

**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
KA 'OIHANA O KA LOIO KUHINA
THIRTY-SECOND LEGISLATURE, 2023**

ON THE FOLLOWING MEASURE:

H.B. NO. 1241, RELATING TO RIGHT OF ENTRY FOR PROFESSIONAL SURVEYORS.

BEFORE THE:

HOUSE COMMITTEE ON CONSUMER PROTECTION AND COMMERCE

DATE: Thursday, February 9, 2023 **TIME:** 2:00 p.m.

LOCATION: State Capitol, Room 329

TESTIFIER(S): Anne E. Lopez, Attorney General, or
Christopher J.I. Leong or Bryan C. Yee, Deputy Attorneys General

Chair Nakashima and Members of the Committee:

The Department of the Attorney General provides the following comments.

The purposes of this bill are to establish a right of entry on private property for professional land surveyors to perform land surveying and to shield land surveyors from prosecution under criminal trespass laws when performing their duties.

While we recognize the intent of the bill is to better enable land surveyors to perform their professional duties, we caution that enabling the right of access onto property beyond the property of the person requesting a survey could be subject to challenge as a regulatory taking of property, which could involve monetary liability being imposed against the government. *See Cedar Point Nursery v. Hassid*, 141 S. Ct. 2063, 2072 (2021). To avoid this, we recommend amending the bill to allow the land surveyor to enter adjoining lands only after the owner or occupier of the adjoining lands has given express consent.

Further, aside from the exemption for land surveying of public works projects provided in section 464-4(b), Hawaii Revised Statutes (HRS), section 464-2, HRS, provides that “no person . . . shall practice . . . land surveying . . . in the State unless the person is duly licensed under this chapter.” We thus recommend amending subsection (a) of the new section added to chapter 464, HRS, at page 2, lines 9-16, to clarify that it applies to an assistant only if the assistant is directly supervised by the licensed land

surveyor. We also note that the use of “any” on page 2, line 13, may be too broad and should be limited to the property of the landowner requesting the survey and any adjoining lands. Thus, we recommend that page 2, lines 11 through 16, should be amended to read as follows:

A professional land surveyor licensed pursuant to this chapter~~[,]~~ and ~~[the land surveyor’s assistants, or the land surveyor’s]~~ any assistant ~~[at]~~ under the direct supervision of the land ~~[surveyor’s direction]~~ surveyor may enter ~~[any]~~ the private property~~[, including]~~ of the landowner of the real property to be surveyed and any adjoining lands~~[,]~~ at reasonable times to perform land surveying at the request of the landowner of, or person with an interest in, the real property to be surveyed.

To clarify that the notice provision in subsection (b) of the new section to be added to chapter 464, HRS, applies to the owner of, or person with an interest in, the property to be surveyed and the owner or occupier of any adjoining lands, we recommend amending page 2, line 17, through page 3, line 17, of the bill to read as follows:

(b) The land surveyor shall give at least five days written notice of the intention to enter the private property on which the land surveying is to ~~[perform land surveying]~~ be performed when the land surveying may involve adjoining lands. The written notice shall include:

- (1) The name of the landowner ~~[and the occupier]~~ of, or person with an interest in, the real property ~~[, including]~~ to be surveyed and the name of the landowner ~~[and]~~ or occupier of adjoining lands to be accessed;
- (2) The date and time the survey work is proposed to be performed; and
- (3) The name and contact information of the land surveyor that will perform the work.

Written notice shall be sent to the last known address of the ~~[landowners to be contacted]~~ of, or person with an interest in, the real property to be surveyed and the landowner or occupier of adjoining lands to be accessed, and notice sent by certified mail shall be deemed sufficient ~~[notice].~~

We recommend that subsection (c) of the new section to be added to chapter 464, HRS, on page 3, line 18, through page 4, line 6, of the bill be amended by adding another paragraph to require government-issued photo identification in addition to the

land surveyor's certificate of licensure or authorized seal or stamp. We also recommend that "may" on page 3, line 19, be amended to read "shall".

To align with the amendments recommended above, we also recommend that page 5, lines 6 through 11, and page 6, lines 11 through 16, be amended to read as follows:

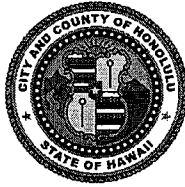
- (b) A professional land surveyor, or assistant under the direct supervision of the land surveyor, who enters or remains in or upon the land or premises of another, after giving notice as required by section 464- , for the purpose of performing land surveying at the request of the landowner of, or person with an interest in, the real property to be surveyed.

Thank you for the opportunity to provide comments.

DEPARTMENT OF DESIGN AND CONSTRUCTION
CITY AND COUNTY OF HONOLULU

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RICK BLANGIARDI
MAYOR



HAKU MILLES, P.E.
DIRECTOR DESIGNATE
BRYAN GALLAGHER, P.E.
DEPUTY DIRECTOR

February 8, 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
415 South Beretania Street
Honolulu, Hawaii 96813

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

SUBJECT: House Bill No. 1241
Relating to Right of Entry for Professional Surveyors

The Department of Design and Construction (DDC) respectfully **supports** House Bill No. 1241. The bill proposes 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 homeowner of the proposed survey.

The Honorable Mark M. Nakashima, Chair
and Members of the Committee on Consumer Protection and Commerce
February 8, 2023
Page 2

Based on the above considerations, DDC respectfully **supports** House Bill
No. 1241.

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

Sincerely,

A handwritten signature in blue ink, appearing to read "Haku Milles", with a stylized flourish at the end.

Haku Milles, P.E., LEEP AP
Director Designate

Rep. Mark M. Nakashima, Chair

Rep. Jackson D. Sayama, Vice Chair

Committee on Consumer Protection and Commerce

From: Meyer Cummins, Licensed Professional Land Surveyor

Date: February 9, 2023

Subject: **Support for HB 1241 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 House Bill 1241.

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 House Bill 1241** because it grants Hawaii 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. House Bill 1241 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. On page 2, lines 17 to 20, inclusive, should read:
“(b) When the land surveyor does not have the consent of the landowner, or the person with a possessory interest in the land involved in the survey, to enter the private property, the land surveyor or a person authorized by the land surveyor to act on the land surveyor’s behalf shall give to the landowner, or the person with a possessory interest in the land involved in the survey, at least five days written notice of the intention to enter the private property to perform land surveying.”
2. On Page 3, lines 11 to 17, inclusive, should read:
“When the landowner, or the person with a possessory interest in the land involved in the survey, gives notice to the surveyor that the surveying may disrupt or interfere with operations on the properties involved, the landowner or the person with a possessory interest shall meet, or communicate in writing, with the surveyor to negotiate a mutually agreeable date and time to perform the land surveying. A failure to negotiate a mutually agreeable date and time to perform the land surveying does not revoke the surveyor’s right of entry.”

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 HB 1241 grants will mitigate these risks and allow surveyors to do their jobs without fear of lengthy litigation. Therefore, I humbly request that you vote in favor of HB 1241 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 808-294-3051 and I will make myself available for questions.

Meyer Cummins

Meyer Cummins, LPLS

2023 HLSA Director

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

**Before the
House Committee on Consumer Protection and Commerce
Thursday, February 9, 2023
2:00 p.m.
Via Videoconference**

**On the following measure:
H.B. 1241, 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 but offers comments on this bill.

The purposes of this bill are to: (1) authorize professional land surveyors to enter any private property to perform land surveying, subject to certain provisions regarding notice, identification, and liability; and (2) shield land surveyors 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.

Representative Mark Nakashima, Chair
Representative, Vice Chair Jackson Sayama
House Committee on Consumer Protection and Commerce

From: Joanne Williamson, LPLS

February 7, 2023

Subject: **Support for HB1241 Relating to Right of Entry for Professional Surveyors**

Aloha Honorable Representative Mark Nakashima, Honorable Representative Jackson Sayama, and members of the House Committee on Consumer Protection and Commerce;

Thank you for allowing me to testify in strong support of House Bill 1241.

My name is Joanne Williamson, and I am a professional land surveyor in the State of Hawaii. I also serve on the Board of Directors of the Hawaii Land Surveyors Association and am a director of the National Society of Professional Surveyors. **I am writing in support of House Bill 1241.** I believe it is in the public interest and will facilitate thorough and accurate boundary surveys of both public and private lands. Land is one of the most valuable and precious of Hawaii's assets. Accurate boundary surveys protect both private and public interest, maintain Hawaii's unique land title system, and support government land use goals.

Over 26 states currently have similar legislation that recognizes the need to provide right of entry to land surveyors in the performance of their routine duties. Many of the current state laws are compiled in this 2006 report from the National Society of Professional Surveyors.

https://cdn.ymaws.com/nsps.site-ym.com/resource/resmgr/Resources/RIGHT_OF_ENTRY_CMT_REPORT_10.pdf

In like fashion HB1241 is in the public interest of the people of Hawaii. It facilitates the ability of a surveyor to conduct a boundary survey and, in good faith, enter upon the neighboring lands to collect evidence of common boundaries. It provides constructive notice of the survey work, and also affords a mechanism for the land surveyor and landowner to negotiate a mutually agreed upon date and time for the survey, should circumstances demand it. It also protects both the landowner from risk of liability and the surveyor from risk of civil and criminal trespass. Currently land surveyors do not have these protections which are necessary to the performance of their jobs.

Mahalo nui for this opportunity to testify. Should you have any questions, I can be reached at nspsdirector@hlsahawaii.org and I will make myself available for questions.

Sincerely,

Joanne Williamson

Hawaii Licensed Land Surveyor 10,555



February 9, 2023

The Honorable Mark M. Nakashima, Chair

House Committee on Consumer Protection & Commerce
State Capitol, Conference Room 329 & Videoconference

RE: House Bill 1241, Relating to Right of Entry for Professional Surveyors

HEARING: Thursday, February 9, 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 House Bill 1241 which authorizes professional land surveyors to enter any private property to perform land surveying, subject to certain provisions regarding notice, identification, and liability. Shields land surveyors from prosecution under criminal trespass laws when performing their duties.

Hawai'i REALTORS® believes that land surveyors provide very valuable services in identifying land boundaries and conducting surveys of land sites and properties. If the Committee is inclined to pass the measure, we would respectfully request that the land surveyor provide ten days instead of five days' notice, to give a property owner ample notice.

Page 2, lines 17-18:

"(b) The land surveyor shall give at least **five ten** days written notice of the intention to enter the private property..."

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 and Commerce

From: Erik Kaneshiro

Date: February 7, 2023

Subject: **Support for HB 1241 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 House Bill 1241.

My name is Erik Kaneshiro, and I am a land surveyor in the State of Hawaii. **I am writing in support of House Bill 1241** because it grants Hawaii 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. House Bill 1241 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.

Surveying requires evidence to determine the true location of property boundaries. A typical boundary corner often remains hidden until a thorough search of an area can be completed. Thus, the collection of boundary evidence inevitably results in a crossing of the invisible lines that separate neighboring parcels. Failing to collect such evidence out of fear of reprisal is a breach of our duty to our clients and the public at large. However, without a right of entry, executing our responsibilities to meet that duty can risk liability for civil and criminal trespass.

The right of entry that HB 1241 grants will mitigate these risks and allow surveyors to do their jobs without fear of lengthy litigation. Therefore, I humbly request that you vote in favor of HB 1241 to protect the public interest and the land surveying community of professionals.

Thank you for this opportunity to testify. Should you have any questions, I can be reached at ekaneshiro@atahawaii.com and I will make myself available for questions.



Erik Kaneshiro

HB-1241

Submitted on: 2/7/2023 2:56:25 PM

Testimony for CPC on 2/9/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Jeffrey Sato	Individual	Support	Written Testimony Only

Comments:

Representative Mark M. Nakashima, Chair
Representative Jackson D. Sayama, Vice Chair

HOUSE COMMITTEE ON CONSUMER PROTECTION AND COMMERCE

From: Jeffrey Sato

Date: Wednesday, February 8, 2023

Subject: In Favor of HB 1241, Relating to Right of Entry for Land Surveyors

Honorable Representatives of the Committee on Consumer Protection and Commerce:

Thank you for allowing me to testify in favor of HB 1241. My name is Jeffrey Sato, I am a licensed land surveyor in the State of Hawaii, and a member of the Hawaii Land Surveyors Association. The Hawaii Land Surveyors Association represents a majority of the licensed land surveyors in the State.

I am submitting testimony in favor of HB 1241. Allowing our survey crews access to private property to locate and record the position of boundary markers will allow us to better determine which markers may have been disturbed, or improperly marked. Overall, it will allow us to study the position of a boundary relative to adjoining properties and double check our work.

Often, our field personnel consisted of individuals measuring well over 6 feet tall, and weighing over 300 pounds, and there have been instances where residents did not want to allow them onto their property due to their personal safety concerns. I believe HB 1241 is a step in the right direction. Thank you for allowing me this opportunity to testify.

HB-1241

Submitted on: 2/7/2023 12:07:38 PM

Testimony for CPC on 2/9/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Christina Villa	Individual	Support	Written Testimony Only

Comments:

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 House Bill 1241.

My name is Christina Villa and I am a land surveyor in the State of Hawai‘i. **I am writing in support of House Bill 1241** 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. House Bill 1241 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.

Surveying requires evidence to determine the true location of property boundaries. A typical boundary corner often remains hidden until a thorough search of an area can be completed. Thus, the collection of boundary evidence inevitably results in a crossing of the invisible lines that separate neighboring parcels. Failing to collect such evidence out of fear of reprisal is a breach of our duty to our clients and the public at large. However, without a right of entry, executing our responsibilities to meet that duty can risk liability for civil and criminal trespass.

The right of entry that HB 1241 grants will mitigate these risks and allow surveyors to do their jobs without fear of lengthy litigation. Therefore, I humbly request that you vote in favor of HB 1241 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 808-690-1714 and I will make myself available for questions.

Rep. Mark M. Nakashima, Chair

Rep. Jackson D. Sayama, Vice Chair

Committee on Consumer Protection and Commerce

From: Joe Charles Jr

Date: February 9, 2023

Subject: **Support for HB 1241 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 House Bill 1241.

My name is Joe Charles Jr, and I am a land surveyor in the State of Hawaii. **I am writing in support of House Bill 1241** because it grants Hawaii 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. House Bill 1241 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.

Surveying requires evidence to determine the true location of property boundaries. A typical boundary corner often remains hidden until a thorough search of an area can be completed. Thus, the collection of boundary evidence inevitably results in a crossing of the invisible lines that separate neighboring parcels. Failing to collect such evidence out of fear of reprisal is a breach of our duty to our clients and the public at large. However, without a right of entry, executing our responsibilities to meet that duty can risk liability for civil and criminal trespass.

The right of entry that HB 1241 grants will mitigate these risks and allow surveyors to do their jobs without fear of lengthy litigation. Therefore, I humbly request that you vote in favor of HB 1241 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 joecharlesjr10@gmail.com and I will make myself available for questions.

Rep. Mark M. Nakashima, Chair

Rep. Jackson D. Sayama, Vice Chair

Committee on Consumer Protection and Commerce

From: Michael Silva

Date: February 9, 2023

Subject: **Support for HB 1241 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 House Bill 1241.

My name is Michael Silva, and I am a land surveyor in the State of Hawaii. **I am writing in support of House Bill 1241** because it grants Hawaii 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. House Bill 1241 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.

Surveying requires evidence to determine the true location of property boundaries. A typical boundary corner often remains hidden until a thorough search of an area can be completed. Thus, the collection of boundary evidence inevitably results in a crossing of the invisible lines that separate neighboring parcels. Failing to collect such evidence out of fear of reprisal is a breach of our duty to our clients and the public at large. However, without a right of entry, executing our responsibilities to meet that duty can risk liability for civil and criminal trespass.

The right of entry that HB 1241 grants will mitigate these risks and allow surveyors to do their jobs without fear of lengthy litigation. Therefore, I humbly request that you vote in favor of HB 1241 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 (808) 242-8611 and I will make myself available for questions.

Aloha,

A handwritten signature in black ink, appearing to read "M Silva". The signature is written in a cursive, fluid style with a large initial "M" and a long, sweeping underline.

Rep. Mark M. Nakashima, Chair

Rep. Jackson D. Sayama, Vice Chair

Committee on Consumer Protection and Commerce

From: Andy R. Harada, LPLS

Date: February 9, 2023

Subject: Support for HB 1241 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 House Bill 1241.

My name is Andy Harada, and I am Licensed Professional Land Surveyor in the State of Hawaii. I support House Bill 1241 because it will provide Hawaii Land Surveyors a right to access private property for the purposes of producing a thorough boundary survey of various parcels of land. House Bill 1241 will provide the landowner(s) with prior notice of the boundary survey and purpose. It will allow the landowner(s) and the land surveyor to reach a mutually-agreed date and time for the survey, should circumstances require it.

Boundary Surveys require diligent attempts to locate legally recorded survey markers. Survey markers are considered evidence when attempting to determine the true location of a property boundary and its relation to its current surroundings, such as buildings, fences, walls, hedges, etc. Thus, collection of boundary evidence can result in a land surveyor entering neighboring parcels.

In a Boundary Survey, our duty as land surveyors is to find and replace survey markers for a requested parcel while still making sure to respect the rights of adjoining parcels. Not being able to collect and verify as many boundary markers as possible will hinder our abilities to do perform a fair comparison to the adjoining properties.

We can better meet our professional responsibilities with the passing of HB 1241.

Mahalo nui for this opportunity to testify. Should you have any questions, I can be reached at andy@esh-inc.com.

Sincerely,

Andy R. Harada, LPLS

Rep. Mark M. Nakashima, Chair

Rep. Jackson D. Sayama, Vice Chair

Committee on Consumer Protection and Commerce

From: Justin R. Shaw

Date: February 9, 2023

Subject: **Support for HB 1241 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 House Bill 1241.

My name is Justin R. Shaw and I am a land surveyor in the State of Hawaii. **I am writing in support of House Bill 1241** because it grants Hawaii 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. House Bill 1241 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.

Surveying requires evidence to determine the true location of property boundaries. A typical boundary corner often remains hidden until a thorough search of an area can be completed. Thus, the collection of boundary evidence inevitably results in a crossing of the invisible lines that separate neighboring parcels. Failing to collect such evidence out of fear of reprisal is a breach of our duty to our clients and the public at large. However, without a right of entry, executing our responsibilities to meet that duty can risk liability for civil and criminal trespass.

I've been a land surveyor for 23 years, I'm licensed in two states and practiced in almost all aspects of the profession. I've worked in Maui for 12 years now and have had constant issues with access to historical landmarks that are the only remaining evidence to retrace historic boundaries. Without the right of entry, I cannot perform my duties as a professional land surveyor to retrace the footsteps of the original surveyors dating from the Great Mahele to now.

For 9 years I was the land surveyor for Alexander & Baldwin where I had access to much of Maui's historic land records. I have seen hundreds of records and maps which refer to triangulation stations set by the old East Maui Irrigation surveyors and the government to reestablish original land boundaries which are on private lands. Without right of entry, these land boundaries can never be properly surveyed and placed on the ground.

The right of entry that HB 1241 grants will mitigate these risks and allow surveyors to do their jobs without fear of lengthy litigation. Therefore, I humbly request that you vote in favor of HB 1241 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 jshaw@actionsurveyhawaii.com and I will make myself available for questions.

A handwritten signature in blue ink, appearing to read "Justin Shaw". The signature is stylized and cursive, with a large initial "J" and "S".

Rep. Mark M. Nakashima, Chair

Rep. Jackson D. Sayama, Vice Chair

Committee on Consumer Protection and Commerce

From: Alika Garo

Date: February 9, 2023

Subject: **Support for HB 1241 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 House Bill 1241.

My name is Alika, and I am a profession licensed land surveyor in the State of Hawaii. **I am writing in support of House Bill 1241** because it grants Hawaii 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. House Bill 1241 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.

Surveying requires evidence to determine the true location of property boundaries. A typical boundary corner often remains hidden until a thorough search of an area can be completed. Thus, the collection of boundary evidence inevitably results in a crossing of the invisible lines that separate neighboring parcels. Failing to collect such evidence out of fear of reprisal is a breach of our duty to our clients and the public at large. However, without a right of entry, executing our responsibilities to meet that duty can risk liability for civil and criminal trespass.

The right of entry that HB 1241 grants will mitigate these risks and allow surveyors to do their jobs without fear of lengthy litigation. Therefore, I humbly request that you vote in favor of HB 1241 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 alikagaro@samhirota.com and I will make myself available for questions.



Alika K. Garo, LPLS

L. Edward Paré
Land Surveyor
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February 8, 2023

Rep. Mark M. Nakashima, Chair
Rep. Jackson D. Sayama, Vice Chair
Committee on Consumer Protection and Commerce

Subject: Support for HB 1241 Relating to Right of Entry for Professional Surveyors

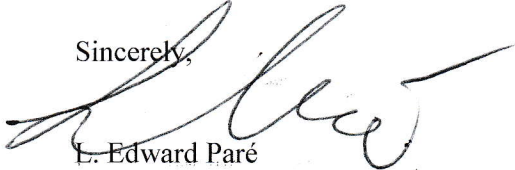
Aloha Honorable Rep. Mark M. Nakashima, Honorable Rep. Jackson D. Sayama, and members of the Committee on Consumer Protection and Commerce.

Thank you for allowing me to testify in support of House Bill 1241. My name is L. Edward Paré, and I am a licensed land surveyor in the State of Hawaii since 1994. **I am writing in support of House Bill 1241** because it grants Hawaii 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. House Bill 1241 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.

Surveying requires gathering evidence to determine the true location of property boundaries. A typical boundary corner often remains hidden until a thorough search of an area can be completed. Thus, the collection of boundary evidence inevitably results in a crossing of the invisible lines that separate neighboring parcels. A common situation that a surveyor practicing in Hawaii encounters is that a fence has been erected by an abutting lot owner to the lot being surveyed, but the fence has mistakenly been placed outside the boundaries of the abutting lot blocking the surveyor's ability to measure to the correct lot corners because of being locked out by the incorrectly installed fence. Another situation that is starting to occur in this increasingly litigious and contentious society is that an abutting lot owner that is having a boundary dispute with my client will aggressively "defend" their property with threats of dogs, guns or physical violence. Failing to collect such evidence out of fear of legal reprisal or a fear of physical harm is a breach of our duty to our clients and the public at large. However, without a right of entry, executing our responsibilities to meet that duty can risk liability for civil and criminal trespass. The right of entry that HB 1241 grants will mitigate these risks and allow surveyors to do their jobs without fear of lengthy litigation. Therefore, I humbly request that you vote in favor of HB 1241 to protect the public interest and the land surveying community of professionals.

Mahalo nui loa for this opportunity to testify. Should you have any questions, I can be reached at the email or phone number listed above and I will make myself available for questions.

Sincerely,



L. Edward Paré



Rep. Mark M. Nakashima, Chair

Rep. Jackson D. Sayama, Vice Chair

Committee on Consumer Protection and Commerce

From: Beverly V. Pascual, LPLS

Date: February 9, 2023

Subject: **Support for HB 1241 Relating to Right of Entry for Professional Surveyors**

My name is Beverly Pascual, and I am a Licensed Professional Land Surveyor in the State of Hawaii. I support House Bill 1241 because it will provide Hawaii Land Surveyors a right to access private property for the purpose of conducting a thorough Boundary Survey of land parcels.

House Bill 1241 will provide a landowner with prior notice of a survey, and it will allow the landowner(s) and the land surveyor to have negotiate a time and date for the survey, if necessary.

Boundary Surveys serve a different purpose than general, topographic-style land surveys. Boundary Surveys require a conscientious and prudent land surveyor to diligently attempt to relocate legally-recorded survey markers, such as pipes in the ground. Survey markers are considered evidence when licensed land surveyors build their "case" for the true location of a property boundary and its relation to current surroundings. In most cases, these survey markers are years old and buried under the effects of civilian expansion and Father Time. As a result, a prudent land surveyor must collect as much evidence as possible from a specific parcel and its adjoiners to make a fair and respectful judgement on said specific parcel's true location.

Not being able to collect and verify as many boundary survey markers as possible will hinder a licensed land surveyor's professional duty to perform a Boundary Survey.

Thank you for this opportunity to testify. Should you have any questions, I can be reached at beverly@esh-inc.com

Sincerely,

Beverly V. Pascual, LPLS

Rep. Mark M. Nakashima, Chair

Rep. Jackson D. Sayama, Vice Chair

Committee on Consumer Protection and Commerce

From: Leo Bell

Date: February 9, 2023

Subject: **Support for HB 1241 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 House Bill 1241.

My name is Leo Bell, and I am a land surveyor in the State of Hawaii. **I am writing in support of House Bill 1241** because it grants Hawaii 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. House Bill 1241 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.

Surveying requires evidence to determine the true location of property boundaries. A typical boundary corner often remains hidden until a thorough search of an area can be completed. Thus, the collection of boundary evidence inevitably results in a crossing of the invisible lines that separate neighboring parcels. Failing to collect such evidence out of fear of reprisal is a breach of our duty to our clients and the public at large. However, without a right of entry, executing our responsibilities to meet that duty can risk liability for civil and criminal trespass.

As a local field surveyor here in Hawaii, I have interactions with the public on a daily basis and through those interactions there are many times where I would like to verify the boundary work on neighboring properties but unfortunately cannot because I don't have permission from the neighboring lots. This bill will give field surveyors peace of mind as we are working along neighboring properties.

The right of entry that HB 1241 grants will mitigate these risks and allow surveyors to do their jobs without fear of lengthy litigation. Therefore, I humbly request that you vote in favor of HB 1241 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 lcb33@humboldt.edu and I will make myself available for questions.



