

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

**Before the
Senate Committee on Commerce and Consumer Protection
Wednesday, March 23, 2022
9:30 a.m.
Via Videoconference**

**On the following measure:
S.R. 35, REQUESTING THE AUDITOR TO CONDUCT A SUNRISE REVIEW OF THE
LICENSURE AND REGULATION OF THIRD-PARTY REVIEW SERVICES
PROVIDERS**

Chair Baker and Members of the Committee:

My name is Brian Fujiwara, and I am the Chairman of the Board of Professional Engineers, Architects, Surveyors, and Landscape Architects (Board).

The purpose of this measure is to request that the Auditor conduct a sunrise review of the licensure and regulation of third-party review services providers.

The Board opposes this measure and notes that pursuant to Hawaii Revised Statutes section 26H-2, the regulation and licensing of a profession shall be undertaken only where reasonably necessary to protect the health, safety, and welfare of consumers. The Board believes that the regulation of third-party review providers is not necessary since these providers are already licensed by the Board as architects or engineers.

For the Committee's information, Act 227, Session Laws of Hawaii 1923, was enacted to create the regulation of engineers, architects, and land surveyors to practice their profession in the Territory of Hawaii. The Act has since been amended several times throughout the years. In general, these changes were intended to further protect the public, improve the quality of the professional engineer, architect, land surveyor, and landscape architect practices, and to clarify the administration of the law.

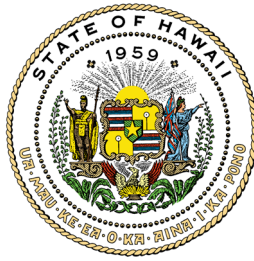
In order to safeguard life, health, and property, the Act regulates these design professionals as individual practitioners; it is not for the regulation of their firms, businesses, or professional services.

Currently, the counties employ staff who review plans to ensure compliance with the county code and ordinances. Upon compliance, the county planning department will

issue a building permit. The City and County of Honolulu's Department of Planning and Permitting also requires plans to have been reviewed by private design professionals who are pre-approved by the City to assist with the permitting process. These are "third-party" reviewers. By creating a separate and distinct board to regulate the third-party reviewers who are already approved by the City to review plans for compliance with county code, creates unnecessary State government oversight over existing county functions. The permitting process is best left completely at the county level.

Therefore, the Board respectfully requests that S.R. 35 be held.

Thank you for the opportunity to testify on this measure.



SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

The Honorable Rosalyn H. Baker, Chair
The Honorable Stanley Chang, Vice Chair

**S.C.R. NO. 40 REQUESTING THE AUDITOR TO CONDUCT A SUNRISE REVIEW OF
THE LICENSURE AND REGULATION OF THIRD-PARTY REVIEW SERVICES
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The Office of the Auditor appreciates the opportunity to testify on S.C.R. No. 40 and S.R. No. 35, requesting the auditor to conduct a sunrise review of the licensure and regulation of third-party review services providers, and offers the following comments.

First, the resolutions do not identify “a specific bill to be analyzed,” as section 26H-6, Hawai‘i Revised Statutes (HRS), requires. Without specific information about the proposed new regulatory measures being considered, we will not be able to meaningfully address and satisfy the requirements of section 26H-6, HRS, which include determining the probable effects of proposed regulatory measures and whether such measures would be consistent with the policies set forth in section 26H-6, HRS.

Additionally, we are concerned that third-party review services providers may not fall within the scope of Hawai‘i’s Regulatory Reform Act, Chapter 26H, HRS, because the proposed regulation appears to regulate an “entity” rather than a profession or vocation. See section 26H-6, HRS (“New regulatory measures being considered for enactment that, if enacted, would subject unregulated **professions and vocations** to licensing or other regulatory controls shall be referred to the auditor for analysis.”).

Thank you for considering our testimony related to S.C.R. No. 40 and S.R. No. 35.