

Testimony of the Contractors License Board

**Before the
Senate Committee on Judiciary
Tuesday, February 15, 2022
9:30 a.m.
Via Videoconference**

**On the following measure:
S.B. 2277, S.D. 1, RELATING TO CONTRACTOR PRACTICES**

Chair Rhoads 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 contractors from offering to pay or rebate, or promising to pay or rebate, an insured's property or casualty insurance deductible; (2) prohibit contractors from representing or negotiating, or offering or advertising to do so, on behalf of an insured in an insurance claim; (3) specify violations are unfair methods of competition and unfair or deceptive acts or practices; (4) allow insureds to rescind contracts with the contractors within five business days after the date the contract is executed; and (5) require contractors to provide certain forms to an insured, prior to entering into a contract.

This bill creates separate requirements for contractors relating to the insured under a property or casualty insurance policy. Hawaii Revised Statutes (HRS) chapter 431, article 9, already pertains to individuals who act as or engage in the practice of a public adjuster. Act 110, Session Laws of Hawaii 2021, was signed into law on June 28, 2021 and strengthens the public adjuster statutes by addressing the issue of unlicensed public adjusters. The Board firmly believes that the contractor licensing law, codified in HRS chapter 444, is not the appropriate statutory chapter to address unlicensed public adjusters, which this bill intends to do.

Should S.B. 2277, S.D. 1 advance, the Board would like to express its concern that, five (5) days to notify an insured of whether their policy will cover their claim may not be sufficient time. However, the Board also recognizes that extending the 5-day period may adversely affect an insured who wants to have the work performed regardless of whether their policy will cover the claim.

Additionally, the Board would request that the contractor be given up to thirty (30) days to provide a refund to an insured because larger companies may not be able to process a refund within 5 days of the recession notice. It may also be problematic if the bank places a hold on an insured's check, which is customary for larger check amounts.

It is also noted that the effective date of the rescission is not clearly stated in this bill.

Thank you for the opportunity to testify on this bill.

TESTIMONY OF ALISON UEOKA

COMMITTEE ON JUDICIARY
Senator Karl Rhoads, Chair
Senator Jarrett Keohokalole, Vice Chair

Tuesday, February 15, 2022
9:30 a.m.

SB 2277, SD1

Chair Rhoads, Vice Chair Keohokalole, and members of the Committee on Judiciary, 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 strongly **supports** the intent of this bill which is to curtail the actions of unscrupulous contractors, especially post-catastrophe when victims of loss are stressed and vulnerable. Insurers need the chance to respond to reports of damage without interference from these “storm chasers,” many of whom promise to pay insureds’ deductibles. Storm chasers often make representations on behalf of the insurer for example, the promise to replace a roof, without authority. If an insured is coerced into signing a contract with a storm chaser, they could be liable for repairs that are unnecessary and/or uninsured.

In the decision making on the original bill, SB 2277, part of the amendments that should have been made were to delete subsections (b), (c), and (d) which include provisions to mandate a 5-day rescission in contracts for repair. These amendments were not made in SB 2277, SD1 and we ask that they be included by this committee. With these amendments, we support passage of this bill.

Thank you for the opportunity to testify.



SanHi

GOVERNMENT STRATEGIES

A LIMITED LIABILITY LAW PARTNERSHIP

DATE: February 14, 2022

TO: Senator Karl Rhoads
Chair, Committee on Judiciary
Submitted Via Capitol Website

FROM: Matt Tsujimura

RE: **S.B. 2277, SD1 - Relating to Contractor Practices**
Hearing Date: Tuesday, February 15, 2022 at 9:30 a.m.
Conference Room: Via Videoconference

Dear Chair Rhoads, Vice Chair Keohokalole, and Members of the Committee on Judiciary:

I am Matt Tsujimura, representing State Farm Mutual Automobile Insurance Company (State Farm). State Farm offers these comments about S.B. 2277, HD1 Relating to Contractor Practices.

Although most 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 do all the repairs for them "at no cost," 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 property 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 a repair that is far less than the repair promised by the contractor and contract price quoted. This leaves consumers contractually obligated to pay for repairs that they don't need and can't afford.

S.B. 2277, HD1 protects the consumer by prohibiting contractors 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 property and determined that "all or any part of the claim or contract is not a covered loss under the homeowners insurance policy." Twenty two states (Alabama, Arizona, Arkansas, Colorado, Georgia, Illinois, Kentucky, Minnesota, Mississippi, Missouri, Nebraska, New York, North Dakota, South Carolina, South Dakota, Tennessee, Utah, Washington, West Virginia, Wisconsin, and Wyoming) have adopted similar pro-consumer protection laws aimed at limiting the scope in which contractors, sometimes called storm chasers, can engage with homeowners. S.B. 2277 will help prevent Hawaii's citizens from being scammed into entering into deceptive repair contracts.

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

SAH - Subcontractors Association of Hawaii
1188 Bishop St., Ste. 1003**Honolulu, Hawaii 96813-2938
Phone: (808) 537-5619 ✦ Fax: (808) 533-2739

LATE

February 15, 2022

Testimony To: Senate Committee on Commerce & Consumer Protection
Senator Karl Rhoads, Chair

Presented By: Tim Lyons, Executive Director

Subject: S.B. 2277, SD 1 – RELATING TO CONTRACTOR PRACTICES

Chair Rhoads and Members of the Committee:

I am Tim Lyons, President of the Subcontractors Association of Hawaii. The SAH represents the following nine separate and distinct subcontracting associations.

HAWAII FLOORING ASSOCIATION

ROOFING CONTRACTORS ASSOCIATION OF HAWAII

HAWAII WALL AND CEILING INDUSTRIES ASSOCIATION

ELECTRICAL CONTRACTORS ASSOCIATION OF HAWAII

TILE CONTRACTORS PROMOTIONAL PROGRAM

PLUMBING AND MECHANICAL CONTRACTORS ASSOCIATION OF HAWAII

SHEETMETAL CONTRACTORS ASSOCIATION OF HAWAII

PAINTING AND DECORATING CONTRACTORS ASSOCIATION

PACIFIC INSULATION CONTRACTORS ASSOCIATION

We oppose this bill.

We oppose this bill not based on any desire to see contractors “rip off” consumers but because we believe that the end result of this bill will be confusion between consumers and contractors and accomplish no real purpose.

First and foremost, here it is one year later and we have not heard of any complaints in this area for years and in fact, our last check with RICO resulted in zero complaints. The few complaints we have heard about appear to be from agents who perhaps led their customers to believe that the claim would be covered only to find out that the carrier refused.

We have suggestions’:

1. The bill calls for a five (5) day recession period. A three (3) day recession period is already required for all door-to-door sales (481C-2, HRS) including sales covered by this bill. Is there some evidence that it needs to be different and longer? We respectfully request an alignment with 481C-2. Which applies three (3) days or five (5) days?
2. We request a simple amendment on page 3, lines 16 - 18 to read, “...providing written notice of recession with a copy of the insurer’s claim coverage decision that all or any part of the claim or contract is not a covered loss...” Additionally, the bill appears to apply even if the contract was for \$2,000.00 but the insurance company only honored a \$1995.00 claim? Perhaps more confusing is the provision on page 3, lines 18 – 20 that says the rescission notice “shall not take a particular form”

but then page 4, line 4 through page 5, line 11 dictates a very specific form that the rescission shall take?

3. This bill proposes to deal with situations where the consumer is going to use proceeds from a property or casualty insurance policy claim (page 3, line 10 and page 4, line 2). But, how is the roofing contractor to know how the consumer plans on paying for the job?

So, we don't know what this bill really accomplishes. We don't think that contractors should act as public adjustors and Act 110-21, passed last year, covers that. We continue to believe the insurance laws are where public adjustor language and its prohibitions should be found.

Based on the above and the fact that we see this bill accomplishing absolutely nothing that is not already covered, we oppose it. The bill has very broad applicability and would apply to all contractors where the work called for exceeds what the insurance carrier is willing to pay. Most homeowners do not willingly put themselves in that position. A further issue is that of identifying "emergency mitigation" work and entitlement for payment of this work regardless of the claim status. The problem is that homeowners are not roofing experts and the provision that they agree to work identified as "emergency mitigation " work, is no doubt a contestable provision.

We would also like to point out the unworkable provision on page 3, line 15 through 19 forbidding the contractor to discuss a written estimate with anyone but the insured. What

about material manufacturers, the material distributor, the general contractor or, in the absence of the insured, someone else residing in the house such as a brother or relative?

Lastly, it has been reported that similar legislation exists in other states however, we would like to point out that they are typically states that do not have the same regulatory structure for contractors that we have (the statutes, the administrative rules, plus the enforcement arm of RICO). In fact, only about half the states have contractor licensing and it is the “other half” that has found it necessary to implement legislation as contemplated by this bill.

In conclusion, we don't think this bill is necessary, it is overkill and in the event of a disaster, it will apply to all recommended work in the State for years to come. It is likely to hurt and confuse more than help.

Thank you.

LATE

February 14, 2022

Hon. Karl Rhoads and Members of the Committee
Committee on Judiciary
Hawaii State Senate

RE: Senate Bill 2277 – Contractor Practices - Support

Dear Chair Rhoads and Members of the Committee:

The National Insurance Crime Bureau (NICB) is a national, century-old, not-for-profit organization supported by approximately 1,200 property and casualty insurance companies, including many who write business in Hawaii. Working hand-in-hand with our member-companies and Hawaii state and local law enforcement, we help to detect, prevent, and deter insurance crimes, including contractor fraud. While NICB provides value to our member-companies, we also serve a significant public benefit by helping to stem the estimated billions of dollars in economic harm that insurance crime causes to individual policy holders across the country every year.

Contractor fraud, particularly involving roofing and roofing-related services, continues to be a widespread problem across the country. Contractors often use the aftermath of major storms or catastrophes to prey upon already vulnerable consumers. Unfortunately, residents of Hawaii also frequently suffer at the hands of unscrupulous contractors.

Senate Bill 2277 seeks to provide important consumer protections such as:

- **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.
- **Providing the right to cancel within five days.** This important consumer protection helps ensure that homeowners – who may be pressured or misled by unscrupulous contractors, such as into believing certain damage is covered or covered to a greater extent than it is – have an opportunity to reflect on the contract and conduct additional due diligence.
- **Prohibiting contractors from acting as a representative of the claimant.** The unlicensed practice of public adjusting by a contractor creates not only a conflict of interest but also puts consumers at risk of inferior and fraudulent representation. Most contractors do not meet minimum standards and safeguards provided by Hawaii’s public adjuster laws.

Accordingly, we ask for your support of SB 2277 which will help provide critical consumer protections and curtail unscrupulous 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". The signature is written in a cursive style with a long horizontal stroke extending from the end of the name.

Howard Handler, MPPA
Senior Director, Government Affairs