

Testimony of the Contractors License Board

**Before the
Senate Committee on Commerce, Consumer Protection, and Health
Tuesday, February 11, 2020
9:00 a.m.
State Capitol, Conference Room 229**

**On the following measure:
S.B. 2422, RELATING TO ROOFING CONTRACTORS**

Chair Baker 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 offers comments on this bill.

The purposes of this bill are to: (1) prohibit roofing contractors from offering to pay, in any monetary form, an insured's insurance deductible as an incentive to encourage the insured to hire the contractor; and (2) allow insureds to rescind contracts with roofing contractors within five business days of receiving notification from an insurer that all or any part of a claim or contract is not a covered loss under the insured's insurance policy.

The Board will review this bill at its next publicly noticed meeting on February 14, 2020. In the meantime, the Board offers comments on this bill based on its opposition to prior similar bills. This bill creates separate requirements for roofing contractors relating to homeowner's insurance. The Board believes the contractor licensing law, codified in Hawaii Revised Statutes chapter 444, is not the appropriate statute to address unlicensed insurance adjusters. In addition, the definition of "roofing contractor" on page 7, line 14 to page 8, line 4, is problematic because it will allow a roofing contractor to perform work that is currently outside of the contractor's scope of practice.

Thank you for the opportunity to testify.



SanHi

GOVERNMENT STRATEGIES

A LIMITED LIABILITY LAW PARTNERSHIP

DATE: February 10, 2020

TO: Senator Rosalyn H. Baker
Chair, Committee on Commerce, Consumer Protection and Health
Submitted Via Capitol Website

FROM: Rick Tsujimura

RE: **S.B. 2422 - Relating to Roofing Contractors**
Hearing Date: Tuesday, February 11, 2020 at 9 a.m.
Conference Room: 229

Dear Chair Baker, Vice Chair Chang, and Members of the Committee on Commerce, Consumer Protection and Health:

I am Rick Tsujimura, representing State Farm Mutual Automobile Insurance Company (State Farm). State Farm offers these comments about S.B. 2422 Relating to Roofing Contractors, 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. S.B. 2422 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.

TESTIMONY OF ALISON UEOKA

COMMITTEE ON COMMERCE, CONSUMER PROTECTION & HEALTH
Senator Rosalyn H. Baker, Chair
Senator Stanley Chang, Vice Chair

Tuesday, February 11, 2020
9:00 a.m.

SB 2422

Chair Baker, Vice Chair Chang, and members of the Committee on Commerce, Consumer Protection & Health, my name is Alison Ueoka, President of the 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** this bill. This bill will help to curtail unscrupulous roofers who come into Hawaii after a wind event and mislead consumers about what is covered under a homeowner's policy.

We note a typo on page 7, line 20, the word should be, "alteration."

Thank you for the opportunity to testify.



February 10, 2020

Chair Rosalyn H. Baker and Members of the Committee
Committee on Commerce, Consumer Protection, and Health
Hawaii State Senate

RE: Senate Bill 2422 – Contractor Fraud

Dear Chair Baker 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.

Senate bill 2422 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 SB 2422 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



ROOFING CONTRACTORS ASSOCIATION OF HAWAII

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February 11, 2020

LATE

Testimony To: Senate Committee on Commerce, Consumer Protection, and Health
Senator Rosalyn H. Baker, Chair

Presented By: Tim Lyons, CAE
Executive Director

Subject: S.B. 2422 – Relating to Roofing Contractors.

Chair Baker and Members of the Committee:

I am Tim Lyons, Executive Director of the Roofing Contractors Association of Hawaii and we have comments on this bill.

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 adjuster 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 adjuster and to that extent we would encourage this Committee to consider incorporating something into Chapter 444 that prohibits contractors, any residential contractor not just roofing contractors, from acting as public adjusters. As a suggestion, Section 444-17, Revocation, Suspension, and Renewal of a license, lists a whole variety of items that constitute revocable actions or actions to suspend or a refusal to renew in items 1 – 22. We would recommend that item 23 be added; that a contractor may not act as public adjuster as defined under Section 431:9 HRS.

As to the operational aspects of the bill itself, we think it does 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.

We would also note that while this bill deals with roofing contractors and insurance claims, the same kinds of problems could easily exist in any other property damage areas and repairs made by contractors so we are not so sure it should be limited to just that area.

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.

In item (c) on the same page, it notes that the contractor has to provide a Notice of Rescission prior to entering into a contract and we would suggest that this needs to be changed to "at the same time of entering into a contract". We would also 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, item (e), this is a section which prohibits a contractor from offering or advertising to the insured any inducement regarding the repair and from acting as an adjustor and we wholeheartedly endorse that particular provision.

At the bottom of page 4 it defines “roofing contractor”. It includes the definition of “roofing contractor” as a non-resident roofing contractor. We are not sure how that is established as it is not defined. In the contracting business you don’t have independent contractors as is mentioned in that definition. There are only employees and employers. Further, in the definition of “roofing contractor” it mentions gutter and downspout and siding services which are all things outside of the scope of licensure of a roofing contractor.

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 burden on local contractors that is ill deserved.

Thank you.

Please VOTE YES on SB 2422. *A roofing repair job shouldn't be a roofing scam job!*

Summary of bill: SB 2422 is a reasonable and balanced consumer protection bill that provides residential consumers with written disclosures about important aspects of the repair work and provides the consumer with the ability to rescind the roofing repair contracts within five business days of receiving notice that their homeowner's insurance claim for the roof has been denied in whole or in part.

Reasons to VOTE YES on SB 2422:

- **SB 2422 protects consumers from fly-by-night “storm scammer”**, who try to confuse, bully, and/or trick consumers into entering into a contract that sounds enticing but can leave them with shoddy or unfinished repair work;
- **The proposed legislation promotes informed consumer choice** by requiring written disclosures about the scope of repairs and the homeowner's right to rescind the contract;
- **SB 2422 is consistent with residential roofing repair consumer protection bills that have been adopted in states throughout the country.** More than half the states in the nation have passed laws to provide consumer protection from storm scammers.
- **Legitimate residential roofing companies support clarity and reasonable consumer protection in the contracting process.** Contractors and consumers benefit from good professional relationships;
- **The consumer right of rescission is consistent with other consumer contract protection laws at the state and federal level;**
- **Storm Scamming is a national problem** – In October 2016, the NC Department of Justice, Attorney General posted a consumer alert “Don't Fall for Storm Repair Scams”. Other states are being equally vigilant in protecting consumers in a similar manner that is fair to roofers . . . so should Hawaii;
- **SB 2422 will protect consumers against residential home repair fraud** – Roofing repair contracts that “sound too good to be true, ARE too good to be true.” Deductible waivers, refunds, or rebate promises are a key part of the “Storm Scammer's” sales pitch - which needs to be prohibited. Written disclosure protect consumers against fraudulent inducements; and
- **Storm scammers hurt the local economy** – Fly-by-night “Storm scammers” take tens of millions of dollars of repair work out of local communities and away from legitimate contractors, who are members of the community and care about their long-term professional relationships with consumers.

**Please VOTE YES on SB 2422, and protect citizens of Hawaii from
“storm scammer” roof repairs.**

SB-2422

Submitted on: 2/10/2020 1:44:17 PM

Testimony for CPH on 2/11/2020 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
camille erickson	Individual	Oppose	No

Comments:

I work for a residential roofing company. We are honest and ethical in our dealings with consumers and insurance companies. We maintain professional relationships that are in good standing with insurance companies. We do not act as adjusters, but we do utilize the same tool that insurance companies do to indicate items that they missed in their adjustments. This is the only way to ensure the insurance company covers the claim fully and the damage can be repaired properly. We follow the insurance scope of work from their adjustment when completing repairs. If they have missed something, we would like the right to point that out to them. We provide an invaluable service to upstanding consumers who pay their mortgages on time and pay their insurance premiums. As it is written, we are opposing this bill.

LATE

SB-2422

Submitted on: 2/10/2020 1:56:01 PM
Testimony for CPH on 2/11/2020 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Matt Barberi	Individual	Oppose	No

Comments:

SB-2422

Submitted on: 2/10/2020 3:37:51 PM

Testimony for CPH on 2/11/2020 9:00:00 AM

LATE

Submitted By	Organization	Testifier Position	Present at Hearing
Ben Sims	Individual	Oppose	No

Comments:

I am formally opposing SB2422. Contractors and homeowners should be able to work together in working through the stress of an insurance claim. Most homeowners don't ever have to file insurance claims. This makes the process of filing a claim even more stressful as they now have to work between their insurance and a contractor to rectify their already bad situation.

As far as extending the right to cancel to 5 days, this is ridiculous. There is already a 3 day right of rescision. That is plenty of time for a homeowner to know whether they are making the right choice. Giving more time to cancel can put stress on contractor as well. They could've already ordered supplies, scheduled the job, etc. These bills are unnecessary

SB-2422

Submitted on: 2/10/2020 3:07:37 PM

Testimony for CPH on 2/11/2020 9:00:00 AM

LATE

Submitted By	Organization	Testifier Position	Present at Hearing
Kevin Medeiros	Individual	Oppose	Yes

Comments: