lost the listing and we don't recoup our costs unless we consummate a sale. These buyers canceled and I also lost a higher back up offer in the time that it took to fix. This is my business and we need to know that there is some sort of rudimentary training for these guys. They will not regulate themselves and agents like myself are having to pay for their mistakes to make the deal whole.

LATE

From: Leonard Lepine <leonardlepine@yahoo.com>
Sent: Thursday, April 12, 2018 4:52 PM
To: CPCtestimony; Leonard Lepine
Subject: SCR27,SDI(SSCR3396)

I oppose.

Unless the state Office of Consumer Protection can show statistics that support the notion that the home buying public is being harmed by home inspectors, a Sunrise Review is a waste of money. Unneeded regulations and licensing only bloat the bureaucracy. They will most certainly not be revenue neutral.

My experience in Washington state was that a high standard of care practiced by home inspectors, was diminished by regulation and licensing. One of the reasons was that home inspectors who influenced the minimum standards, very much wanted to protect the inspector from liability. Licensing gives the homebuyer a false sense of security. When told that all inspectors are licensed they cease practicing due diligence and assume that the law is protecting them.

I assure you that licensing requirements will represent a very low bar, that anyone can satisfy. How will the consumer be better protected? Regulation and licensing for home inspectors will be a sham.

Leonard Lepine 808 225 7828