

Testimony of the Contractors License Board

**Before the
House Committee on Consumer Protection and Commerce
Tuesday, February 25, 2020
2:00 p.m.
State Capitol, Conference Room 329**

**On the following measure:
H.B. 1809, H.D. 1, RELATING TO CONSUMER PROTECTION**

Chair Takumi and Members of the Committee:

My name is Neal Arita, and I am the Legislative Committee Chairperson of the Contractors License Board (Board). The Board opposes this bill.

The purposes of this bill are to: (1) prohibit residential contractors from offering to pay, in any monetary form, a homeowners insurance deductible as an incentive to encourage the homeowner to hire the contractor; (2) allow an insured to rescind a contract to repair or replace roof systems or other exterior work within five business days of receiving notice from a homeowners insurer that all or part of the claim or contract is not a covered loss under an homeowners insurance policy; and (3) authorize the Board to suspend, revoke, or refuse to renew the license of any contractor acting as a public adjuster.

Section 1 of this bill specifies that the additional requirements for contractors are to address unscrupulous individuals who hold themselves out as insurance claims experts and are not licensed independent insurance adjusters. The definition of "residential contractor" on page 7, lines 15 to 20, is broad and encompasses all construction work. Consequently, any contractor that contracts with a homeowner will be subject to this additional regulation, which is overly burdensome on contractors for the purpose of curbing unlicensed insurance adjusters.

For the Committee's information, administration bills H.B. 2320, H.D. 1 and S.B. 2876 were introduced this session and address the issue of unlicensed public insurance adjusters. The Board believes the contractor licensing law, codified in Hawaii Revised Statutes chapter 444, is not the appropriate statute to address unlicensed insurance adjusters.

Thank you for the opportunity to testify.



ROOFING CONTRACTORS ASSOCIATION OF HAWAII

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February 25, 2020

Testimony To: House Committee on Consumer Protection & Commerce
Representative Roy M. Takumi, Chair

Presented By: Tim Lyons, CAE
Executive Director

Subject: H.B. 1809, HD 1 – RELATING TO CONSUMER PROTECTION

Chair Takumi and Members of the Committee:

I am Tim Lyons, Executive Director of the Roofing Contractors Association of Hawaii and we have to oppose this bill as written as it is confusing and very unclear.

This bill addresses a grave problem; one that has affected consumers and tarnished the industry. As the bill points out, a few years ago a whole group of unsavory and unprofessional contractors known as “storm chasers” arrived in Hawaii after our last storm came through the islands. These individuals were very “polished”. They know how to deal with consumers and they particularly know how to deal with insurance companies and in most cases, they actually operate legally under the license law. They do that by finding some poor small unknowing licensed operator and tempt them into going along with their scheme with offers of lots of

money. They outrightly act as public adjustors, they outrightly rip-off the insurance companies and in most cases, the consumers get a brand new roof with a lot of cash left over.

When our organization heard about this scam going on several years ago, we worked with the Insurance Commissioner in order to educate our members as to what a public adjustor is and the fact that it takes a license under Chapter 431:9 to do these things. We also worked with the insurance companies who were unknowingly and routinely declaring roofs as total losses when many of them barely had damages. In short, the regular mainstream roofing contractors were not part of this scheme at all and we don't think they should suffer any over regulation as a result of the "bad guys".

We do think however that roofing contractors should not ever act as a public adjustor and to that extent we concur with Section 3 as the ONLY part of the bill that should move forward. However, should Section 2 move, it is necessary to address some logistical problems.

A first priority for amendment with this bill is to eliminate the five (5) day recession section. This will be terribly confusing with Section 481C HRS which already establishes a three (3) day right of recession for contracts the homeowner executes where they have been solicited. That is how these storm chasers operate. They canvas neighborhoods searching for damaged roofs and then solicit the work.

In the absence of a deletion there are other operational aspects of the bill that we think have some operational and logistical problems. As an example, the bill allows the insured to rescind their contract within five (5) days after receiving notice from the insurer that their claim will not

be covered. We think that it is important to note that in reality this means that the contractor will not start any repairs until the insured has received notice from their insurer that the claim will be honored. In the meantime, the customer waits and with discussions and disputes that could be an extended time and in the meantime the consumer has a roof that needs repair.

In Section 2, item b (page 2) it indicates that an insured that has entered into a written contract with the roofing contractor to provide services to be paid from the proceeds of a insurance policy can rescind the contract. We are not quite sure how this is determined. The homeowner may indicate that is how he intends to pay the contractor but it doesn't appear that there would be any proof of that. Additionally, the notice of rescission is effective upon the deposit in the mail and that doesn't seem to make sense to us since that would be totally different from when the contractor actually receives the notice, if he gets the notice.

We would suggest that in the Notice of Rescission it include a requirement that a copy of the notification from the insurance company that the claim will not be honored be included with the Notice of Rescission that the contractor receives so that there is no dispute as to whether the claim was honored or not.

On page 4 it defines "Residential contractor" and mentions other exterior repair, replacement, construction, or reconstruction work on residential real estate. This is very broad and basically includes work from many different trades and across multiple scopes of licensure. Alternatively the definition of "roof system" is more specific but also includes "insulation" which may be both interior and/or exterior and, again, may be outside the scope of work of a roofing contractor.

In short, the bill is not clear.

So in conclusion, we realize that there has been a problem in the past although we are not privy to any recent complaints. We know that our Association has worked with the regulatory authorities to be sure that our members are apprised of the regulations in this area and to assist them in anything that we can do in order to avoid consumer harm. We are happy to continue that effort however it would appear that the bill as written puts a confusing burden on all local contractors that is ill deserved. Except for the prohibition on contractors acting as public adjustors, we believe the rest of the bill should not survive.

Thank you.

TESTIMONY OF ALISON UEOKA

COMMITTEE ON CONSUMER PROTECTION & COMMERCE
Representative Roy M. Takumi, Chair
Representative Linda Ichiyama, Vice Chair

Tuesday, February 25, 2020
2:00 p.m.

HB1809, HD1

Chair Takumi, Vice Chair Ichiyama, and members of the Committee on Consumer Protection & Commerce, my name is Alison Ueoka, President of Hawaii Insurers Council. The Hawaii Insurers Council is a non-profit trade association of property and casualty insurance companies licensed to do business in Hawaii. Member companies underwrite approximately forty percent of all property and casualty insurance premiums in the state.

Hawaii Insurers Council supports the intent of this bill. The bill puts in place consumer protection measures against unscrupulous roofing contractors, some of whom come into Hawaii after a wind event and misrepresent to homeowners, insurance benefits. In some cases, roofers obtain separate contracts from homeowners which can result in the homeowner having to pay for a roof out of pocket when the damage sustained could have been repaired.

We respectfully ask this committee to clarify language by amending Section 444-17 (23) as follows,

“(23) ~~[Knowingly or intentionally a]~~Acting as a public adjuster without a license, as defined in section 431:9-105.”

Thank you for the opportunity to testify.



February 24, 2020

Chair Roy Takumi and Members of the Committee
Committee on Consumer Protection and Commerce
Hawaii House of Representatives

RE: House Bill 1809 – Consumer Protection

Dear Chair Takumi and Members of the Committee:

The National Insurance Crime Bureau (NICB) is a national, century-old, not-for-profit organization supported by approximately 1,300 property and casualty insurance companies, including many who write business in Hawaii. Working hand-in-hand with our member companies and law enforcement, we investigate organized criminal conspiracies dealing with insurance fraud and vehicle crime.

Contractor fraud, particularly involving exterior repair, is widespread and problem, and Hawaii is not an exception. Often, in the aftermath of major storms or catastrophe, unscrupulous, aggressive contractors use the opportunity to prey upon already vulnerable consumers.

House bill 1809 seeks to provide important consumer protections, by:

1. Prohibiting full and partial deductible rebates. Some contractors will attempt to lure homeowners into agreeing to unnecessary or inflated claims by offering to rebate their deductible.
2. Providing for the right to cancel upon an adverse decision from an insurer. This important consumer protection helps ensure that homeowners that are misled by unscrupulous contractors into believing certain damage is covered or covered to a greater extent than it is, are not locked into a contract for extensive, expensive exterior repair work.

Subsequently, we ask for your support of HB 1809 which will help provide critical consumer protections and curtail aggressive, stormchasing contractors.

Thank you for your review and consideration; if you have any questions or need additional information, please contact me at hhandler@nicb.org or 847-544-7083.

Sincerely,

A handwritten signature in blue ink that reads "Howard Handler".

Howard Handler
Director, Government Affairs



SanHi

GOVERNMENT STRATEGIES

A LIMITED LIABILITY LAW PARTNERSHIP

DATE: February 24, 2020

TO: Representative Roy M. Takumi
Chair, Committee on Consumer Protection & Commerce
Submitted Via Capitol Website

FROM: Matt Tsujimura

RE: **H.B. 1809, H.D. 1 - Relating to Consumer Protection
Hearing Date: Tuesday, February 25, 2020 at 2 p.m.
Conference Room: 329**

Dear Chair Takumi, Vice Chair Ichiyama, and Members of the Committee on Consumer Protection and Commerce:

I am Matt Tsujimura, representing State Farm Mutual Automobile Insurance Company (State Farm). State Farm offers these comments about H.B. 1809, H.D. 1 Relating to Consumer Protection, and more specifically, Unscrupulous Roofing Contractor Scam Activities.

Although most roofing contractors are professionals that truly have the consumers interests in mind when they provide repair estimates, State Farm has found that after major storms there are some unscrupulous practitioners that descend upon neighborhoods after a significant weather event trying to “drum up” business and take advantage of consumers. This often involves the contractor telling the consumer that they can get them a “new roof at no cost to them,” and promising to “cover” the amount of the deductible when in reality that is built into the cost. The consumer is then pressured to immediately sign a binding contract for the full replacement cost.

When the insurance adjuster inspects the roof after the claim is filed and finds that there is little or no damage, the adjuster is forced to either deny the claim or approve it for the actual repair costs, which are far less than the contract price. This leaves consumers contractually obligated to pay for repairs that they don’t need and can’t afford. Often Hawaii’s more vulnerable citizens are the targets of these schemes. H.B. 1809, H.D. 1 is a simple solution that at least five other states have adopted, including Georgia, Minnesota, Missouri, New York, and North Dakota. It prohibits roofers from offering to pay a homeowners insurance deductible as an incentive to hire the contractor, and allows a consumer five business days to rescind a contract after an insurer has inspected the roof and determined that “all or any part of the claim or contract is not a covered loss under the homeowners insurance policy.” This is a pro-consumer protection bill that will help prevent Hawaii’s citizens from being scammed into entering into deceptive roofing repair contracts.

Thank you for considering this pro-consumer legislation and for the opportunity to present this testimony.

HB-1809-HD-1

Submitted on: 2/19/2020 6:48:36 AM

Testimony for CPC on 2/25/2020 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Robert Hugh Joslin - CPPA	Individual	Support	No

Comments:

My written testimony for SUPPORT of HB 1809 HD1 is attached with suggested modifications.

HB-1809-HD-1

Submitted on: 2/24/2020 2:33:01 PM

Testimony for CPC on 2/25/2020 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Phil Atoigue	Individual	Oppose	No

Comments:

I oppose this bill in reference to consumer protection. As a person who intends to own a home one day, I have limited experience in building one. That said, it is better to have a trusted and reviewed contractor handle the building, extension, renovation that may be needed per my requests. In the same situation, it is my personal experience that insurance companies are not honest and in the best interests of themselves. They are also not construction or auto experts. That said, I would trust the contractor or auto expert to tell us what is necessary for repair or replacement instead of the insurance adjuster. This bill, should it pass, would limit the ability of contractors or experts helping homeowners with insurance claims they would otherwise be taken advantage of. Insurance companies take premiums monthly and yet still require me to pay a deductible as my portion of any claim. In addition, if I wasn't a public adjuster or lawyer or licensed contractor, the average homeowner is at a disadvantage when it comes to the claims process, or even what my coverage says or doesn't say. In my opinion and experience, the insurance companies take advantage of the homeowners and do not help as much as they can until forced or held accountable.

I would advise the legislator to take into consideration that the people being taken advantage of are homeowners by the insurance companies, not contractors. To protect them properly, you should be going after insurance companies who refuse to pay what their coverage says they should pay.

Aloha,

HB1809 Relating to Consumer Protection and SB2422 Relating to Roofing Contractors basically both do the same thing. These Bill's being introduced are portrayed to protect consumers, but it's doing the exact opposite. If a contractor wants to offer to assist any insured with their deductible, this helps most families who are living paycheck to paycheck in Hawaii. The reason why the insurance companies have an issue with anyone assisting with the deductible is that it opens the public to be informed on claims that are covered by their insurance policy and knocks down profitability. It keeps contractors away from assisting homeowner with any type of property claim which leaves consumers vulnerable from Insurance companies paying the least amount on a claim instead of what's fully owed to the policyholders who is paying monthly premiums. There are only about (5) Public Adjusters in the State of Hawaii. These (5) public adjusters will not be able to cover the entire State in the event of a major storm, fire, flood, or yearly wind event our island is faced with in the future.

They have also introduced a Bill (HB2320) that hinders Public Adjusters. This goes against consumer protection again. During the hearing on 1/30/2019, I attended this matter and a Public Adjuster testified that it takes 3 months or more going back and forth to settle a claim with the insurance company in good faith. If they are going to restrict the amount they are able to charge for their services the public adjuster would have to find another job and wouldn't be able to afford to operate. This puts other Public Adjusters from being able to stay in business leaving Hawaii people with nearly no Public Adjusters left in our State. During the hearing, the board had asked the Insurance Commissioner if the Insurance companies are behind this Bill for an Act and the Insurance Commissioner didn't respond.

I attended the hearing recently on 2/11/2020 for SB 2422 and HB 1809 dealing with Roofing Contractors and Consumer Protection which State Farm testified in both pushing and influencing the Bill for an Act. In 2014 I met a veteran State Farm insurance adjuster. He shared with me that all Insurance companies have been large profits in Hawaii for over 20+ years because of the public being unaware of what is covered by their property insurance coverage, which all property owners pay every month.

Introducing a Bill that hinders Contractor and Public Adjusters won't allow licensed professionals to help the consumers with property claims or any type of claim made. Insurance companies will be collecting monthly premium payments from the people of Hawaii with no one to help in the event of a catastrophe, fire, flood, etc.

Mahalo,

Kevin Medeiros

HB-1809-HD-1

Submitted on: 2/25/2020 10:21:38 AM

Testimony for CPC on 2/25/2020 2:00:00 PM

LATE

Submitted By	Organization	Testifier Position	Present at Hearing
Rayne	Individual	Support	No

Comments: