

SCR 27

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

Report Title: Sunrise Review; Home Inspectors

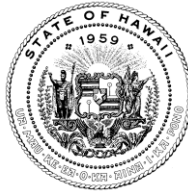
Description:

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

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DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS**

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

TO THE SENATE COMMITTEE ON HOUSING

TWENTY-NINTH LEGISLATURE
Regular Session of 2018

Tuesday, February 13, 2018
3:15 p.m.

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

TO THE HONORABLE WILL ESPERO, CHAIR, AND MEMBERS OF THE
COMMITTEE:


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


S.C.R. 27 requests that the Auditor perform a sunrise review of an unspecified Senate bill, which the Department believes is S.B. 2403, Relating to Home Inspectors, introduced during the Regular Session of 2018. The sunrise review 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 on S.C.R. 27.



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 | 808-737-4977

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

February 13, 2018

The Honorable Will Espero, Chair

Senate Committee on Housing
State Capitol, Room 225
Honolulu, Hawaii 96813

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

HEARING: Tuesday, February 13, 2018, at 3:15 p.m.

Aloha Chair Espero, Vice Chair Harimoto 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 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, the sunrise review pursuant to this Resolution is necessary prior to introduction of legislation (Senate Bill 2403) that would require licensure for home inspectors in the State.

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

Furthermore, HAR believes that the sunrise review can provide much needed insight into the regulation of home inspectors.

Mahalo for the opportunity to testify on this measure.



SCR-27

Submitted on: 2/10/2018 2:48:52 PM

Testimony for HOU on 2/13/2018 3:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Ricarte Tadeo		Support	No

Comments:

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

SCR-27

Submitted on: 2/11/2018 2:01:11 PM

Testimony for HOU on 2/13/2018 3:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Trevor Drinen	Signature Inspections Hawaii, LLC	Support	No

Comments:

I Trevor Drinen support a Sunrise Review.

To ensure The Professional Home Inspection Community complies with the following:

- Nationally Licensing via ASHI (www.ashi.org) or InterNACHI (www.NACHI.com) the two largest and oldest National recognized Inspector Certification and licensing organizations which required meet yearly continual education program requirement, comply with a proven Code of Ethics, Standards of Practice, etc..
- Required "E&O" Insurance in compliance with state laws regarding business insurance.
- financially accountable: CPA, accounting and verification of tax payments.

Senator Will Espero
Senator Breene Harimoto
Senator Josh Green
Senator Kaiali'i Kahele
Senator Clarence Nishihara

Committee on Housing

From: Kimo Franklin - President
Island Home Inspections

Hearing Date: Tuesday, Feb. 13, 2018, 3:15pm
Conference Room 225 - State Capitol Building

RE: SCR27 – Requesting the Auditor to Conduct a Sunrise Review of the Licensure and Regulation of Home Inspectors

I **support** State Concurrent Resolution - SCR27.

As a 21 year veteran (since 1997) in the home inspection industry in Hawaii and who has conducted over 5500 professional home inspections for Hawaii's home buying and home selling consumers, I support SCR27.

SCR27 will implement a sunrise review by a designated Auditor to provide "findings" if regulation of the home inspection industry in Hawaii is necessary at this time. Based upon those findings, provide "recommendations" for any proposed legislation to the legislature prior to the starting of the 2019 legislative Regular Session.

There is currently disagreement and contention amongst some of Hawaii's home inspectors regarding if regulation will address the issues in the industry, what would regulation consist of and how the current related measure SB2403 was proposed and introduced.

SCR27 should give an indication to the inspection industry in Hawaii what the issues are with the presentation of hard facts regarding how the industry is performing for Hawaii's consumers.

With the discovering of these facts, what is the best path to move forward by working with the local inspection industry on the best proposal for solving the issues through effective & fair regulation, if regulation is in fact deemed necessary at all.

I am in **support** of State Concurrent Resolution - SCR27.

Sincerely,

Kimo Franklin

Island Home Inspections

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SCR-27

Submitted on: 2/12/2018 8:12:01 AM

Testimony for HOU on 2/13/2018 3:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Thomas Hall	Individual	Support	Yes

Comments:

Hello,

My name is Thomas Hall and I am in support of the SCR 27 "sunrise" review process, and Bill SB2403

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

SCR-27

Submitted on: 2/11/2018 11:41:05 PM

Testimony for HOU on 2/13/2018 3:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Daniel Smith	Diamond Head Home Inspections	Comments	No

Comments:

Dear Senators,

My name is Daniel Smith with Diamond Head Home Inspections and I am submitting written testimony as "Comments Only."

If the sunrise review will shed light on why nobody in the home inspection industry was made aware of this bill then I am all for it. Please see the response for the reasoning of others to be excluded below:

“As to your being left out of the loop regarding the BILL introduction, I hope you can appreciate I elected to stay several steps ahead of the game in recommending a BILL be created. Knowing first hand how unethically and unprofessionally (several) of the guys in the industry choose to operate (their recent emails testament), I just did not want them interfering with it being introduced. Many I trusted previous proved themselves non-trustworthy. A matter of strategy.”

If the auditor will explore why an inspector feels the need to be the ultimate authority in our industry in this state then please, let the analysis take place. If the sunrise review will look into why an organization that is not nationally accredited, has no authority, insurance, and believes the exam it's organization administers far exceeds those of nationally recognized organizations then the review should proceed.

If the auditor will interview the majority of the industry to ask if they were informed of the bill, its contents, and their experience with the lone inspector trying to push the bill through the legislative process, then I, as well as others, would gladly approve.

If during the sunrise analysis, an auditor is to find out that the President of HAHl (Hawaii Association of Home Inspectors) and the inspector trying to force SB2403 upon the industry approached an inspector, myself, and our entire company to bribe us with free membership for a year and to waive all exam fees in order to artificially inflate the organizations numbers before a hearing only to retract when faced with opposition, then I believe I can support the sunrise review.

“I'm retracting the offer I extended earlier today over the phone, to provide your company inspectors free membership in HAHl for one year.”

If an analysis would find that an inspector responsible for pushing this bill to its current state ordered a cease and desist of another inspector who disagreed with his opinion and democratic right, then where do I sign?

“You might have seen the threat from (not to be named) to 'Cease and Desist' my democratic right.”

If an auditor for the sunrise review were to come across emails regarding HAHl and answers from its founding member that appear to diminish national accredited and recognized organizations and to show that this organization may not even be insured, then maybe the review is needed.

Please see questions, correspondence, and responses below.

Grammatical errors were not altered.

- Is HAHl recognized as a “certified association” by ASHI?

“I never asked, and don't care honestly. I doubt they would; it is not in their best interest as they could potentially loose all Hawaii Members of ASHI to HAHl.”

- Does HAHl accept ASHI “National Testing” examine?

No. (And I assume you mean the National Home Inspector Exam / NHI)

- If no, why not?

The NHI is not, in my opinion very well suited for what we do. I took it years ago and found it severely inappropriate and lacking. HAHl has it's own exams; they are more challenging, more caring, and far better suited for our industry. The HAHl SOP & COE exam alone blows ASHI's away, because the one from HAHl has far more depth and care.

- Is "testing" required since I passed the "National" test?

Yes; the NHI exam is not and acceptable exam for HAHl certification.

- Is HAHl recognized by major E&O insurance providers?

Good question! I have no idea. I never checked.

Really? The national members would leave their organization to join an unsubstantiated one?

Again, this appears to be personal bias, subjectivity, and discrediting a national organization (oldest in the country (40 years)) that tens of thousands of inspectors have certifications through. Who has verified the test from HAHl? Who has proven the questions and answers are correct? How can these statements be made when HAHl has no accreditation and only 4 members? Who proctored the President's exam?

If the sunrise analysis finds that the HAHl address of record and the individual home inspector recommending certification and membership through his organization have the same address, would that be seen as a conflict of interest?

Would it be seen as a conflict of interest if the inspector and President of the proposed organization to become the ruling body of the inspection industry is also a realtor and includes all mention of these facts in the signature of an email? Is the inspector a realtor or an inspector?

"INSPECTOR HOMES, LLC

Hawaii Association of Home Inspectors, President

Certified Inspector - Master Level

Realtor-Associate, Captain Cook Real Estate

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If the auditor were to find that there were about 6,000 total real estate transactions in 2017 at 500 per month, how would it be possible in the proposed corresponding bill SB2403 to have all inspectors supervised for the prescribed two single-family home and two condominium inspections? There just aren't enough inspectors in the state to do so. What is the motivation of supervising inspector to pass another inspector to bring into the marketplace and become competition? Why would an inspector train his or her competition?

Lastly, unless the auditor can do a thorough analysis and work with, and speak with other inspectors throughout the state, I think it is a moot process. Companies in Hawaii who do a good job will continue to get business. The phone calls, texts, and emails will continue to come through as will their positive reviews. Bad inspectors and deal killers will have their phones stop ringing and there will be a decrease in their respective market share. No market analysis or sunrise review is needed to tell you that. Inspection companies and inspectors who fail at their job will naturally be placed out of the market. The industry will be able to speak for itself on this. If the sunrise analysis is being done just to try and pass any type of regulation and licensing without proper discussion amongst the majority of the industry, then I, along with many others, will not support this measure.

February 6, 2018
RE: SB2403 Legislation

Aloha Senators,

Mahalo in advance for your time in reviewing my testimony regarding Bill SB2403 of which I have only recently been informed as to the introduction of this Bill on January 22, 2018.

My name is Paul Signore and I am the President of Paul L. Signore Building Inspection Services Inc. located in upcountry Kula, Maui.

I am in opposition to the manner in which this Bill has been written.

I have resided on the island of Maui for 27 years as a full time Home Inspector. Prior to relocating to Maui I was a full time Home Inspector in the State of Connecticut for 6 years. Previous experience to becoming a Home Inspector included 12 years in the construction industry on the Mainland. I have been an ASHI certified (ACI) Home Inspector since 1991. During this time I have performed over 11,000 Home Inspections as the sole operator of my company.

Having been actively involved with ASHI for over 27 years I was one of the founding members of ASHI-HI in 1993. I have served as President, Vice President and currently hold the position of Past-President. Other positions have been: By-Law Committee Member for ASHI-HI; and ASHI Chapter Relations Member for ASHI National.

On the National level I have served several terms as COR Rep (Council of Representatives) and currently serve on the National By-Law Committee.

As a long time highly professional and experienced Home Inspector, I am not opposed to regulation and licensing of Home Inspectors. Yet, I am opposed 100% to the manner in which this Bill is written and outlined. Many portions are invalid, incorrect, mis-represented or taken totally out of context regarding real, unsubstantiated and pertinent information regarding our industry!

History:

In 2005 ASHI-HI was involved with legislation for Home Inspectors I would like to quote a memo from Wayne Blackburn: dated 12/22/05 from Wayne to the then Senator Kanno:

"It sounds like you agree with me that submitting the proposed Draft Bill this cycle is premature given formal review by the American Society Of Home Inspectors Inc. and the American Society of Home Inspectors-Hawaii Chapter Inc has not occurred.

To reiterate my suggestion, postponing presentation of any such Bill until the next cycle (this time next year) makes all the sense in the world. I hope Senator Kanno concurs, and would imagine he'd like to endorse the best possible initial draft with our support. This brief delay

creates necessary initial review time for more qualified parties.

For reasons unknown, we were not consulted regarding production of this draft. Nevertheless, we support regulation, but just not any regulation.”

This is the same Wayne Blackburn that never included 100+ ASHI or Inter-NACHI Home Inspectors prior to the submittal of SB2403.

Wayne has been an on-again-off-again member of Inter-NACHI, ASHI and ASHI-HI over the years. He served as ASHI-HI President in 2005/2006 for 6 months prior to resigning from the Chapter due to conflicts with the BOD and membership. He then relocated to Canada for a few years.

Upon his return several years later, he wanted to create an ASHI-Oah’u Chapter. ASHI National was informed of his intentions and was against his proposal. National had him cease and desist as they had no intentions of breaking up ASHI-HI for an “island chapter” that Wayne wanted to create.

In 2015 during elections Wayne ran for President. He was not elected. It was after that time he disassociated himself from ASHI resigning on all local and National levels and created HAHl. He registered his organization on February 11,2016 and elected himself President.

He had to leave ASHI and ASHI-HI due to a “conflict of interest” because a Home Inspector cannot hold a Real estate license. He acquired his Real estate license on 7/29/16, 10 months after he lost the 2015 election.

It’s important for the Senators to comprehend how and why HAHl was created. It’s also important to note that being a self proclaimed “Certified Master Inspector” where one designs the exam, takes the exam and proctors the exam is not what this industry is about when it comes to maintaining the *highest standards* as exemplified by ASHI and Inter-NACHI.

ASHI and Inter-NACHI are the most distinguished certifying Home Inspector associations in the US and Canada and have been around 40 years and 24 years respectively. HAHl has been around for almost 1 year.

Examinations:

The EBPHI (Examination Board of Professional Home Inspectors) was formed in 1999 and operates as an independent entity. As some states moved forward to regulation it was obvious that an independent high stakes exam would need to be included as part of the regulation process.

EBPHI’s position is that amongst other required competencies for Home Inspectors, there was a need for an exam that would be reliable in order to protect the public by assuring them that Home Inspectors met a level of competence, knowledge and practice.

A key component for maintaining the exam is to perform a Role Delineation Study (RDS) every 5 years. This study allows for the examination and analysis of the Home Inspectors profession

to comprehend any changes that occurred, thereby being able to update the exam questions. In 2017 the RDS Study was performed with the assistance of a group of dedicated subject matter experts making up the RDS Task Force (RDTF).

Many states require a “psychometrically sound” examination be used for the purposes of granting an occupational credential. This means that the test utilizes a scientific methodology to accurately measure the candidates skills as well as being legally defensible for any states utilizing the exam.

“The examination meeting these standards is developed pursuant to accepted psychometric standards promulgated by the American Education Research Association (AERA), the American Psychological Association (APA) and the National Council on Measurement in Education (NCME). These three organizations jointly publish “Standards for Educational and Psychological Testing”.

The NHIE (National Home Inspectors Exam) was developed and is administered by EBPHI. And I quote:

- *Since its inception EBPHI has conducted four independent role delineation studies.*
- *Every year EBPHI has conducted item writing workshops using practicing Home Inspectors from across the country. These subject matter experts are trained in elements of quality exam question development by professional psychometricians.*
- *Each question is reviewed and edited by similar subject matter experts. Questions are referenced by an authoritative and published source or based on consensus of the Subject Matter Experts (SMEs).*
- *Each question is validated for importance, criticality, relevance and field tested as an unscored item prior to inclusion.*
- *EBPHI contracts with professional testing companies at more than 300 locations to provide convenient and affordable access to test takers at no cost to the states. These test facilities insure the security and integrity of the NHIE.*
- *EBPHI is governed by a volunteer board of directors, with no membership to answer to. Its only purpose is the development, maintenance and administration of a valid, reliable and legally defensible home inspector competence assessment test.*

The SB2403 as currently submitted, needs to be rewritten and any all reference to HAHI eliminated to protect the efficacy of current high industry standards.

Conundrum with SB2403:

I have read the Bill in entirety as well as the Code of Ethics and Standards of Practice presented and created by HAHI in their 40 page document numerous times.

- How is it that the Board of Home Inspectors PHICH (denoted as The Board in this Bill) can be comprised of members not even affiliated or knowledgeable in the field of Home Inspections?
- Why is it that the word(s) “continuous or consecutive” are omitted for the time period of Home Inspectors while denoting 5 or 10 years experience?

- How is it that the HAHl exam is even mentioned in this Bill when HAHl hasn't even been in existence for a year at the time of this writing? Who has even reviewed the HAHl exam? Is HAHl even recognized by National Associations such as ASHI or Inter-NACHI?

- Based on what was outlined above regarding EBPHl and NHIE who will be re-analyzing the HAHl exam to insure it's in accordance with changes in the industry --every 5 years?

HAHl Note: There are currently 4 members in HAHl: the President; Director; Affiliate and an Associate. In HAHl's own website it states one cannot have Logo privileges until they pass the exams. Yet the Director, Associate and Affiliate (Director, Affiliate and Associate are not even denoted anywhere in HAHl categories) all utilize the logo on their websites. Where is the monitoring?

- Who will be supervising the 2 single-family and 2 condo inspections?

- After over 30 years personally in the industry, I can attest that the majority of great inspectors have no time for this type of "monitoring". Who will be performing this supervising? A self-proclaimed Master Inspector with far less consecutive years of experience?

- We have already acquired our certifications, had our reports reviewed by our respective National Associations and maintain far more CE credits than what HAHl proposes on an annual basis.

- Who will perform audits on the Home Inspectors with this Legislation for Hawaii? Right now at the National level random audits are performed on an annual basis in the US and Canada.

- First-time licensees are not subject to CE's for the first license renewal? This is absurd! The new Home inspector needs to start off immediately in improving his knowledge by attaining CE's on an annual basis versus waiting 2 years.

- I respectfully disagree with the bias that is being dictated and presented by the Home Inspector that initiated this Bill. ASHI already designates where and how our CE'S can be attained. As Professionals the subject matter is left to the Home Inspector based on where they want to improve their knowledge base.

- In the 40 page document that is referenced in this Bill it states: "All home inspections must be done according to the Standards of Practice and Code of Ethics of the PHICH." (denoted as The Board in this Bill). The Standards of Practice is the *opinion* of the author and is a far over reach in dictating to seasoned inspectors "how to perform a home inspection".

- For clarity the author denotes his exam with HAHl is better because: "NHIE is not well suited or challenging enough for those who conduct home inspections, and, it lacks professional standards and code of ethics as part of the exam. It is not well rounded."

- What the author has failed to denote is that in order to become a member of ASHI or Inter-NACHI the first step is to pass the exam for the SOP and Code of Ethics. The inspection exam itself is characterized as part ii at a later date if elected.

Summary:

As I stated above, I am not against legislation for Home Inspectors ***yet SB2403 needs to be assessed and revised in a much more serious manner before proceeding.***

As an aside: Currently there are repercussions for Home Inspectors providing sub-par inspections:

- Realtors know who they are and they are not busy.
- Home Inspectors who lose credibility, have poor ethics, sloppy standards of practice or do not have the client's best interest in mind cannot and do not last long!
- Clients who have suffered by an inadequate Home Inspector can and do turn to litigation.
- If a Home Inspector has been involved in any litigation it will affect their E&O rates **TREMENDOUSLY!**
- The "coconut wireless" as well as current technology will ensure that friends, family, peers and professionals are aware of who to hire or not hire for their home inspection.

By issuing this type of Legislation it will affect the inspection and Real Estate industry in a paramount manner! Many good inspectors may not be able to meet the timeline for this Bill and ultimately not become licensed. This will reduce the amount of inspectors considerably and affect the J1 dates for many Realtors due to lack of inspectors.

Over the years we have expanded the number of Home Inspectors on each island. Because I am highly regarded within my industry on Maui I have not been affected and I still consistently have to turn away home inspection requests due to a heavily booked schedule. Our motto has always been: "We Guarantee The Most Thorough Inspections and The Best Customer Service In Maui County."

Licensing in any field, in any state has never been able to guarantee "excellence" in an industry. It always comes back to the individuals ethics, integrity, knowledge and customer service in ones profession. To think licensing will curtail shoddy workmanship in any area is tunnel vision. Hence why so many of us as Home Inspectors constantly call out the workmanship with licensed electricians, plumbers and even contractors. This happens on an initial inspection or what we call a "re-inspect" after repairs/maintenance has been completed. It goes back to the experience and knowledge of the professional completing the work.

What happens when there are far less inspectors that just can't abide by the highly regulated, crippling and even nonsensical bias presented as the SOP in this Bill?

There are many Home Inspectors on their way and striving to reach the higher credentials of ASHI and/or Inter-NACHI. It takes time to perform the required amount of home inspections, submit your report writing to your National Association for acceptance and gain the experience needed to be your best in the profession.

Thusfar, there are several companies where the owner is an ASHI ACI inspector and has "members" of a National Association working under them. How will this Bill allow for new inspectors in the industry in a timely manner?

In many Electric and Plumbing companies the owner is the licensed person, yet can have knowledgeable employees working under them and mentoring. How is this acceptable yet under SB2403 it is not?

Yes, some clients have connections and will hire someone in a different field outside of a Home Inspector. As referenced in this Bill --have the Architects, Engineers and Contractors been notified of this Bill?

Senators, I'm hoping that all this input by myself and other Home Inspectors, will be taken into serious consideration. I'm also hoping that we can be allowed as a group of Professionals to draft a Bill that is more in alignment with the Legislative model ASHI has designed.

Aloha,
Paul L. Signore
President - Paul L. Signore Building Inspection Services Inc.,

Member of:

The American Society of Home Inspectors - ASHI® - Cert. # 2389
Past President and Founding member of the local chapter - ASHI of Hawaii Inc.
Past member FREA/RREI - Residential/Commercial Real Estate Inspector #20634
Past member of the Chimney Safety Institute of America - Cert# 2942
Affiliate Member: RAM (Realtor Association of Maui, Inc.)
ASHI National By Laws Committee
ASHI National Chapter Relations Committee
Past COR rep (Counsel of Representatives)

SCR-27

Submitted on: 2/11/2018 6:15:20 PM

Testimony for HOU on 2/13/2018 3:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Devon Broome	Diamond Head Home Inspections	Oppose	No

Comments:

My name is Devon Broome, with Diamond Head Home Inspections, and I strongly oppose Senate Bill SCR27. There is no need for an auditor to conduct any type of review or analysis. Real estate professionals around the island know who the good and bad inspectors are. The ones who continue to provide great quality service and insight will continue to receive business, calls, and referrals. The bad inspectors will weed themselves out naturally in the marketplace. No review or analysis is needed for that. Thank you for the opportunity to submit testimony and I appreciate your consideration.

Mahalo Nui,

Devon S. Broome

SCR-27

Submitted on: 2/12/2018 10:02:20 AM

Testimony for HOU on 2/13/2018 3:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Ryan Kamealoha Jr.	Testifying on behalf of Diamond Head Home inspections	Oppose	No

Comments:

I am Ryan Kamealoha Jr. with Diamond Head Home Inspections and I oppose this measure.

I am writing to you due to the recent Senate Bill which was released to committee (SBR2403/SCR27).

This Bill was written by a group called HAHI (Hawaii Association of Home Inspectors) which currently has 4 members. The bill was written behind closed doors and was not transparent to you or any other home inspector external to HAHI, which is a strong indicator this bill is one that you would not like.

Here are some objective key bullet points you can use and of course submit your own opposition:

- 1) SB 2403 ensures a single individual or body (board) is in direct conflict and competition with Home Inspectors as those recommended board members are active home inspectors. In addition, the bill would enable the board to eliminate competition based on subjective standards that are not regionally or nationally recognized, and which are generally derived from the personal opinion of one home inspector. This potentially violates anti-trust/monopoly laws.
- 2) Under Section 9.3 of SB 2403, the board can suspend or revoke a home inspector's license on the board's mere subjective analysis and conclusion that the inspector suffers from a mental or physical disability. This likely violates ADA compliance laws, is discriminatory in practice, and violates the Equal Protection Clauses of the United States Constitution and the Hawaii Constitution.
- 3) HAHI does not represent the home inspection industry in Hawaii. HAHI has been chartered for over a year and has garnered the support of only four home inspectors. Hawaii has in excess at or near 115 home inspectors.
- 4) If SB 2403 were to pass, with such low membership, HAHI is unsuited and likely unable to manage the number of inspectors and the overly strenuous, invasive, and subjective certification process HAHI currently demands. Consequently, the State of Hawaii would be unable to effectively utilize HAHI to enforce the law.
- 5) The standards of practice and the suggestions of this board will not make the consumer more informed or improve the home buying process. In fact, the home buying process will likely be greatly harmed by subjective oversight with near limitless ability to eliminate and punish inspectors who do not adhere to the opinions of active competitors. This process will likely be susceptible to corruption and legal challenges. Furthermore, elimination of competition will likely lead to less competition, which would increase the J1 time period and increase the cost of a home inspection for the consumer.
- 6) The very subjective and near limitless power of the board exposes the State of Hawaii to ethical and legal challenges.

- 1) Why regulate? Who will it help? Are house painters required to pass a test? Are lawn service companies required to get a license?

In 2006, the state of Ohio conducted an analysis that indicated that over the top regulation, like SB2403, did not make the home inspector, the industry or the consumer any better. See link:

http://www.com.ohio.gov/documents/real_2005.0001FinalPaper.pdf

- 2) The argument for licensing is primarily, ‘other states have put in regulation, so why don’t we do the same thing?’ Hawaii is not like any other state. The Hawaii home inspector community is a small one and direct subjective oversight would be geographically challenging adding significant cost and time. To put one person’s standards in place and demand the rest of the home inspectors adhere to them or face a fine/penalty will leave the state open for corruption and legal challenges.
- 3) Never have so many regulated so few: SB2403 requires a 9 person board and several other supporting staff to regulate what is around 100 inspectors. The state time and commitment to monetarily support such a small group of people with 10% of the industry is over burdening to the tax payer.

Cautionary tale:

Kansas enacted regulation/licensing for home inspectors in 2008. Due to allegations of personal profit from board positions, a lack of trust developed and resulted in the dissolution of the board and the regulation.

Kansas stopped the requirement in 2013, the then governor said,

“Upon review of the materials provided by the proponents of this legislation, both in 2008 and 2013, I see little evidence of large numbers of Kansas citizens being economically harmed by home inspectors,” Brownback said in a news release announcing his veto. “In fact, even the proponents believe the vast majority of Kansans who provide this service are honest people. Therefore it appears the legislation passed in 2008 may simply add unnecessary fees and regulations to law abiding citizens.” Brownback also noted in the release that he thought the home inspectors board lacked the resources and expertise to regulate home inspectors, and that the Kansas Attorney General’s office was “better equipped” to investigate complaints and help homeowners seek reimbursement from unscrupulous home inspectors.

Kansas Sen. Ty Masterson, R.-Andover, was one of three senators to vote against Senate Bill 37.

“Just on that area of licensure and regulation in general, I think I was on the same path with the governor,” Masterson said.

He added that he thought any financial remedy sought by a Kansas homeowner against and inspector could be “remedied in court.”

Masterson said the fact that home inspectors were lobbying for the bill — and had lobbied for the original law — didn’t make him think twice about supporting the bill.

“Anybody from within an industry loves licensure because you are limiting competition,” he said.

In 2015, When faced with regulation, Colorado senators voted no. Senators said the “free market” could better regulate home inspectors than the state.

- 4) SB2403 is short sighted and will result in personal profits for a few individuals due to the sudden reduction in competition. Several states have gone thru regulation have reported similar results. Competition was nearly cut in half which resulted in a bonanza for a select few. That also resulted in a loss of available home inspectors, some who were seasoned and well respected, and could not fulfill the J1 ten day requirement for the real estate industry there by hurting the industry and the consumer.

Please see link for study:

http://www.com.ohio.gov/documents/real_2005.0001FinalPaper.pdf

SCR-27

Submitted on: 2/11/2018 9:50:12 AM

Testimony for HOU on 2/13/2018 3:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Elizabeth Kellam		Oppose	No

Comments:

SCR-27

Submitted on: 2/11/2018 5:45:25 PM

Testimony for HOU on 2/13/2018 3:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Michael Hall		Oppose	No

Comments:

My name is Michael Hall with Diamond Head Home Inspections, and I strongly oppose Senate Bill SCR27. Since Q4 of 2017 and the first of this year, i have personally completed 198 inspections. Our clients continue to call our company and choose us to complete inspections for their clients. This analysis seems like a reach in hopes of passing some sort of legislation when one is needed at this time. Inspectors who perform poorly will not get repeat business. Inspectors who fail to do their job ethically and responsibly will no longer receive calls and requests for inspections. Our company, like many others do not see the need for this analysis as inspectors who continue to do their job poorly will eventually go out of business and this will occur naturally. No analysis is needed to tell us that. Thank you for the opportunity to submit testimony and I appreciate your consideration.

All the best,

Michael Hall

SCR-27

Submitted on: 2/12/2018 8:54:15 AM

Testimony for HOU on 2/13/2018 3:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Adam Lock	Individual	Oppose	Yes

Comments:

My name is Adam Lock with Diamond Head Home Inspections, and I strongly oppose Senate Bill SCR27 unless an auditor can work collaboratively with others in our industry. We feel that at this time, the sunrise review is not needed, unless it were to shed light on some basic mishandling of this entire process. For one, our company works with 19 of top 115 agents in the state and over 450 agents per year. Our clients continue to call our company and choose us to complete inspections for their clients. This analysis seems like a reach in hopes of passing some sort of legislation when one is not needed at this time. Inspectors who perform poorly will not get repeat business. Inspectors who fail to do their job ethically and responsibly will no longer receive calls and requests for inspections. Our company, like many others, do not see the need for this analysis as inspectors who continue to do their job poorly will eventually go out of business and this will occur naturally. No analysis is needed to tell us that. An effort to work with an auditor would be the only way I could support this measure. Thank you for the opportunity to submit testimony and I appreciate your consideration.

I'm a realtor at Kapolei Realty and the office manager for Diamond Head Home Inspections. I love my job. It enables me to provide for my family and to live the quality of life we are all working so hard to create.

Realtor life is always busy and can be hectic and chaotic. This is true for most working professionals in any career field, but real estate is a different lifestyle that you just have to live to fully understand. The saying "Real Estate NEVER Sleeps", is very, very true. But if you love what you do, you find a way to make it work and do your best. Even on the days when you get knocked down, you somehow find a way to move onward and upward and roll with the punches.

I got into this industry almost four years ago on the mainland. Through my experiences as a single mom and a survivor of domestic violence, I found myself with no money and no stable career in place. I had an infant son of three months old and no time to waste. I needed a career and to obtain affordable housing and stability for my son. It was my dad who began to teach me about investing and encouraged me to get my license as a realtor. I learned about investing and repairing credit to work towards being a home owner. By being a home owner, you instantly become an investor and begin to pave a path towards a successful future for your family. This knowledge inspired and encouraged me daily. That knowledge continues to feed my passion and drive today to achieve success in the real estate industry. It took me years to get where I am today, and it will take me years to get where I'm going. I am proud of the career I have built, and I thank the amazing support of my friends and family. The unconditional love and support of my fiancé and family is the push that keeps up my momentum. They are always by my side to cheer me on as I've had to learn to adapt and grow in this industry. I am grateful for the support as I have struggled through the transition between changing jobs and brokerages in order to do what's best for our family and future. I also am very thankful for the amazing professionals in this industry who have helped me along the way.

We never know what curve balls life is going to throw in our faces. When my dad was diagnosed with cancer this past summer, we had to face reality and hit the reset button. We had no time to think or make clear decisions. It's been a rough year. The medical bills and emotional roller coasters have impacted life as we know it. The investments we have made in properties is one thing that will help my family get back on track financially. For this we are very thankful.

Being a realtor and having a career in the home inspection industry has brought me to life changing opportunities for my family and even my clients. It hasn't been easy getting started in this business but nothing worth fighting for is. With my dad's cancer, I had to make the choice to put my career as a full-time realtor on a brief pause and only work with a small client base of established clients, referrals and friends and family. I didn't have the time to wait for my business to bloom and even if I had the business, I wasn't able to meet the demands of my clients needs. I needed to find something fulltime and steady. This is when I met Daniel Smith, the president of Diamond Head Home Inspections. I am currently the full time the office manager. I love my job! Did I say that already? I say it often. It is the perfect mix of customer service and hands on experiences that I enjoy doing on a daily basis. This industry is a great community with solid connections. I am able apply my realtor skills, knowledge and experiences as the office manager at DHHI.

I share my personal story and experiences publicly with the hope that people can relate and feel humbled or none the less be inspired in some way. As a realtor and a team member of Diamond Head Home Inspections, I am a part of the real estate industry. I am concerned for what may happen to our industry if this bill passes.

“Bill SB2403: Relating to Home Inspectors. The manner that this bill is written is unethical, biased, and would have profound negative impact on our industry as a whole.”-Daniel Smith, president of Diamond Head Home Inspections. I couldn't agree more with this statement.

Home inspections go hand and hand with making a smooth transaction possible for buyers and sellers together with their agents. If this bill passes, it will require home inspectors to raise prices on their inspections. Extra costs such as a home inspection and a home warranty are already an extra stretch for buyers on a budget. Let's face it, majority of buyers are on a tight budget out here in Hawaii. It isn't uncommon for realtors to purchase a home warranty or to cover the cost of a home inspection for their clients. As realtors, we've seen the good the bad and the ugly of transactions. Things don't always go as planned. Situations are not always as they seem to be. It's our job as licensed professionals to do our best to go above and beyond to represent our clients throughout their transaction process. Home inspections are important to ensure that the home the buyers are purchasing are in fact a good investment. With a quality home inspection, buyers can feel confident in their purchase or are able to start the negotiations with the seller to come to an agreement in the deal.

If this bill passes it will inevitably affect realtors more than home inspectors. If rates go up for home inspections and home warranties buyers would more likely opt out of home inspections and home warranties. Deals would take longer to close or die hard. Together we are working hard in doing our best to stop this bill from passing and dangerously impacting our industry.

SCR-27

Submitted on: 2/12/2018 11:42:09 AM

Testimony for HOU on 2/13/2018 3:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Adam Lemire	Individual	Oppose	No

Comments:

My name is Adam Lemire, with Diamond Head Home Inspections, and I strongly oppose Senate Bill SB2403.

As one of the lead architectural inspectors of our company that works with one of the largest developers in the state of Hawaii, I firmly believe this bill would not only hurt our company, but my personal livelihood. This bill was not properly vetted, was not inclusive of industry professionals and is wrought with too much vagueness and subjectivity.

This bill could effect lives and industries (real estate and home inspection) and I view it as a personal attack on many companies and multi inspectors firms to put them out of business for the greed and agenda of one person and organization. Our company, with 14 total employees, has more than the organization mentioned in the bill that would help facilitate membership, licensing, education, and renewals. How does that make sense? HAHl should be removed from the bill and no mention of it should ever be put in future legislation as it has only 4-5 members out of the 115+ in the state, has no affiliation with a national recognized organization such as InterNACHI and ASHI, is not accredited, and it's testing protocols seem inconsistent and unverified. HAHl does not represent the home inspection industry in Hawaii. HAHl has been chartered for over a year and has garnered the support of only four home inspectors. Hawaii has in excess of or near 115 home inspectors.

SB2403 requires a 9 person board and several other supporting staff to regulate what is over 115+ inspectors. The state time and commitment to monetarily support such a small group of people is over burdening to the tax payer. How will Hawaii have enough inspectors to supervise 2 single family and 2 condo inspections? It doesn't seem possible.

SB 2403 ensures a single individual or body (board) is in direct conflict and competition with Home Inspectors as those recommended board members are active home

inspectors. In addition, the bill would enable the board to eliminate competition based on subjective standards that are not regionally or nationally recognized, and which are generally derived from the personal opinion of one home inspector. Could this be a violation of anti trust or monopoly laws?

Either way, we see this bill as something that needs to be sopped and if regulation is really what the state wants, then all inspectors should come together with some common ground as opposed to everyone being caught off guard and blind sided by this in the 11th hour. Thank you for your consideration.

All the best,

Adam Lemire

SCR-27

Submitted on: 2/12/2018 12:04:53 PM

Testimony for HOU on 2/13/2018 3:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Joel Hamamura	Individual	Oppose	No

Comments:

While I do agree that anyone looking to become a home inspector should be certified, I believe there are already associations that one may be certified with, such as ASHI (American Society of Home Inspectors) and InterNACHI (International Association of Certified Home Inspectors).

I believe these associations to be more than adequate, and it would be up to the buyers and sellers in real estate to utilize home inspectors that hold these certifications.

LATE

SCR-27

Submitted on: 2/12/2018 4:58:19 PM

Testimony for HOU on 2/13/2018 3:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
LeonardLepine	Individual	Oppose	No

Comments:

I recommend that both SB2403 and SCR27 be withdrawn, as there is much more important legislation to work on which might actually improve the lives of of an underclass which is burgeoning in our robust tourist economy. Home inspection legislation only helps realtors and home inspectors who are already prospering. It does NOTHING to protect the home buyer.

Leonard Lepine, home inspector for 33 years in 2 States.

LATE

SCR-27

Submitted on: 2/12/2018 11:26:17 PM

Testimony for HOU on 2/13/2018 3:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Oscar R. Libed	Individual	Support	No

Comments:

I am the owner of Inspect Hawaii, LLC doing home inspections for the past 4 years. I support SCR27 in order to determine if a problem exists within the home inspection industry. And if so, then regulation should be the next step to solve the problems.

But, if the the study determines that there are no significant problems within the home inspection industry, then it should not be regulated.

Sincerely,

Oscar R. Libed

LATE

SCR-27

Submitted on: 2/13/2018 9:04:40 AM

Testimony for HOU on 2/13/2018 3:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Alex Woodbury	Testifying on behalf of Woodbury Inspection Group Inc.	Support	No

Comments:

Woodbury Inspection Group Inc.

77-359 Paulina Place

Kailua-Kona, Hawaii 96740-2481

808-322-5174 Fax 322-5178 Cell 640-1566

alex@woodburyhawaii.com

January 30, 2018

Re: Legislation Senate Bill SB2403

Attention: Senator Will Espero
senespero@capitol.hawaii.gov

Senator Breene Harimoto
senharimoto@capitol.hawaii.gov

Senator Rosalyn Baker
senbaker@capitol.hawaii.gov

Senator Lorraine R. Inouye

seninouye@capitol.hawaii.gov

Senator Josh Green

sengreen@capitol.hawaii.gov

Dear Senators,

My name is Alex Woodbury, I am the president of Woodbury Inspection Group Inc. with offices and residences in Districts 3 and 9 on the Big Island of Hawaii. **I have recently learned of the introduction of Senate Bill SB2403. I am not opposed to legislation, however I am opposed to this bill as written. I support SCR27 a full SUNRISE REVIEW OF THE LICENSURE AND REGULATION OF HOME INSPECTORS is absolutely needed before SB2403 or a bill similar to it can even be considered.**

Background:

We are a multi-generational family owned and operated home inspection company based in Kailua-Kona and Kamuela on the big island of Hawaii. We have been in the home inspection business since 1993 having performed over 20,000 inspections to date. We were formerly a licensed general contracting firm from 1979-2001, (License # BC-12448).

My business, as mentioned is family owned, and I am the younger generation. My recently deceased father Michael Woodbury paved the way for me. After five years of apprenticeship, I was, at the time of my certification with the American Society of Home Inspectors (ASHI), one of the youngest ever credentialed as a certified home inspector. This year at the age of 40 I received my 15th year recognition as an ASHI Certified Home Inspector. Currently I am a director at large for the state chapter of the American Society of Home Inspectors. I have been past president of the organization and for several years I chaired its legislation committee.

During my tenures as both chapter president and legislation committee chair we battled introduction of past bad legislation and worked closely with ASHI National to follow legislation efforts elsewhere in the country. Two agendas became clear during legislation efforts, 1.) efforts by disenfranchised inspectors to control market share drove the majority of legislation attempts nationally, and 2.) efforts by lawmakers to protect consumers drove to a significantly lesser extent efforts to enact legislation.

In the majority of cases, states' legislation for the licensure of home inspectors has ultimately fallen short of recommended industry guidelines, namely the Standards and Practice, and codes of Ethics of the American Society of Home Inspectors, and the International Association of Certified Home Inspectors. Unfortunately many well intentioned attempts at legislation have resulted in licensure of watered down and ultimately poorly executed laws that were proposed as strong and well intentioned bills.

Regarding SB2403, as currently written, quite the opposite is in effect. Currently the bill far exceeds ASHI model legislation in stringency and oversight and there is bias, as well as significant potential conflict of interest. The bill is apparently based on a working document submitted by well known Home Inspector, who is ironically not only **not** a member of either of the preeminent national certifying agencies, but he has recused himself from both in years past after significant conflicts with members of both organizations at both state chapter and national levels over just this very issue among other things. As a former member of our state chapter, he was not a team player and failed to come to a middle ground on most everything.

I have read the bill in its entirety, and I firmly oppose it for four primary reasons set forth below:

1.) -6 Qualifications for licensure.

What is the Hawaii Association of Home Inspectors? and why is it repeatedly referenced in this bill? This "organization" is as yet one year old, and not credible.

It is not accredited by [National Commission for Certifying Agencies\(NCCA\)](#) It is not recognized by ASHI or Internachi. It consists of four members or less state wide and does not represent the home inspection industry in Hawaii or nationally. It has no affiliation with the American Society of Home Inspectors or InterNACHI. Hawaii state has approximately 115 home inspection companies. Are we to base some key component of this legislation off of an arguably fictitious organization within the industry locally that is run olicarghacly?

How is it that a bill before the senate includes reference to an un-recognized organization? Any reference to HAHI or its exams or certifications should be stripped

from this bill. There are professional nationally and internationally recognized NCCA accredited 501.C3s for this such as ASHI and InterNachi.

2.) -4 Board of home inspectors; establishment, appointment, membership.

(1) & (2) I would encourage this to read five and ten years consecutively and include only inspectors who were members in good standing during this tenure with nationally recognized certification organizations such as ASHI or Internachi. Otherwise we have potential for un-credentialed "inspectors" in executive board positions.

We are going to place barely a minority 4:5 board members in a position to develop and execute sections 1-7 who have no background whatsoever in home inspection? Really? A real estate broker and three members of the public at random or by of appointment by our Governor? What about a real estate attorney and a construction defect litigation attorney on the board? What about a municipal code official an actual "building inspector"? Or maybe more credentialed and nationally certified home inspectors? This needs discussion and correction.

3.) How will the DCCA justify the creation of a position or positions within its department to pay for licensure. With arguably 20% or more inspection companies failing to meet the initial licensing requirements how will 80 inspectors paying \$175-450.00 annually fund even a part time department position?

This does not seem fiscally responsible?

4.) There is no discussion within this bill of mentoring or the ability for an inspection firm to perform inspections with the oversight of an responsible managing entity RME overseeing apprentices etc. With many firms including my own having more than one inspector is not uncommon the market demands it. If I cannot mentor someone under me first and then through a careful apprenticeship bring them up to my standards and train them to be competent enough to be licensed, then how do we effectively bring new blood into the industry? The bill defined education requirements fall far short I assure you. Experience is everything. Looking at the DCCA's requirement for a licensed general contractor for example, in addition to satisfactorily completing a written proctored exam, they are interviewed, and their experience of managing personnel over 5 years is carefully scrutinized. Look at the standards for ASHI and Internachi. Required are 50 fee paid inspections for candidacy, 250 fee paid inspections for certification, all reviewed and critiqued carefully, in addition to the

passage of a nationally recognized psychometrically valid third party procured examination. How does this bill allow for mentorship and training of future inspectors under those who are currently licensed/qualified?

Senators, in the coming weeks, I think you will find that the industry in the state is not in approval or support of this bill as written. I would be happier with ASHI's model legislation, and yet I wonder as I did over a decade ago with similar introduced legislation, does Hawaii yet have the industry to support such legislation without the licensure being a drain on State government resources?

I must attest that I consider my self an absolute professional, having the reputation in my districts as one of the most thorough and professional inspectors in the industry like my father before me. After all, reputation in our industry is everything and consumers are educated more than ever in this digital age. Any licensing requirement that results in the elimination of available inspectors in the state will undoubtedly lead to supply and demand issues, a shortage of qualified "licensed" inspectors would increase the DROA real estate transaction inspection and due diligence time period beyond reasonable and feasible industry accepted standards and as a result lead to the increase in cost of a home inspection for the consumer. I already turn away 60% of the potential clients reaching out to me, and I suspect that if this bill passes that number will increase significantly.

Licensure will not likely protect the consumer. Consumers are like birds of a feather. They flock together. Those that want a deal pick the cheapest inspector. Those that are deceitful pick the inspector with the lowest ethics, and those that are savvy pick the inspector with the best reputation and get what they pay for. Like general contracting, licensing in home inspection will not significantly change this reality, and weak legislation will be a stain on our legislature and the DCCA.

I recommend that the Senate shelve this bill until it can be appropriately reviewed and re-written by a panel of experts in the industry locally for revisitation in the 2019 legislative session. I volunteer myself to review and assist in re-writing should the senate be interested. I also strongly support SCR 27. There needs to be a full SUNRISE REVIEW OF THE LICENSURE AND REGULATION OF HOME INSPECTORS.

Very Truly Yours,

Alex Woodbury, President

Woodbury Inspection Group Inc.

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ASHI Certified Home Inspector 15 yrs. ACI 211314

ITC Level Two Certified Infrared Thermographer

USGBC LEED AP

USGBC Green Rater

Former HERS Home Energy Rating Specialist

Former EnergyStar Partner

Former President of ASHI Hawaii

Past Legislative Chair, Current Director at Large.

2018 Celebrating 25 years in the industry!