

SCR27 SD1

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

Report Title: Sunrise Review; Home Inspectors

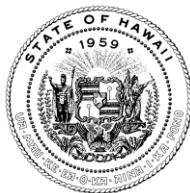
Description:

Companion:

Package: None

Current
Referral: HOU, CPH

Introducer(s): ESPERO, English, Gabbard, Green, Harimoto, K.
Kahele, Keith-Agaran, Kim, Nishihara, K. Rhoads,
Riviere, Wakai



DAVID Y. IGE
GOVERNOR

DOUGLAS S. CHIN
LIEUTENANT GOVERNOR

**STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS**

335 MERCHANT STREET, ROOM 310

P.O. BOX 541

HONOLULU, HAWAII 96809

Phone Number: 586-2850

Fax Number: 586-2856

cca.hawaii.gov

CATHERINE P. AWAKUNI COLÓN
DIRECTOR

JO ANN M. UCHIDA TAKEUCHI
DEPUTY DIRECTOR

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

TO THE SENATE COMMITTEE ON
COMMERCE, CONSUMER PROTECTION, AND HEALTH

TWENTY-NINTH LEGISLATURE
Regular Session of 2018

Wednesday, March 28, 2018
9:15 a.m.

WRITTEN TESTIMONY ONLY

**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 ROSALYN H. BAKER, 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

Senate Concurrent Resolution No. 27, S.D. 1
March 28, 2018
Page 2


Department agrees that a sunrise study should be completed by the Auditor before home inspectors are regulated.

Thank you for the opportunity to provide written testimony on S.C.R. 27, S.D. 1.



 | 808-733-7060

 | 808-737-4977

 | 1259 A'ala Street, Suite 300
Honolulu, HI 96817

March 28, 2018

The Honorable Rosalyn H. Baker, Chair

Senate Committee on Commerce, Consumer Protection and Health
State Capitol, Room 229
Honolulu, Hawaii 96813

**RE: SCR 27, SD1 REQUESTING THE AUDITOR TO CONDUCT A SUNRISE
REVIEW OF THE LICENSURE AND REGULATION OF HOME
INSPECTORS.**

HEARING: Wednesday, March 28, 2018, at 9:15 a.m.

Aloha Chair Baker, Vice Chair Tokuda and Members of the Committee,

I am Ken Hiraki, Director of Government Affairs, here to testify on behalf of the Hawai'i Association of REALTORS® ("HAR"), the voice of real estate in Hawai'i, and its almost 9,500 members. HAR **supports** Senate Concurrent Resolution 27, SD1, which requests the Auditor to conduct a sunrise review of the licensure and regulation of home inspectors.

Under Hawai'i Revised Statutes §26H-6, "any new regulatory measures being considered for enactment, if enacted, would subject unregulated professions and vocations to licensing or other regulatory controls shall be referred to the auditor for analysis." As such, HAR believes that the sunrise review can provide much needed insight into the potential regulation of home inspectors.

REALTORS® work with home inspectors as part of the real estate transaction process. HAR would gladly assist the Auditor with the sunrise review.

Mahalo for the opportunity to testify on this measure.



To: The Senate Committee on Commerce, Consumer Protection and Health

The Honorable:

Senator Rosalyn Baker, Chair

Senator Jill Tokuda, Vice-Chair

Senator Will Espero, Member

Senator Les Ihara Jr., Member

Senator Clarence K. Nishihara, Member

Senator Russell E. Ruderman, Member

Regarding: Resolution SCR27 SD1

Aloha Senators,

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 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 Hahi 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 Auditors 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 losing 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: 3/26/2018 12:02:36 PM

Testimony for CPH on 3/28/2018 9:15:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Joy Oda	Individual	Support	No

Comments:

I support auditor to ensure licensure and regulation be further analyzed and approved.

SCR-27-SD-1

Submitted on: 3/26/2018 9:00:31 PM

Testimony for CPH on 3/28/2018 9:15:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Ricarte Tadeo	Individual	Support	Yes

Comments:

I feel regulation will ensure proper training is completed and will ensure qualified home inspectors are performing inspections in the field. Regulation will ensure inspectors continue with education with mandatory continuing education hours and ensuring home inspectors carry required insurance.

SCR-27-SD-1

Submitted on: 3/27/2018 7:37:31 AM

Testimony for CPH on 3/28/2018 9:15:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Robert McCarthy	Individual	Support	No

Comments:

I support and say yes to a Sunrise Review of the licensure of Home Inspectors. As a Home Inspector, I feel that it is important that our industry and our clients be protected. Realtors and Appraisers are required to be licensed why not home inspectors? I know that there is much debate within the industry as to the level of control and how we should be licensed. I personally have been asked by the last three realtors I worked with what my thoughts were on this topic. All three were in favor of licensing. Most, but not all realtors I have spoken with support licensing to protect their clients. Some were surprised to learn we do not require licensing. It is not surprising that some of my peers view this proposal as a personal agenda by one inspector and his organization as an attempt to drive inspectors out of the industry. This is simply not the case and those that have this position are not listening, choose not to listen or are misinformed. The issue at hand today is should the State of Hawaii regulate and require licensing of Home Inspectors? It is not should person x regulate the industry. In my professional opinion, I say YES, the state should license us. The state is compelled to protect its consumers. I have been a home inspector for three years here in Hawaii, but have performed building compliance, safety and code inspections for the last 20 years for the Federal Government. Regulation and licensing should not scare or intimidate any inspector. In my opinion, I think a good initial starting point is to require Home Inspectors to provide proof of training from an accredited agency (InterNACHI, ASHI or AHIT) in addition to proof of G.E.T license as well as liability Insurance. I would also encourage the state to require inspectors to carry Errors and Omissions Insurance. Once all required proof has been verified and submitted a license could be issued. This is a simple solution and a good starting point in regulation and protecting the public in the fact that those doing business have been vetted and meet a level of accreditation. The way ahead for future requirements can be paved out later on. I think the industry needs to be surveyed (Realtors, Real Estate Attorneys, Consumers and Inspectors) to get a good statistical measurement of what the industry wants and needs. There are many experienced inspectors in Hawaii with copious amounts of knowledge, the industry can come together and forge away ahead in a professional manner when it comes to training and testing requirements etc. There are always pros and cons to different training organizations and their qualification requirements but in the end the existing organizations do have some good points that can be taken into account. I am not sure what the 100 percent solution should or will be but I am certain that we need licensing. I think the main thing here is to not let the proposal of regulation die off just because

initially people oppose it. Industry and consumer input should be taken into account across all islands. I adamantly support a Sunrise Review as it is the right thing to do to.

/s/ Robert McCarthy

SCR-27-SD-1

Submitted on: 3/27/2018 6:14:34 PM

Testimony for CPH on 3/28/2018 9:15:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Ryan	Testifying for Forefront Inspections	Support	No

Comments:

I am in support of a Sunrise Review of the home inspection industry in Hawaii.

Forefront Inspections is independently owned and operated here in Hawaii. I have performed over 6,000 property inspections to date. I have experience in residential building and remodeling. I'm a certified inspector and 10+ year member of ASHI (American Society of Home Inspectors) and 10+ year member InterNACHI (International Association of Certified Home Inspectors).

I normally don't get involved with politics and I don't need the extra business. My only reason for supporting licensing our industry is because of my deep concern for the of the home buyers, real estate agents and even other home inspectors.

Many inspectors enter the industry with no experience in the trades, no education, no certification, no national testing, no association or standards of practices to adhere to, no continuing education requirements, no Liability, Errors and Omissions insurance.

There are major financial decisions involved in real estate that rely on a qualified inspector. Most inspectors do not have the knowledge, experience, education or take the time to do a non biased thorough evaluation of the property. The buyer is left with a purchase that they will have to pay for any missed items weather small or large.

Safety is another major factor for having a regulation and standards in our industry. I've seen major fire, shock, and health concerns go unaddressed by other inspectors. One inspector has a picture on his website to show him performing an inspection but he was reaching out to grab a high voltage overhead service conductor on a wet metal roof while grabbing onto an aluminum gutter. He was very close to being electrocuted on the property I honestly feel that one day a life will be lost or severely damaged and major property damage caused by an untrained, uninsured inspector.

There are many inspectors against regulation but to weigh those reasons against major property damage and possibly loss of life doesn't add up to me. The vast majority of real estate agents are for licensing home inspectors because of negative experiences due to the lack of standards and accountability in our industry.

Hello,

My name is Thomas Hall and I am in support of this measure: SCR27 SD1 "sunrise" review process. My views have not changed since the review process began, and I state my thoughts as a professional licensed contractor:

I am a Home Inspector in Hawaii, and additionally, a licensed Supervising Electrician, a licensed electrical contractor, and a Solar PV expert. I have seen first-hand the concerns for electrical safety issues that appear as skipped, by-passed, or just overlooked by untrained home inspectors at "time of sale", that become red-flags when I come after the sale to make repairs on single family homes, multi-family dwellings, and commercial buildings.

I believe the general public will benefit from this legislation by:

- Increasing consumer protection.
- More focused accountability.
- Better reporting, and better training.
- Better trained inspectors make better advisors.

I hold many licenses and certificates. As an approved Special Inspector with the City and County of Honolulu Department of Planning and Permitting, as well as a Certified Electrical Inspector, I believe it is important, and my duty, to protect the general public who entrust in a system where all other aspects of the transaction must be performed by licensed individuals and organizations. Adhering to the regulations and accountability that are set in place, are not difficult.

That is why I believe this legislation should be passed.

Thank you