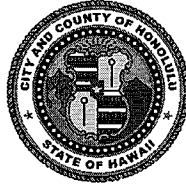


DEPARTMENT OF DESIGN AND CONSTRUCTION  
CITY AND COUNTY OF HONOLULU

650 SOUTH KING STREET, 11<sup>TH</sup> FLOOR  
HONOLULU, HAWAII 96813  
Phone: (808) 768-8480 • Fax: (808) 768-4567  
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RICK BLANGIARDI  
MAYOR



HAKU MILLES, P.E.  
DIRECTOR

BRYAN GALLAGHER, P.E.  
DEPUTY DIRECTOR

March 13, 2023

The Honorable Mark M. Nakashima, Chair  
The Honorable Jackson D. Sayama, Vice-Chair  
and Members of the Committee on Consumer Protection & Commerce  
The House  
State Capitol, Conference Room 329 via Videoconference  
415 South Beretania Street  
Honolulu, Hawaii 96813

Dear Chair Nakashima, Vice-Chair Sayama, and Members:

SUBJECT: Senate Bill No. 1468 SD2  
Relating to Right of Entry for Professional Surveyors

The Department of Design and Construction (DDC) respectfully **supports** Senate Bill No. 1468 SD2. The purpose of the bill is to:

Establish a right of entry for professional land surveyors to conduct a survey that protects the real property interests of property owners and the public interest in maintaining the integrity of a sound uniform real property system.

DDC's experience in land surveying has shown that surveying a property is not solely contained within the confines of the subject property, but often extends to finding and locating boundary markers on adjacent properties, and even properties that extend far beyond the site of the survey to ensure that the location of the subject property is the property of record. Through the process of recovering boundary markers, the surveyor or assistants may require entrance onto neighboring properties. Without this access, the survey process could be hindered and the location of the subject property would be uncertain.

Current practice for surveyors and assistants is to verbally ask for permission to enter a property for purposes of surveying. The notification process in the proposed bill would be valuable in instances where verbal agreement is not an option, as it would protect the surveyor from liability while informing the landowner of the proposed survey.

The Honorable Mark M. Nakashima, Chair  
and Members of the Committee on Consumer Protection & Commerce  
March 13, 2023  
Page 2

Based on the above considerations, DDC respectfully **supports** Senate Bill  
No. 1468 SD2.

Thank you for the opportunity to express our **support** for this bill.

Sincerely,

  
Haku Milles, P.E., LEEP AP  
Director

**Testimony of the Board of Professional Engineers, Architects, Surveyors, and  
Landscape Architects**

**Before the  
House Committee on Consumer Protection & Commerce  
Tuesday, March 14, 2023  
2:00 p.m.  
Conference Room 329 and Via Videoconference**

**On the following measure:  
S.B. 1468 S.D. 2, RELATING TO RIGHT OF ENTRY FOR PROFESSIONAL  
SURVEYORS**

Chair Nakashima and Members of the Committee:

My name is Sheena Choy, and I am the Executive Officer of the Board of Professional Engineers, Architects, Surveyors, and Landscape Architects (Board). The Board supports the intent of and offers comments on this bill.

The purposes of this bill are to: (1) authorize professional land surveyors, and any assistant under the direct supervision of the land surveyor, to enter any private property to perform land surveying, subject to certain provisions regarding notice and identification; and (2) shield land surveyors and their assistants from prosecution under criminal trespass laws when performing their duties.

A land surveyor's ability to access adjacent properties is critical in their line of work. While coordination with owners has always been a standard practice, this bill creates and standardizes requirements for land surveyors to legally enter a private property. The Board supports this bill's effort to establish a right of entry for professional land surveyors to conduct a survey that protects the real property interests of property owners and the public interest in maintaining the integrity of a sound uniform real property system.

Thank you for the opportunity to testify on this bill.

March 14, 2023

**The Honorable Mark M. Nakashima, Chair**  
House Committee on Consumer Protection & Commerce  
State Capitol, Conference Room 329 & Videoconference

**RE: Senate Bill 1468, SD2, Relating to Right of Entry for Professional Surveyors**

**HEARING: Tuesday, March 14, 2023, at 2:00 p.m.**

Aloha Chair Nakashima, Vice Chair Sayama, and Members of the Committee:

My name is Lyndsey Garcia, Director of Advocacy, testifying on behalf of the Hawai'i Association of REALTORS® ("HAR"), the voice of real estate in Hawai'i and its over 11,000 members. HAR provides **comments** on Senate Bill 1468, SD2, which authorizes professional land surveyors, and any assistant under the direct supervision of the land surveyor, to enter any private property to perform land surveying, subject to certain provisions regarding notice and identification. Shields land surveyors and their assistants from prosecution under criminal trespass laws when performing their duties. Effective 7/1/2050.

Hawai'i REALTORS® believes that land surveyors provide very valuable services in identifying land boundaries and conducting surveys of land sites and properties. While we appreciate and support amendments made in the previous committee, we would respectfully request the following amendments to clarify that the measure only applies to adjoining lands and **not to any building, structure, residence or vehicle** on the property. Additionally, we recommend that the written notice period outlined on Page 2, line 18 be specified as **10 days** to provide ample time for property owners to be notified of upcoming survey activities, especially in situations where the owner may be travelling or where the property is occupied by tenants who need to be informed.

Therefore, we respectfully recommend the following language in red be inserted into Page 2, lines 10 – 18:

(a) A professional land surveyor licensed pursuant to this chapter, and any assistant under the direct supervision of the land surveyor, may enter the private property of the landowner of the real property to be surveyed and any adjoining lands, but not any building, structure, residence, or vehicle, at reasonable times to perform land



 808-733-7060

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

 808-737-4977

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surveying at the request of the landowner of, or person  
with an interest in, the real property to be surveyed after  
providing a landowner with written notice not less than **ten**  
days before the proposed date of entry...

These amendments would help to bring this measure in alignment with the amendments made in companion measure HB1241 HD2.

Thank you for your consideration of our comments. Mahalo for the opportunity to testify.



Rep. Mark M. Nakashima, Chair

Rep. Jackson D. Sayama, Vice Chair

Committee on Consumer Protection & Commerce

From: Meyer Cummins, Licensed Professional Land Surveyor

Date: March 14, 2023

Subject: **Support for SB 1468 SD2 Relating to Right of Entry for Professional Surveyors**

Aloha Honorable Rep. Mark M. Nakashima, Honorable Rep. Jackson D. Sayama, and members of the Committee on Consumer Protection and Commerce.

Thank you for allowing me to testify in support of SB 1468 SD2.

My name is Meyer Cummins, and I am a land surveyor licensed to practice in the State of Hawaii. I am also a director on the Board of the Hawaii Land Surveyors Association, which represents the majority of the licensed land surveyors in the state. **I am writing in support of SB 1468 SD2** because it grants Hawaii surveyors a much needed right to access private property for the purposes of producing a thorough and complete survey.

**To be clear, the HLSA Board and its membership do not believe that a statutory right to enter should require consent and should only be subject to reasonable notice and identification provisions. Surveyors already ask for consent. In those situations, however, where consent is not granted, surveyors are merely requesting the same right to enter that more than half of the states already provide their surveyors for the purpose of executing a proper survey.** That said, with respect to the bill in its current form, we humbly request the following amendments to its language to add clarity to the intent of the bill.

1. On page 2, line 18, the number of days of prior notice of a survey involving adjoining lands should be **seven days**. Surveys are often required on short notice and demanding more than seven days prior notice will un-necessarily delay an otherwise timely survey.
2. On Page 3, line 7, the objection should be expressly communicated to the land surveyor in writing no later than **72 hours** prior to the survey. Surveys require a substantial amount of planning and research prior to their execution. Consent to enter property is a material component of that planning. Thus, if consent to enter adjoining lands will ultimately be withheld in a particular circumstance, the surveyor should be made aware sooner rather than later.
3. On Page 3, Lines 12 through 21, inclusive, and Page 4, Lines 1 and 2, **the text should be deleted**. This section was replaced with the section immediate above.
4. On Page 4, Lines 8 through 14, **the text should be deleted**. This section was replaced with the section covering the express communication of an objection.

5. On Page 4, Line 15, should read “**The land surveyor or land surveyor’s assistants shall carry a government-issued...**” to assure that any party conducting the survey has sufficient identification to provide to the landowner when requested.
6. On Page 5, Line 19, **the text should be deleted.** Where the surveyor did not need to enter adjoining lands to conduct a survey, and therefore did not need to provide the adjoining owner prior notice, the surveyor should still be protected from the occasional, but accidental, trespass.
7. On Page 7, Line 4, **the text should be deleted.** Where the surveyor did not need to enter adjoining lands to conduct a survey, and therefore did not need to provide the adjoining owner prior notice, the surveyor should still be protected from the occasional, but accidental, trespass.
8. **The bill should have a provision expressly prohibiting surveyors from entering dwellings, buildings, or vehicles on the accessed property without the consent of the owner.** Generally, there is no reason for a surveyor to enter such structures or vehicles without consent and the bill should make that clear to the landowner.

Mahalo nui for this opportunity to testify. Should you have any questions, I can be reached at 808-294-3051 and I will make myself available for questions.

*Meyer Cummins*

Meyer Cummins, LPLS

2023 HLSA Director

Rep. Mark M. Nakashima, Chair

Rep. Jackson D. Sayama, Vice Chair

Committee on Consumer Protection & Commerce

From: Kevin M. McGuire, HI PLS #18828, CA PLS#6437, CO PLS#23897

Date: March 14, 2023

Subject: **Support for SB 1468 SD2 Relating to Right of Entry for Professional Surveyors**

Aloha Honorable Rep. Mark M. Nakashima, Honorable Rep. Jackson D. Sayama, and members of the Committee on Consumer Protection and Commerce.

Thank you for allowing me to testify in support of SB 1468 SD2.

My name is Kevin M. McGuire, I hold a valid Land Surveyor's License in the States of Colorado (PLS 23897), California (PLS 6437) and Hawaii (PLS#18828), and have been in the survey profession since 1977.

**I am writing in support of SB 1468 SD2** because it grants Hawaii surveyors a much needed right to access private property for the purposes of producing a thorough and complete survey.

The Land Surveyor's Right of Entry onto private property for the expressed and limited purpose of conducting a Property Boundary Survey is an indispensable asset and benefit for the Land Surveyor, his or her client, **as well as for the adjoining property owners** – even if they don't perceive it that way.

Both Colorado and California where I do and have performed Land Surveys, have Statutes that allow for Land Surveyors to enter onto private property for the limited and explicit purpose of conducting a property boundary survey and specifically for gathering indispensable boundary evidence.

When a Land Surveyor is hired by the Public to establish their land boundaries it is crucial to have the location/position and description of as much historic and existing boundary evidence and landmarks as possible so that the surveyor's final determination of the land boundaries will be based on a thorough search for and survey of all the relevant available evidence.

Note that when a land surveyor establishes the boundary lines of one land owner, that determination also establishes the boundary lines of **all the adjoining land owner's boundary lines as well**. Therefore, it is critical to have as much relevant information so the determination can be done properly the first time.

It is almost always problematic when, **AFTER** a boundary survey is completed, then new, previously unknown evidence comes to light. That situation can alter the boundary line solution and cause problems, particularly if fences or buildings have already been constructed using the initial (incomplete) survey results, or can result in conflicts along common lot lines.



The Surveyor's access onto adjoining parcels for research and locating boundary evidence provides the opportunity to get **the whole picture**, and is critical to accurate boundary determination which protects and benefits those adjoining land owners as well.

**To be clear, the HLSA Board and its membership do not believe that a statutory right to enter should require consent and should only be subject to reasonable notice and identification provisions. Surveyors already ask for consent. In those situations, however, where consent is not granted, surveyors are merely requesting the same right to enter that more than half of the states already provide their surveyors for the purpose of executing a proper survey.** That said, with respect to the bill in its current form, we humbly request the following amendments to its language to add clarity to the intent of the bill.

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8. **The bill should have a provision expressly prohibiting surveyors from entering dwellings, buildings, or vehicles on the accessed property without the consent of the owner.** Generally, there is no reason for a surveyor to enter such structures or vehicles without consent and the bill should make that clear to the landowner.

Mahalo nui for this opportunity to testify. Should you have any questions, I can be reached using the contact data listed below, and I will make myself available for questions.

Respectfully,



Kevin M. McGuire, HI PLS #18828  
**Quiet River Land Services, Inc.**  
11501 Dublin Blvd. Suite #200  
Dublin, CA 94568  
(808) 747-5693 / (925) 734-6788  
kvm@quiet-river.com

Sen. Karl Rhoads, Chair

Sen. Mike Gabbard, Vice Chair

Senate Committee on Judiciary

From:

Date: March 1, 2023

Subject: **Support for SB1468 SD1 Relating to Right of Entry for Professional Surveyors**

Aloha Honorable Senator Karl Rhoads, Honorable Senator Mike Gabbard, and members of the Senate Committee on Judiciary.

Thank you for allowing me to testify in support of Senate Bill 1468 SD1.

My name is Leo Bell. **I am writing in support of Senate Bill 1468 SD1** because it grants Hawai'i surveyors a much needed, but temporary, right to access private property for the purposes of producing a thorough and complete survey. Such surveys protect the public interest, maintain Hawai'i's unique land title system, and support government land use goals. Senate Bill 1468 SD 1 is fair because it provides the landowner with prior notice of the survey and a mechanism for the land surveyor and landowner to negotiate a mutually agreed upon date and time for the survey, should circumstances demand it.

Notwithstanding my support of the bill in its current form, I humbly request the following amendments to its language to add clarity to the intent of the bill.

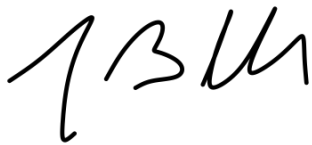
1. Section 1(b) should change the *ten* day notice requirement to a **seven** day notice requirement as time is typically of the essence with regard to surveys and a week should be sufficient for the purposes of receiving the notice and responding to the surveyor if necessary, even in the case of absentee land owners.
2. A new section should be added explicitly stating that under the provisions of the bill, land surveyors are not permitted to enter any building, structure or vehicle on the non-consenting landowner's real property, notwithstanding the right of entry onto the real property to be accessed. This serves to protect both the landowner and the surveyor from any ambiguity that may have otherwise been read into the bill.
3. The bill should clarify that the owner of the property to be accessed receives the direct benefit of having its property boundaries determined or confirmed at the expense of the owner of the adjoining lot who requested the survey.
4. The bill should clarify that a failure of the objecting landowner and the surveyor to mutually agree on a new date and time to reschedule the survey does not negate the surveyors right to enter the property. Objecting landowners may unreasonably seek to

delay the survey indefinitely under the pre-text of exercising their right to negotiate a new date and time for the survey but refuse to agree on that date or time in bad faith.

These changes will make clear that the surveyor has an unqualified right of entry, subject to the notice and identification provisions contained in the bill, **ONLY FOR THE PURPOSES OF CONDUCTING A SURVEY**. Property rights, particularly the right to exclude others from one's land, are fundamental to our liberty and prosperity, and should not be infringed upon without an important societal interest. Here, that interest is rooted in permitting the execution of surveys that protect those rights by determining the limits in which a landowner may exercise them without infringing on the same rights held by a neighbor.

Surveyors just want to meet the challenge that society has placed on them, namely, to determine the extent of the domain in which a landowner can exercise its right to the quiet enjoyment of its property. The right of entry that SB1468 SD1 grants will allow surveyors to do their jobs without fear of lengthy litigation. Therefore, I humbly request that you vote in favor of SB1468 SD1 to protect the public interest and the land surveying community of professionals.

Mahalo nui for this opportunity to testify. Should you have any questions, I can be reached at [leob@rmtowill.com](mailto:leob@rmtowill.com) and I will make myself available for questions.

A handwritten signature in black ink, consisting of the letters 'JBM' in a stylized, cursive font.

Rep. Mark M. Nakashima, Chair

Rep. Jackson D. Sayama, Vice Chair

Committee on Consumer Protection & Commerce

From: Cliff Yim, LPLS

Date: March 14, 2023

Subject: **Support for SB 1468 SD2 Relating to Right of Entry for Professional Surveyors**

Aloha Honorable Rep. Mark M. Nakashima, Honorable Rep. Jackson D. Sayama, and members of the Committee on Consumer Protection and Commerce.

Thank you for allowing me to testify in support of SB 1468 SD2.

My name is Cliff Yim and **I am writing in support of SB 1468 SD2** because it grants Hawaii surveyors a much needed right to access private property for the purposes of producing a thorough and complete survey.

**To be clear, the Hawaii Land Surveyors Association (HLSA) Board and its membership do not believe that a statutory right to enter should require consent and should only be subject to reasonable notice and identification provisions. Surveyors already ask for consent. In those situations, however, where consent is not granted, surveyors are merely requesting the same right to enter that more than half of the states already provide their surveyors for the purpose of executing a proper survey.** That said, with respect to the bill in its current form, we humbly request the following amendments to its language to add clarity to the intent of the bill.

1. On page 2, line 18, the number of days of prior notice of a survey involving adjoining lands should be **seven days**. Surveys are often required on short notice and demanding more than seven days prior notice will un-necessarily delay an otherwise timely survey.
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8. **The bill should have a provision expressly prohibiting surveyors from entering dwellings, buildings, or vehicles on the accessed property without the consent of the owner.** Generally, there is no reason for a surveyor to enter such structures or vehicles without consent and the bill should make that clear to the landowner.

Mahalo nui for this opportunity to testify. Should you have any questions, I can be reached at [cliffyim@outlook.com](mailto:cliffyim@outlook.com) and I will make myself available for questions.



Cliff Yim, LPLS  
HLSA Vice President

**SB-1468-SD-2**

Submitted on: 3/13/2023 8:28:08 AM

Testimony for CPC on 3/14/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Erik Kaneshiro	Individual	Support	Written Testimony Only

Comments:

Rep. Mark M. Nakashima, Chair

Rep. Jackson D. Sayama, Vice Chair

Committee on Consumer Protection & Commerce

From: Erik Kaneshiro

Date: March 14, 2023

Subject: **Support for SB 1468 SD2 Relating to Right of Entry for Professional Surveyors**

Aloha Honorable Rep. Mark M. Nakashima, Honorable Rep. Jackson D. Sayama, and members of the Committee on Consumer Protection and Commerce.

Thank you for allowing me to testify in support of SB 1468 SD2.

My name is Erik Kaneshiro and **I am writing in support of SB 1468 SD2** because it grants Hawaii surveyors a much needed right to access private property for the purposes of producing a thorough and complete survey.

**To be clear, the HLSA Board and its membership do not believe that a statutory right to enter should require consent and should only be subject to reasonable notice and identification provisions. Surveyors already ask for consent. In those situations, however, where consent is not granted, surveyors are merely requesting the same right to enter that more than half of the states already provide their surveyors for the purpose of executing a proper survey.** That said, with respect to the bill in its current form, we humbly request the following amendments to its language to add clarity to the intent of the bill.

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Mahalo nui for this opportunity to testify. Should you have any questions, I can be reached at [ekaneshiro@atahawaii.com](mailto:ekaneshiro@atahawaii.com) or at (808) 371-1767 and I will make myself available for questions.

Sincerely,

Erik Kaneshiro

Rep. Mark M. Nakashima, Chair

Rep. Jackson D. Sayama, Vice Chair

Committee on Consumer Protection & Commerce

From: Louis Edward Paré, Hawaii L.P.L.S. # 8094

Date: March 14, 2023

Subject: **Support for SB 1468 SD2 Relating to Right of Entry for Professional Surveyors**

Aloha Honorable Rep. Mark M. Nakashima, Honorable Rep. Jackson D. Sayama, and members of the Committee on Consumer Protection and Commerce.

Thank you for allowing me to testify in support of SB 1468 SD2.

My name is Louis Edward Paré and **I am writing in support of SB 1468 SD2** because it grants Hawaii surveyors a much needed right to access private property for the purposes of producing a thorough and complete survey.

**To be clear, the HLSA Board and its membership do not believe that a statutory right to enter should require consent and should only be subject to reasonable notice and identification provisions. Surveyors already ask for consent. In those situations, however, where consent is not granted, surveyors are merely requesting the same right to enter that more than half of the states already provide their surveyors for the purpose of executing a proper survey.** That said, with respect to the bill in its current form, we humbly request the following amendments to its language to add clarity to the intent of the bill.

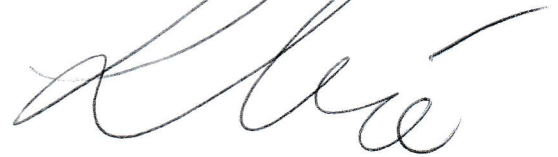
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Mahalo nui for this opportunity to testify. Should you have any questions, I can be reached at 808 443 1174, [epare3906@gmail.com](mailto:epare3906@gmail.com), P.O. Box 1086, Naalehu, HI 96772 and I will make myself available for questions.

L. Edward Paré

Hawaii L.P.L.S. # 8094



Rep. Mark M. Nakashima, Chair

Rep. Jackson D. Sayama, Vice Chair

Committee on Consumer Protection & Commerce

From: Christina Villa

Date: March 13, 2023

Subject: **Support for SB 1468 SD2 Relating to Right of Entry for Professional Surveyors**

Aloha Honorable Rep. Mark M. Nakashima, Honorable Rep. Jackson D. Sayama, and members of the Committee on Consumer Protection and Commerce.

Thank you for allowing me to testify in support of SB 1468 SD2.

My name is Christina Villa and **I am writing in support of SB 1468 SD2** because it grants Hawaii surveyors a much needed right to access private property for the purposes of producing a thorough and complete survey.

**To be clear, the HLSA Board and its membership do not believe that a statutory right to enter should require consent and should only be subject to reasonable notice and identification provisions. Surveyors already ask for consent. In those situations, however, where consent is not granted, surveyors are merely requesting the same right to enter that more than half of the states already provide their surveyors for the purpose of executing a proper survey.** That said, with respect to the bill in its current form, we humbly request the following amendments to its language to add clarity to the intent of the bill.

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5. On Page 4, Line 15, should read “**The land surveyor *or land surveyor’s assistants shall carry a government-issued...***” to assure that any party conducting the survey has sufficient identification to provide to the landowner when requested.
6. On Page 5, Line 19, **the text should be deleted.** Where the surveyor did not need to enter adjoining lands to conduct a survey, and therefore did not need to provide the adjoining owner prior notice, the surveyor should still be protected from the occasional, but accidental, trespass.
7. On Page 7, Line 4, **the text should be deleted.** Where the surveyor did not need to enter adjoining lands to conduct a survey, and therefore did not need to provide the adjoining owner prior notice, the surveyor should still be protected from the occasional, but accidental, trespass.
8. **The bill should have a provision expressly prohibiting surveyors from entering dwellings, buildings, or vehicles on the accessed property without the consent of the owner.** Generally, there is no reason for a surveyor to enter such structures or vehicles without consent and the bill should make that clear to the landowner.

Mahalo nui for this opportunity to testify. Should you have any questions, I can be reached at [cvilla@pareninc.com](mailto:cvilla@pareninc.com) and I will make myself available for questions.

Sen. Karl Rhoads, Chair

Sen. Mike Gabbard, Vice Chair

Senate Committee on Judiciary

From: Beverly V. Pascual, LPLS

Date: February 27, 2023

Subject: **Support for SB1468 SD1 Relating to Right of Entry for Professional Surveyors**

Aloha Honorable Senator Karl Rhoads, Honorable Senator Mike Gabbard, and members of the Senate Committee on Judiciary.

Thank you for allowing me to testify in support of Senate Bill 1468 SD1.

My name is Beverly Pascual, and **I am writing in support of Senate Bill 1468 SD1**. It grants Hawai'i surveyors a much needed, but temporary, right to access private property for the purposes of producing a thorough and complete survey. Such surveys protect the public interest, maintain Hawai'i's unique land title system, and support government land use goals. Senate Bill 1468 SD1 is fair because it provides the landowner with prior notice of the survey and a mechanism for the land surveyor and landowner to negotiate a mutually agreed upon date and time for the survey, if required.

Although I support the bill in its current form, I humbly request the following amendments to add clarity to the intent of the bill.

1. Section 1(b) should change the *ten* day notice requirement to a **seven** day notice requirement. Typically, time is of the essence with regard to land surveys, and one week should be sufficient notice of the survey, from the surveyor to the landowner, even in the case of absentee landowners.
2. A new section should be added explicitly stating that, under the provisions of the bill, land surveyors are not permitted to enter any building, structure or vehicle on the non-consenting landowner's real property, despite the right of entry onto the real property to be accessed. This serves to protect both the landowner and the surveyor from any ambiguity that may have otherwise been read into the bill.
3. The bill should clarify that the owner of the property to be accessed receives the direct benefit of having its property boundaries determined or confirmed at the expense of the owner of the adjoining lot who requested the survey.
4. The bill should clarify that a failure of the objecting landowner and the surveyor to mutually agree on a new date and time to reschedule the survey does not negate the surveyors right to enter the property. This is to prevent difficult landowners who may unreasonably seek to delay the survey indefinitely under the pretext of exercising their right to negotiate a new date and time for the survey, and who are instead refusing to agree to proposed dates and times in bad faith.

These changes will make clear that the surveyor has an unqualified right of entry, subject to the notice and identification provisions contained in the bill, ONLY FOR THE PURPOSES OF CONDUCTING A SURVEY. Property rights, particularly the right to exclude others from one's land, are fundamental to our liberty and prosperity, and should not be infringed upon without an important societal interest. In this case, this interest is rooted in permitting the execution of surveys that protect those rights by determining the limits in which a landowner may exercise them without infringing on the same rights held by a neighbor.

A surveyor's most primary, professional challenge is to determine the extent of the domain in which a landowner can exercise its right to the quiet enjoyment of its property. The right of entry that SB1468 SD1 grants will allow surveyors to do their jobs without fear of lengthy litigation. Therefore, I humbly request that you vote in favor of SB1468 SD1 to protect the public interest and the land surveying community of professionals.

Thank you for this opportunity to testify.

Sincerely,

Beverly Pascual, PE, LPLS, CCM

Rep. Mark M. Nakashima, Chair

Rep. Jackson D. Sayama, Vice Chair

Committee on Consumer Protection & Commerce

From: Victor M. Rasgado

Date: March 14, 2023

Subject: **Support for SB 1468 SD2 Relating to Right of Entry for Professional Surveyors**

Aloha Honorable Rep. Mark M. Nakashima, Honorable Rep. Jackson D. Sayama, and members of the Committee on Consumer Protection and Commerce.

Thank you for allowing me to testify in support of SB 1468 SD2.

My name is Victor Rasgado and **I am writing in support of SB 1468 SD2** because it grants Hawaii surveyors a much needed right to access private property for the purposes of producing a thorough and complete survey.

**To be clear, the HLSA Board and its membership do not believe that a statutory right to enter should require consent and should only be subject to reasonable notice and identification provisions. Surveyors already ask for consent. In those situations, however, where consent is not granted, surveyors are merely requesting the same right to enter that more than half of the states already provide their surveyors for the purpose of executing a proper survey.** That said, with respect to the bill in its current form, we humbly request the following amendments to its language to add clarity to the intent of the bill.

1. On page 2, line 18, the number of days of prior notice of a survey involving adjoining lands should be **seven days**. Surveys are often required on short notice and demanding more than seven days prior notice will un-necessarily delay an otherwise timely survey.
2. On Page 3, line 7, the objection should be expressly communicated to the land surveyor in writing no later than **72 hours** prior to the survey. Surveys require a substantial amount of planning and research prior to their execution. Consent to enter property is a material component of that planning. Thus, if consent to enter adjoining lands will ultimately be withheld in a particular circumstance, the surveyor should be made aware sooner rather than later.
3. On Page 3, Lines 12 through 21, inclusive, and Page 4, Lines 1 and 2, **the text should be deleted**. This section was replaced with the section immediate above.
4. On Page 4, Lines 8 through 14, **the text should be deleted**. This section was replaced with the section covering the express communication of an objection.



5. On Page 4, Line 15, should read “**The land surveyor or land surveyor’s assistants shall carry a government-issued...**” to assure that any party conducting the survey has sufficient identification to provide to the landowner when requested.
6. On Page 5, Line 19, **the text should be deleted.** Where the surveyor did not need to enter adjoining lands to conduct a survey, and therefore did not need to provide the adjoining owner prior notice, the surveyor should still be protected from the occasional, but accidental, trespass.
7. On Page 7, Line 4, **the text should be deleted.** Where the surveyor did not need to enter adjoining lands to conduct a survey, and therefore did not need to provide the adjoining owner prior notice, the surveyor should still be protected from the occasional, but accidental, trespass.
8. **The bill should have a provision expressly prohibiting surveyors from entering dwellings, buildings, or vehicles on the accessed property without the consent of the owner.** Generally, there is no reason for a surveyor to enter such structures or vehicles without consent and the bill should make that clear to the landowner.

Mahalo nui for this opportunity to testify. Should you have any questions, I can be reached at ( email: [victor.rasgado@stantec.com](mailto:victor.rasgado@stantec.com) phone: 808-208-2837 ) and I will make myself available for questions.

Sincerely,



Victor M Rasgado