



February 10, 2025

The Honorable Scot Z. Matayoshi, Chair
The Honorable Cory M. Chun, Vice-Chair
Members of the Committee on Consumer Protection & Commerce

RE: Strong Support for HB420 HD1

Aloha Chair Matayoshi, Vice-Chair Chun, and Members of the Committee,

My name is Ana Tuiasosopo, and I am a Trustee and District Representative for the International Union of Operating Engineers (IUOE) Local 3, representing heavy equipment operators, mechanics, surveyors, and other skilled tradespeople in Hawai'i's construction industry.

I submit this testimony in strong support of HB420 HD1 because it is critical to protecting jobs, ensuring a stable housing market, and restoring a fair, common-sense approach to resolving construction disputes.

Construction is one of Hawai'i's largest job-producing industries, and our members rely on steady work to support their families. But excessive lawsuits have made it harder for homebuilders to take on projects, slowed down development, and created uncertainty for workers. When projects stall, our members are the first to feel it—hours get cut, paychecks shrink, and families struggle to make ends meet. We cannot afford to let unnecessary legal battles put good jobs at risk.

Hawai'i's housing crisis is already severe, and the current system is making it worse. Instead of helping homeowners get the repairs they need, some attorneys have turned construction defect claims into a tool for profit, driving up costs and delaying projects that could provide much-needed housing for local families. HB420 takes a smarter approach by ensuring that builders have the opportunity to make repairs first, rather than dragging homeowners into lawsuits that can take years to resolve.

The original intent of the Contractor Repair Act was to create a cooperative process where homeowners and builders could work together to fix problems. But over time, the system has been abused, making it harder for builders to take responsibility without legal interference. HB420 restores that balance by giving homeowners the repairs they need while keeping housing projects on track and protecting the jobs that thousands of working families depend on.

We need a fair system that puts common sense before conflict—one that ensures accountability without unnecessary delays, job losses, or skyrocketing costs. HB420 is a step in the right direction, and I strongly urge the committee to pass it to protect workers, homeowners, and Hawai'i's future.



Mahalo for your time and consideration.

Ana Tuiasosopo

Trustee/District Representative
International Union of Operating Engineers (IUOE) Local 3

LAW OFFICES OF PHILIP S. NERNEY, LLLC

A LIMITED LIABILITY LAW COMPANY

335 MERCHANT STREET, #1534, HONOLULU, HAWAII 96806

PHONE: 808 537-1777

February 10, 2025

Honorable Scot Z. Matayoshi
Honorable Cory M. Chun
Committee on Consumer Protection & Commerce
415 South Beretania Street
Honolulu, Hawaii 96813

Re: **HB 420 HD1 OPPOSE**

Dear Chair Matayoshi, Vice Chair Chun and Committee Members:

HB 420 HD1 would shift the burden and consequences of design and construction defects onto consumers. HB 420 HD1 would enable companies responsible for those defects to escape responsibility.

An emphasis upon the entry cost of housing has obvious appeal. Once in housing, though, who pays to correct faulty work? Should it be the consumer? Or the companies responsible for the fault?

HB 420 HD1 covertly shifts the risk of loss onto the consumer.

If housing should stand for *decades*, how would it be good policy to prevent consumers from being able to prove fraudulent concealment after ten years?¹ HB 420 HD1 literally and expressly excuses fraud.

HB 420 HD1 effectively exonerates wrongdoers if building permits are issued and code inspections occur. Will government, then, take financial responsibility for the consequences of improvident approval? If not, should consumers be unable to seek appropriate relief?

And what accounts for the asymmetry in disclosure obligations? HB 420 HD1 does not oblige designers and builders to disclose to consumers what they know about defects and deficiencies in their work. The playing field created by HB 420 HD1 is not level.

Incentives should be balanced. Consumers should be protected from faulty workmanship and housing providers should be held to reasonable standards and processes.

¹ HB 420 HD1 provides that: "(e) The doctrine of fraudulent concealment, as used for a defense to statute of limitations, shall not apply to the ten-year limitations period set forth in subsection (a)."

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Honorable Cory M. Chun
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Promoting more robust alternative dispute resolution opportunities would have greater utility than the fundamentally flawed approach reflected in HB 420 HD1.

HB 420 HD1 also treads on difficult ground. Changes to Hawaii Revised Statutes §657-8, at least, should be particularly carefully considered. Versions of that section have been twice ruled unconstitutional.

In both Fujioka v. Kam, 55 Haw. 7, 514 P.2d 568 (Haw. 1973)² and Shibuya v. Architects Hawaii Ltd., 65 Haw. 26, 647 P.2d 276 (Haw. 1982)³, versions of HRS §657-8 were held to violate equal protection guarantees, precisely for seeking to benefit the special class to be benefitted here.

HB 420 HD1 would not solve a problem. It would simply embroil contending parties in constitutional and statutory disputes. The parties should be encouraged to find common ground before promoting legislation.

Please defer HB 420 HD1.⁴

2

It would appear that the object or purpose of the legislation was to grant immunity to registered and licensed persons performing services in the construction industry. One may question whether this grant of immunity is justified as a reasonable exercise of the police power of the state. However, assuming that the legislature under its police power was justified in enacting the statute, can the discrimination or classification be upheld under the equal protection guaranty?

3

The bestowal of immunity here on the basis of construction industry membership or alliance "does not rest upon some reasonable consideration of differences (between the classes under the same circumstances), which have a fair and substantial relation to the object of the legislation." Fujioka v. Kam, 55 Haw. at 12, 514 P.2d at 571. Equal protection being a requisite "both in the privileges conferred and in the liabilities imposed," State v. Johnston, 51 Haw. 195, 202, 456 P.2d 805, 809 (1969), appeal dismissed, 397 U.S. 336, 90 S.Ct. 1152, 25 L.Ed.2d 352[65 Haw. 44] (1970), HRS § 657-8 is constitutionally infirm.

⁴ The Committee should note that STAND. COM. REP. NO. 220 erroneously states both that Kasdan Turner Thomson Booth, LLC testified in support of HB 420 and that only one individual opposed the bill. By my count, four attorneys who represent associations testified against the bill.

Honorable Scot Z. Matayoshi
Honorable Cory M. Chun
February 10, 2025
Page 3 of 3

Very truly yours,


Philip S. Nerney

Your Committee received testimony in support of this measure from Pacific Resource Partnership; General Contractors Association of Hawaii; Ali'i Glass & Metal, Inc.; Hawaii Laborers & Employers Cooperation and Education Trust; Hawaii Regional Council of Carpenters; Hawai'i Association of REALTORS; Housing Hawai'i's Future; R. M. Towill Corporation; Mutual Housing Association of Hawai'i, Inc.; Paradigm Construction LLC; Hawai'i YIMBY; Holomua Collaborative; Gentry Homes, Ltd.; D.R. Horton Hawaii; Kasdan Turner Thomson Booth, LLLC; Kapolei Chamber of Commerce; Operating Engineers Local 3; Raynor Hawaii Overhead Doors and Gates Inc.; Case Lombardi, A Law Corporation; KY International, Inc.; Damon Key Leong Kupchak Hastert A Law Corporation; Island Flooring; Z Contractors, Inc.; A-Plus Seamless Raingutters, Inc.; and numerous individuals. Your Committee received testimony in opposition to this measure from one individual.



HAWAII REGIONAL COUNCIL OF CARPENTERS

February 12, 2025

TO: The Honorable Scot Z. Matayoshi, Chair
The Honorable Cory M. Chun, Vice Chair
and Members of the House Committee on Consumer Protection & Commerce

FROM: Mitchell Tynanes
Hawai'i Regional Council of Carpenters

RE: **Strong Support for HB420 – Relating to Remedies**

Aloha Chair Matayoshi, Vice Chair Chun, and Members of the Committee,

On behalf of the Hawai'i Regional Council of Carpenters (HRCC), I submit this testimony in **strong support of HB420**, which seeks to reform the current Contractor Repair Act (CRA) and create a fairer, more cooperative approach to resolving construction defect disputes.

As the largest construction labor organization in the state, representing thousands of working men and women in Hawai'i, we believe this legislation is critical to protecting jobs, stabilizing the construction industry, and improving housing affordability—all of which directly impact our members and the broader Hawai'i community.

The misuse of the current Contractor Repair Act has led to an increase in unnecessary litigation that discourages builders from undertaking new housing projects. This bill helps protect Hawai'i's workers and jobs. These excessive lawsuits delay construction, drive up costs, and if not held in check, will ultimately reduce the number of projects that move forward. This directly impacts Hawai'i's workforce by leading to fewer construction jobs and less economic opportunity for skilled laborers.

Hawai'i's working families depend on a stable and thriving construction industry, but when legal threats make development riskier and more expensive, the result is fewer job opportunities and greater economic uncertainty for local carpenters and tradespeople. HB420 will help restore balance by ensuring that legitimate construction defects are addressed efficiently without inviting unnecessary litigation that stalls projects and costs jobs.

STATE HEADQUARTERS & BUSINESS OFFICES

OAHU: 1311 Houghtailing Street, Honolulu Hawaii 96817-2712 • Ph. (808) 847-5761 Fax (808) 440-9188
HILO OFFICE: 525 Kilauea Avenue, Room 205, Hilo, Hawaii 96720-3050 • Ph. (808) 935-8575 Fax (808) 935-8576
KONA OFFICE: 75-126 Lunapule Road, Kailua-Kona, Hawaii 96740-2106 • Ph. (808) 329-7355 Fax (808) 326-9376
MAUI OFFICE: 330 Hookahi Street, Wailuku, Maui 96793-1449 • Ph. (808) 242-6891 Fax (808) 242-5961
KAUAI OFFICE: Kuhio Medical Ctr Bldg., 3-3295 Kuhio Hwy, Suite 201, Lihue, Kauai 96766-1040 • Ph. (808) 245-8511 Fax (808) 245-8911

Ensuring Fairness and Stability in the Construction Industry

The original intent of the Contractor Repair Act was to create a cooperative process between builders and homeowners, allowing defects to be identified and repaired without immediately resorting to lawsuits. However, aggressive attorneys have exploited legal loopholes, filing class-action lawsuits that significantly increase legal and insurance costs for builders—costs that are ultimately passed on to homeowners. This bill promotes fairness and stability in the construction industry

The result is a more volatile construction market, where developers and contractors face excessive legal risks, making them hesitant to take on projects, especially affordable housing developments. HB420 provides a much-needed course correction by:

- Requiring a good-faith inspection and repair period before litigation can be filed.
- Discouraging the filing of unnecessary lawsuits that disrupt projects.
- Restoring the intended purpose of the CRA by prioritizing repairs over litigation.

Hawai'i is in the midst of a severe housing crisis, with working families struggling to find affordable homeownership opportunities. This bill will help to reduce housing costs and expand access to homeownership. The excessive legal claims against new developments have had far-reaching financial consequences, including:

- Increased construction costs that make it harder to build homes that Hawai'i residents and families can afford passed down to buyers.
- Higher insurance premiums for developers and builders as a result of increased litigation.
- More restrictive lending conditions, making it harder for first-time homebuyers to qualify for loans.

HB420 will help keep unnecessary increases to housing costs by ensuring that construction defect issues are resolved in a fair and cooperative manner, and not through needless, drawn out lawsuits that serve to benefit a handful of attorneys at the expense of prospective homebuyer and current homeowners.

Passing this measure will protect homeowners by ensuring timely repairs.

The current system often leaves homeowners caught in the middle, with disputes over defects dragging on for years due to prolonged litigation. This means:

- Essential repairs to homes go unaddressed for extended periods.
- Lenders hesitate to finance homes involved in ongoing lawsuits.

In some cases, attorneys representing community associations in construction defect litigation have advised associations to avoid maintaining common areas or performing general upkeep and maintenance. This tactic, intended to strengthen legal claims, has resulted in diminished quality of life for residents who are left with deteriorating shared spaces and poorly maintained facilities. While this is not always the case, it highlights a troubling practice that can unfairly burden homeowners and harm the overall well-being of communities.

HB420 will restore a fair process that ensures homeowners receive the repairs they need in a timely manner, rather than being drawn into protracted legal battles that benefit attorneys more than homeowners.

For the reasons outlined above—protecting jobs, stabilizing the construction industry, reducing housing costs, and ensuring fair treatment for homeowners—we urge you to pass HB420.

This bill provides the necessary reforms to ensure that our state’s workers, builders, and homeowners are all treated fairly while keeping Hawai‘i’s housing market strong and accessible.

Mahalo for your time and consideration. The Hawai‘i Regional Council of Carpenters stands ready to work with lawmakers and stakeholders to advance policies that promote housing affordability, job stability, and a thriving construction industry. I have also included signed testimony of support of members of the Hawai‘i Regional Council of Carpenters.

Sincerely,

Mitchell Tynanes
Hawai‘i Regional Council of Carpenters

Aloha Chair, Vice Chair, and Members of the Committee,

I am a proud member of the Hawai'i Regional Council of Carpenters, and I **strongly support HB420** because it helps workers, homeowners, and our communities.

Right now, housing projects face a real threat of being slowed down or stopped because of construction defect lawsuits that don't fix real problems but just make lawyers rich. When builders get hit with lawsuits before they even have a chance to make repairs, it drives up costs, stops projects, and kills jobs for local workers like me.

This affects all of us—not just the people building homes, but anyone trying to afford one. When projects get tied up in court, the cost of housing goes way up, and fewer homes get built. That means people like me, my family, and my friends have an even harder time buying a home here in Hawai'i.

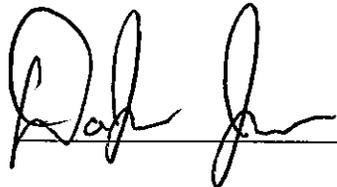
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HB420 is simple—it makes sure real problems get fixed first and stops lawsuits from making things worse. This bill will help keep people working, keep home costs down, and make sure homeowners aren't stuck in the middle.

I urge you to pass HB420 and help protect local jobs, housing, and fair treatment for homeowners.

Mahalo.

Signature:



Printed Name:

DeJon Jones

Email:

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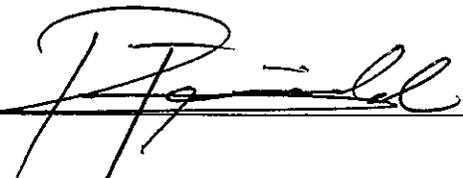
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Signature:



Printed Name:

RJ TRINIDAD

Email:

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Printed Name:

Noah Onyes

Email:

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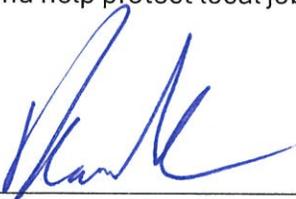
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Printed Name:



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Signature:



Printed Name:

Destro Dola Pena

Email:

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Mahalo.

Signature: 

Printed Name: Reed Dunlap

Email: reeddunlap554@gmail.com

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Mahalo.

Signature:



Printed Name:

Tony Seto

Email:

tonyseto04@gmail.com



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Signature:



Printed Name:

Peter K Roberts

Email:

Robert80@gmail.com

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Signature:



Printed Name:

ZWN VOA

Email:

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Signature: 

Printed Name: Nali Naede

Email: _____

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Signature:



Printed Name:

Ashley Martinez Lopez

Email:

ashleyjaylere@yahoo.com

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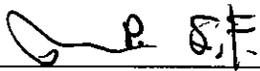
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Signature: 

Printed Name: Iokepa P. Sanchez-Furterado

Email: kepa1596@gmail.com

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Signature:  _____

Printed Name: Ian Pakela _____

Email: _____

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Printed Name:

Joseph Soares

Email:

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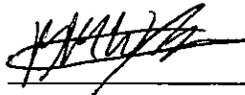
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Mahalo.

Signature:



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Moun Michael Wisco

Email:

Moun.Wisco@yahoo.com

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poiki.leal@gmail.com

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Herbert Hernandez

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hhernandez@henselphelps.com

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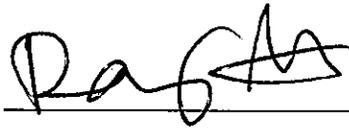
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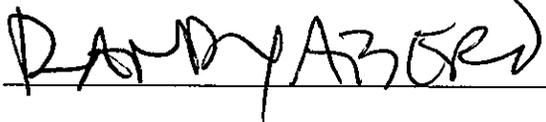
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Kai Poschay

Email:

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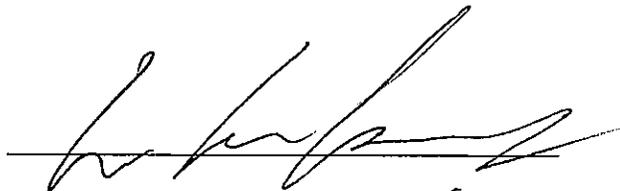
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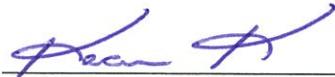
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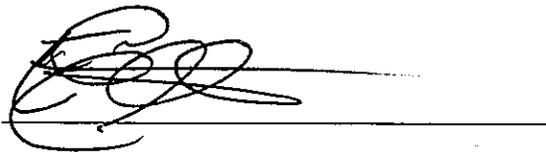
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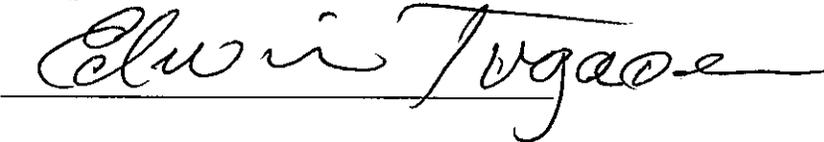
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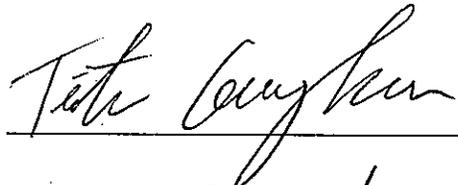
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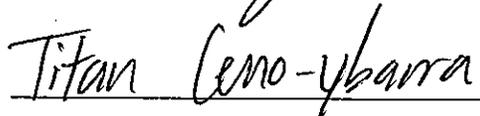
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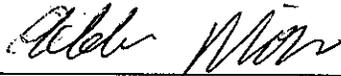
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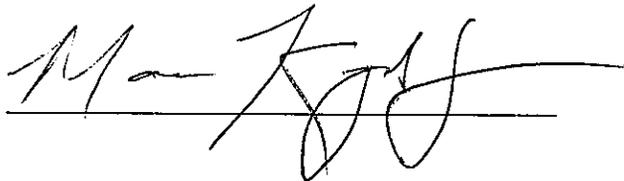
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Mason Kiyomoto Isawa

Email:

masonaki@gmail.com

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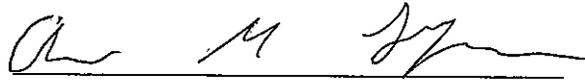
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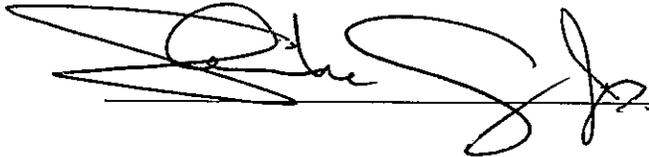
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Mahalo.

Signature:



Printed Name:

Solomon M. Chow Jr.

Email:

SMJ

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Printed Name:

Marcus Laca

Email:

POKSI Laca@gmail.com

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Email:

mjurnre@phoo.com

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Antonio Sablan

Email:

asablan76@gmail.com

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Sean Michael Valdriz

Email:

SeanMichael.Valdriz@rccloud.com

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Email:

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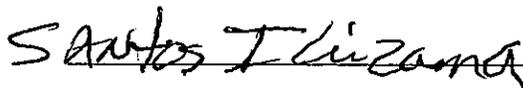
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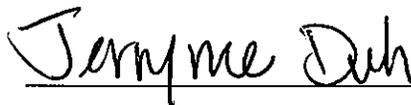
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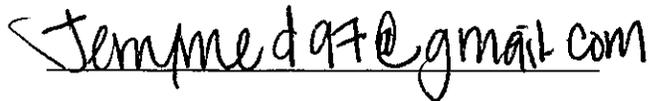
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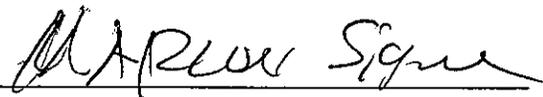
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Bronson Saltiban

Email:

BSaltiban@gmail.com

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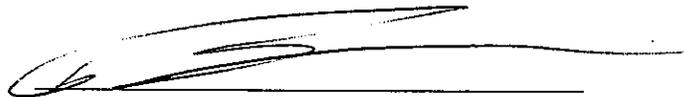
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Agustin Cervillo Jr

Email:

augizjr18@gmail.com

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Mahalo.

Signature:



Printed Name:

SCOTT C. L. BREDE

Email:

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Signature:



Printed Name:

Adam Lowy

Email:

adamlowy92@hotmail.com

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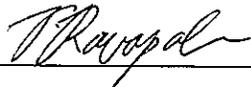
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Signature:



Printed Name:

TANIELA KAVAPALU

Email:

tk6217@yahoo.com

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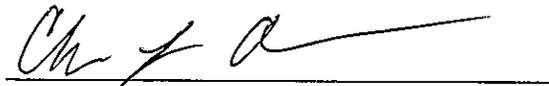
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Printed Name:

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Email:

charleslamarodom@gmail.com

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Printed Name:

DESMOND POPA

Email:

dezpopa@yahoo.com

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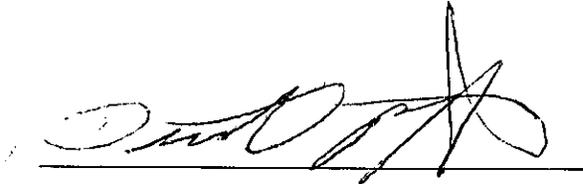
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Signature:

Ethan K. Yuen

Printed Name:

Ethan K. Yuen

Email:

ethankyuen@gmail.com

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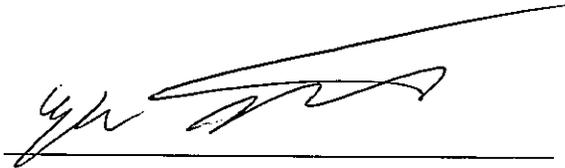
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Signature:



Printed Name:

Elijah Thierbach

Email:

Elijah.Thierbach@gmail.com

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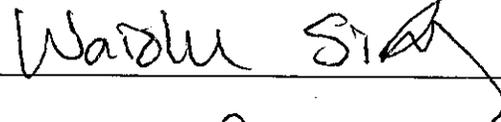
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Signature:

Alex Bagio

Printed Name:

ALEX BAGIO

Email:

abagio01@yahoo.com

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Printed Name:

Righteous Gabres

Email:

Righteous2003@gmail.com

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Printed Name:

MATTHEW PILI

Email:

MATTPILI808@GMAIL.COM

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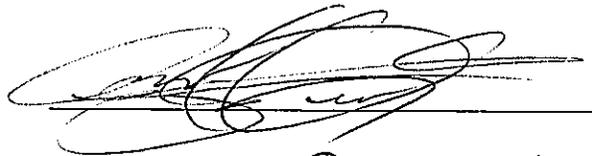
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Printed Name:

Leonard Quevedo

Email:

Leonard@VMDrywall.com

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Printed Name:

Paul Freitas

Email:

freitas Paul 4 @Hmai' - 014

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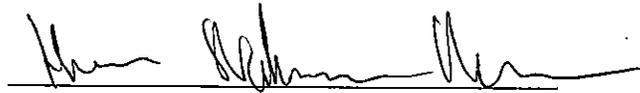
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Henry Nakamura-McCoy

Email:

80Henryboi@gmail.com

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Printed Name:

Chad Samante

Email:

Samantechad@icloud.com

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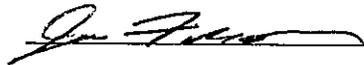
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Signature:

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James Flannery

Email:

Flannery2966@gmail.com

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Sean Newcamp

Email:

seannewcamp2@gmail.com

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Mahalo.

Signature:



Printed Name:

Kalani Nihipali

Email:

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Mahalo.

Signature:

Preston Foster

Printed Name:

Preston Foster

Email:

Pfoster@yahoo.com

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Printed Name:

Treston Rabellizsa

Email:

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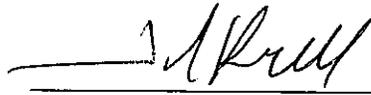
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Signature:



Printed Name:

JAKE RADCLIFF

Email:

JRADCLIFF303@GMAIL.COM

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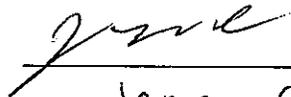
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Signature:



Printed Name:

James Gatti
~~Jamesangatti@~~

Email:

Jamesangatti@gmail.com

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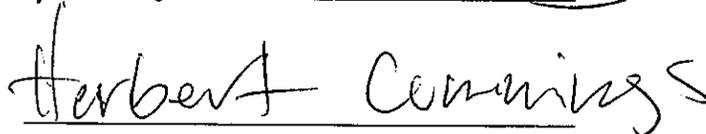
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Signature:



Printed Name:

Ari Vitoria

Email:

vitoria.ari@gmail.com

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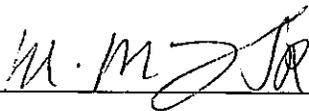
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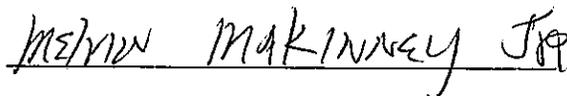
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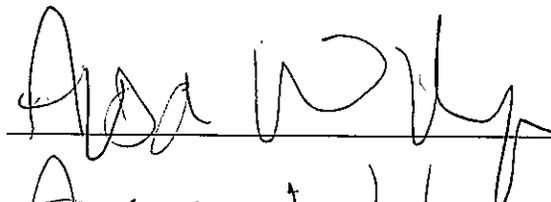
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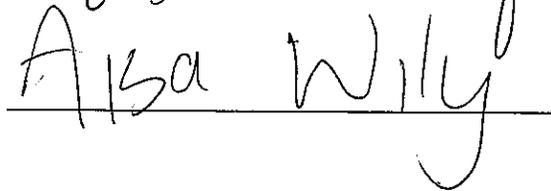
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Mahalo.

Signature:

A handwritten signature in black ink that reads "Aisa Willy". The signature is written in a cursive style and is positioned above a horizontal line.

Printed Name:

The name "Aisa Willy" is printed in a simple, sans-serif font. It is positioned above a horizontal line.

Email:

A horizontal line intended for the recipient to write an email address.

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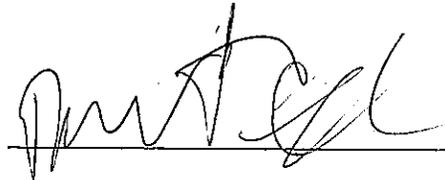
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Signature:



Printed Name:

Riketa Tili

Email:

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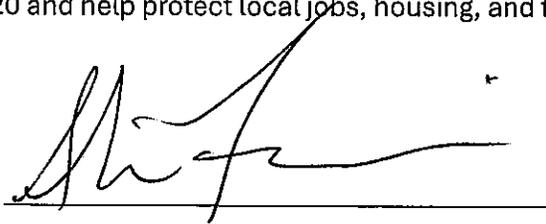
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Printed Name:

ALVIN FAUMUI

Email:

AMFAUMUI86@YAHOO.COM

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Signature:

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MATTHEW ABERO

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Signature:



Printed Name:

DANE MIZUSAWA

Email:

DANE MIZUSAWA@GMAIL.COM

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Printed Name:

Justin L. Parker

Email:

JustinL Parker @ Gmail

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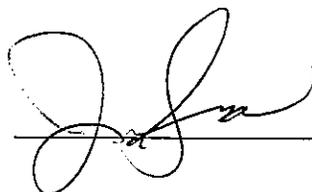
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Signature:



Printed Name:

JUSTIN AVA

Email:

JUST.AVA@ICLOUD.COM

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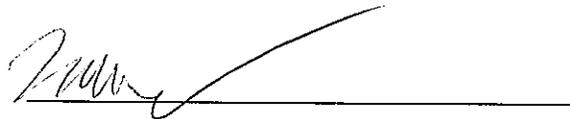
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Signature:



Printed Name:

Tanoa McKenzie-Faumuina

Email:

tanoamf@gmail.com

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Printed Name:

Tyler K. Kukahiko

Email:

Tyler K. Kukahiko@gmail.com

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Signature:



Printed Name:

Joel Ballusina

Email:

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Signature:

Roberto Miguel

Printed Name:

Roberto Miguel

Email:

RM1robertomiguel@gmail.com

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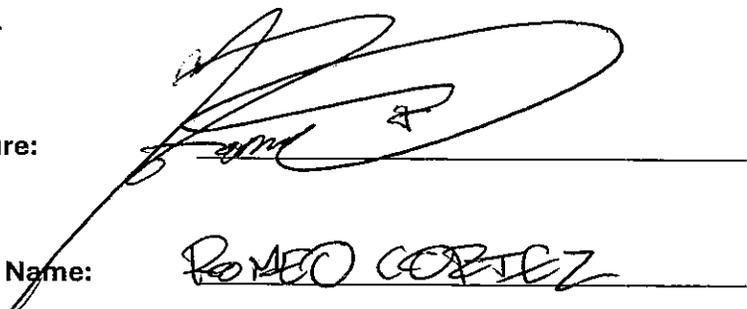
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Signature:

Printed Name:

Email:



Romeo Cortez

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Signature:



Printed Name:

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Right now, housing projects face a real threat of being slowed down or stopped because of construction defect lawsuits that don't fix real problems but just make lawyers rich. When builders get hit with lawsuits before they even have a chance to make repairs, it drives up costs, stops projects, and kills jobs for local workers like me.

This affects all of us—not just the people building homes, but anyone trying to afford one. When projects get tied up in court, the cost of housing goes way up, and fewer homes get built. That means people like me, my family, and my friends have an even harder time buying a home here in Hawai'i.

On top of that, there have been cases where lawyers told homeowner associations not to maintain their property so they could make bigger claims in a lawsuit. That just hurts the people who live there.

HB420 is simple—it makes sure real problems get fixed first and stops lawsuits from making things worse. This bill will help keep people working, keep home costs down, and make sure homeowners aren't stuck in the middle.

I urge you to pass HB420 and help protect local jobs, housing, and fair treatment for homeowners.

Mahalo.

Signature:



Printed Name:

Titus Solmerin

Email:

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Mahalo.

Signature:



Printed Name:

Richard Pascoe

Email:

Richard.Pascoe@M2KConstruction.com

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Signature:



Printed Name:

LAWRENCE RESURRECCION

Email:

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Mahalo.

Signature:



Printed Name:

Rayden Kanac

Email:



February 12, 2025

TO: HONORABLE SCOTT Z. MATAYOSHI, CHAIR, HONORABLE CORY M. CHUN, VICE CHAIR, COMMITTEE ON CONSUMER PROTECTION AND COMMERCE.

SUBJECT: **SUPPORT OF H.B. 420 HD1, RELATING TO REMEDIES.** Clarifies the applicability of the statute of repose for actions arising from construction defects. Clarifies the required contents of a notice of claim of construction defect served on a contractor. Amends the process and time frame for a claimant to accept a contractor's offer to settle or inspect and authorize the contractor to proceed with repairs. Limits the amount a claimant can recover if the claimant rejects a contractor's reasonable proposal for inspection or a reasonable offer to remedy. Clarifies the consequences of rejecting an offer of settlement.

HEARING

DATE: Wednesday, February 12, 2025
TIME: 2:00 p.m.
PLACE: Capitol Room 329

Dear Chair Matayoshi, Vice Chair Chun and Members of the Committee,

The General Contractors Association of Hawaii (GCA) is an organization comprised of approximately five hundred (500) general contractors, subcontractors, and construction related firms. The GCA was established in 1932 and is the largest construction association in the State of Hawaii. Our mission is to elevate Hawaii's construction industry and strengthen the foundation of our community.

GCA **SUPPORTS** H.B. 420 HD1, which clarifies the applicability of the statute of repose for actions arising from construction defects. Clarifies the required contents of a notice of claim of construction defect served on a contractor. Amends the process and time frame for a claimant to accept a contractor's offer to settle or inspect and authorize the contractor to proceed with repairs. Limits the amount a claimant can recover if the claimant rejects a contractor's reasonable proposal for inspection or a reasonable offer to remedy. Clarifies the consequences of rejecting an offer of settlement.

It's no secret that the cost of housing, including construction financing and insurance costs have led to a critical shortage of housing in Hawaii. Yet new developments being built with first time homebuyers in mind are being put on hold because frivolous lawsuits can restrict financing options for homebuyers. This scenario sees promising housing developments aimed at first-time homebuyers facing unnecessary delays and financial hurdles due to lawsuits.

As a result of these frivolous lawsuits many first-time homebuyers are unable to obtain financing through FHA, Fannie Mae, VA or other federally guaranteed loans and are unable to purchase. In



GENERAL
CONTRACTORS
ASSOCIATION
OF HAWAII

fact, 3 in 4 homebuyers could not afford the initial downpayment for a unit without government-backed financing options, and owner-occupant buyers in some projects have plummeted to only 38% of homebuyers because of their inability to afford the higher downpayments required for traditional loans. These legal challenges not only escalate home and insurance costs but also amplify the overall expense for developers, subsequently impacting housing affordability. What's more is that many builders are choosing not to go forward with construction due to concerns of frivolous litigation, including at least one affordable housing project.

This measure will help to prevent frivolous lawsuits by increasing the opportunity for homebuilders and homeowners to address any potential construction defects without costly litigation. Specifically, these bills would:

1. Provide better notice or detail of alleged defect;
2. Require evidence of any alleged defect;
3. Amending the process and timeframe for inspection; and
4. Limiting recovery to the cost of mitigating the defect and attorney's fees when a proposal to Inspect or an offer to repair is unreasonably rejected.

The emphasis on providing detailed notices and evidence of potential defects is pivotal, ensuring both parties have a comprehensive understanding of the issues. This approach encourages collaborative problem-solving, reducing the likelihood of misunderstandings and baseless claims. Requiring claimants to furnish specific evidence enhances the validity of construction claims, fostering fair assessments and informed decision-making, ultimately leading to expedited resolutions and accurate damage assessments.

These proposed changes offer homeowners an opportunity to address conflicts and rectify potential defects in a timely manner, bypassing the protracted litigation process. Emphasizing early notification is a strategic move that promises to contribute significantly to the swift resolution of construction issues, benefiting all stakeholders involved. For these reasons, I strongly urge this committee to pass HB 420 HD1 to help alleviate some of the increasing costs of housing for local families.

Thank you for the opportunity to provide testimony on this measure.

LIPP SMITH LLP

Harbor Court Commercial Tower
55 Merchant St., Suite 1850
Honolulu, HI 96813

February 10, 2025

Subject: **OPPOSITION TO HD420, HD1-RELATING TO REMEDIES**

Dear Chair Matayoshi, Vice Chair Chun, and Members of the Committee on Commerce and Consumer Protection:

LippSmith LLP hereby submits this testimony to **OPPOSE HB420, HD1-RELATING TO REMEDIES.**

We are lawyers who have served, and continue to serve, as Hawai'i State and Federal Court-appointed class action counsel for tens of thousands of Hawai'i homeowners. For the overwhelming majority of our clients, their homes are their biggest investments of their lives, and they reasonably expect them to be safe, to be free of construction defects, as builders routinely promise in warranties, and to last decades.

Unfortunately, though, Hawai'i builders do not always deliver what they promise in construction, honor their warranties, or step up to repair known defects, saddling homeowners with serious life and safety risks that are prohibitively expensive to repair and diminish the values of their homes. In those circumstances, homeowners have nowhere else to turn except the courts.

To offer a very small sense of the serious construction defects in our class actions, we attached hereto as Exhibit 1 a compilation of photographs of a sampling of the defects at issue in class actions where courts have appointed us to represent homeowners against builders.

It goes without saying that Hawai'i's tropical environment, together with climate change, pose known, ever-increasing risks of dangerous winds, hurricanes, flooding, and fire. It also goes without saying that Hawai'i's environment can damage and destroy building products, including structural components, when builders use deficient materials and cut corners.

Placing more roadblocks to deter and prevent homeowners from pursuing righteous claims for critical life and safety defects is anti-consumer and will endanger Hawai'i homeowners, their families, and their communities. The Lahaina wildfire tragedy is a horrific reminder that Hawai'i homeowners and residents are extremely vulnerable to powerful natural catastrophes.

HB420 undermines the core purposes of the Contractor Repair Act ("CRA") and - by deterring and foreclosing construction claims - risks endangering homeowners and residents of Hawai'i. When enacting the CRA, or SB2358, in the Regular Session of 2004, the Senate Committee on Judiciary and Hawaiian Affairs found that "this measure provides homeowners and others suffering

from construction defects in their residences and premises with a speedy and precise resolution to their problems This measure enables the resolution of claims for construction defects without incurring the high costs of litigation." Sen. Stand. Com. Rep. 2790 (2004).

But HB420 undermines the CRA's core purposes in at least the following ways:

1. HB420 Extends the CRA to All Claims - Including Those for Breach of Contract, Breach of Warranty, and Consumer Protection - to the Detriment of Hawai'i Consumers.

HB420 extends the CRA to claims beyond construction defect claims sounding in tort to include claims "whether in contract, tort, statute, or otherwise." This extension of the CRA would be at the expense of consumers and upend decades of settled law. But claims for breach of contract, breach of warranty, and unfair business practices each rely on their own long-standing requirements in the common law and/or statutory provisions, including specific statutes of limitation.

For instance, a breach of contract claim has a six-year statute of limitations, which does not begin to run until discovery of the breach of contract. HRS § 657-1; *Au v. Au*, 63 Haw. 210, 218-19 (1981). But HB420 would eviscerate this statute of limitations and discovery rule, requiring homeowners to bring claims within two years of discovery of a breach. Similarly, HB420 would shorten the time for consumers to bring breach of warranty claims. Homeowner warranties in Hawai'i are often ten years and begin at conveyance of a home. A homeowner has six years from the discovery of a breach of warranty to bring a claim. HRS § 657-1; *Au*, 63 Haw. at 218-19. But HB420 would require homeowners to bring claims for breach of warranty within two years of discovery, effectively shortening the ten-year warranty term - that homeowners bargained for, contracted for, and paid for - significantly. Finally, HB420 seeks to shorten the statute of limitations for consumer protection claims set forth in HRS 480-2, by requiring homeowners to bring claims within two years of discovery, even though a contractor's unfair business practices may be ongoing and continuous.

Perhaps most concerning for Hawai'i consumers, HB420 seeks to change the CRA with the explicit purpose that "fraudulent concealment is not a defense to the repose period." Currently, HRS 657-20 applies to the CRA. Specifically, if a contractor fraudulently conceals a claim, HRS 657-20 gives a homeowner six years from discovery to bring that claim. No legitimate, consumer-protective purpose could exist for eliminating the six-year extension of a limitations period for fraudulent concealment. And this change would create a perverse incentive for contractors to conceal construction defects just long enough for the statute of repose to run, leaving consumers no recourse for life and safety defects.

2. HB420 Would Undermine Homeowners' Existing Contracts and Warranties.

In large single family and condominium home developments, lengthy and complex home purchase agreements and warranties govern the rights and obligations of contractors and buyers. These contract documents and

warranties typically provide for (1) warranty periods; (2) notice requirements for construction defect claims; (3) builder inspection rights; (4) dispute resolution provisions; and (5) attorney fee and cost provisions.

Enacting HB420 will undermine purchase agreements and warranties drafted in reliance on the current version of H.R.S. 672E, enacted more than two decades ago. For example, terms in a purchase agreement that allow a buyer to recover attorney fees and costs if they prevail would be undermined by the HB420 amendments on attorney fee awards to homeowners; a ten-year warranty that allows a buyer to pursue warranty claims at any time within the warranty period would be undermined by the HB420's requirement to pursue claims within two years of discovering defects; a warranty that allows a homeowner to recover the cost of repairs would be artificially capped to the cost of repairs when they gave notice, leaving homeowners on the hook to cover increases in the cost of repairs over the years it takes them to litigate their claims.

HB420 provisions that are contrary to pre-existing purchase agreements and warranties between contractors and homeowners will undermine current contract and warranty rights and obligations, create confusion in contract and warranty interpretation and enforcement, and result in lengthy litigation over how to square HB420 with more than two decades of contracts and warranties made under 672E's existing provisions. Undermining existing contracts and warranties undermines consumer rights.

3. HB420 Requires Litigation Before Giving Notice of a CRA Claim, Contrary to the Purpose of the CRA.

HB420's provision that "[e]ach . . . class member shall comply" with the notice and inspection requirements invites litigation before CRA claims. For any "class member" to exist, a homeowner must first initiate litigation, and a Court must certify a class action pursuant to Hawai'i Rules of Civil Procedure ("HRCPP") Rule 23, appoint class counsel, and give notice of the class action to the class members. To require litigation **before** claims procedures under the CRA is contrary to the Act's purpose of enabling "the resolution of claims for construction defects without incurring the high costs of litigation."

4. HB420 Will Undermine the Speedy Resolution of Homeowners' Problems.

HB420 provision that "each . . . class member" comply with inspection requirements is contrary to the CRA's purposes of "speedy and precise resolution to [homeowners'] problems" and sparing parties "high costs of litigation." Construction class actions in Hawai'i often entail dozens, hundreds, and even thousands of homes statewide. Inspections on **each** class member's home would take many years to accomplish at exorbitant expense, inconvenience, and delay. There would be nothing speedy, precise, or inexpensive about such a process. This provision would also undermine Hawai'i's class action procedures pursuant to HRCPP Rule 23 in which Courts allow and supervise representative litigation over common claims. In those cases, inspecting class representative homes plus a **sampling** of class member homes is far more efficient, effective, and inexpensive for all and protects

consumers from significant delay while their homes contain serious life and safety defects.

5. HB420 Encourages Homeowners to Incur High Costs Before Making a Pre-Litigation and Administrative CRA Claim.

HB420's notice procedures appear to require homeowners to hire expensive consultants to both identify the nature of their defects and to provide the extent of repairs necessary to cure the defects **before** pursuing construction claims. Identifying construction defects and repairs is a complex, scientific, technical, and expensive process that average homeowners cannot do or afford on their own. HB420's notice provision would require homeowners to incur high costs of litigation **before** they can even make a claim. This is hardly consistent with the CRA's main purposes.

6. HB420 Risks Limiting Homeowner Recoveries to an Amount that May Be Insufficient to Repair Critical Life and Safety Defects.

HB420 provides that "[i]f a homeowner rejects a contractor's reasonable offer of settlement," any later "cost of repair recovery is limited to the reasonable value of the repair determined as of the date of the offer and the amount of the offered monetary payment." This provision means that if construction costs have risen for any reason between a contractor's offer of settlement during the CRA procedures through later litigation - whether due to supply chain problems, tariffs, a labor shortage, a pandemic, or any other issue - a homeowner cannot recover those increased costs necessary to repair their home. This limitation would prevent homeowners from fully repairing any life and safety defect, endangering that homeowner and their families, loved ones, and neighbors. This provision will not effectuate "a speedy and precise resolution to [homeowners'] problems."

7. HB420 Will Encourage Homeowners to Accept Offers That are Insufficient to Repair their Homes to Avoid the Risk of Paying Contractor Costs.

HB420 provides that "[i]f the judgment or award obtained in a subsequent proceeding is not more favorable than the offer, the offeree shall pay the costs incurred by the offeror after the making of the offer." But the CRA is a pre-litigation procedure, before which the parties have not engaged in the usual course of litigation, including discovery. Thus, when a contractor makes a CRA offer of settlement to a homeowner, that homeowner does not have the information that would allow them to fully evaluate an offer of settlement. In cases where we have represented class members statewide, discovery has revealed the nature and extent of a construction defect, insufficient warranty repairs a contractor has completed, fraudulent concealment of defects, and unfair business practices. This process requires significant expense to all parties but HB420 will encourage a homeowner to shortchange this process and resolve an issue before even having access to the courts for fear of being on the hook for a contractor's costs.

8. HB420 Creates a One-Sided, Pro-Contractor, Anti-Consumer Process.

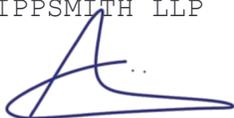
Finally, HB420 creates a one-sided notice and claims process that only

benefits contractors, before any homeowner is even allowed to set foot in court. HB420 turns a pre-litigation procedure - designed to facilitate early resolution of construction defect claims - into a punitive procedure in which only contractors have rights and homeowners bear all of the obligations and risks, including being ultimately stuck with dangerous construction defects. HB420 undermines the status quo in which each side has the opportunity to present claims and defenses toward resolution of a conflict. HB420 does not protect, and in fact hurts, the homeowners of Hawai'i.

Thank you for considering our opposition to HB420.

Respectfully,

LIPPSMITH LLP

A handwritten signature in blue ink, appearing to read 'Graham B. LippSmith', is written over the printed name below.

Graham B. LippSmith

Exhibit 1

HD Strap:



HD Strap:



MAS Strap:



MAS Strap:



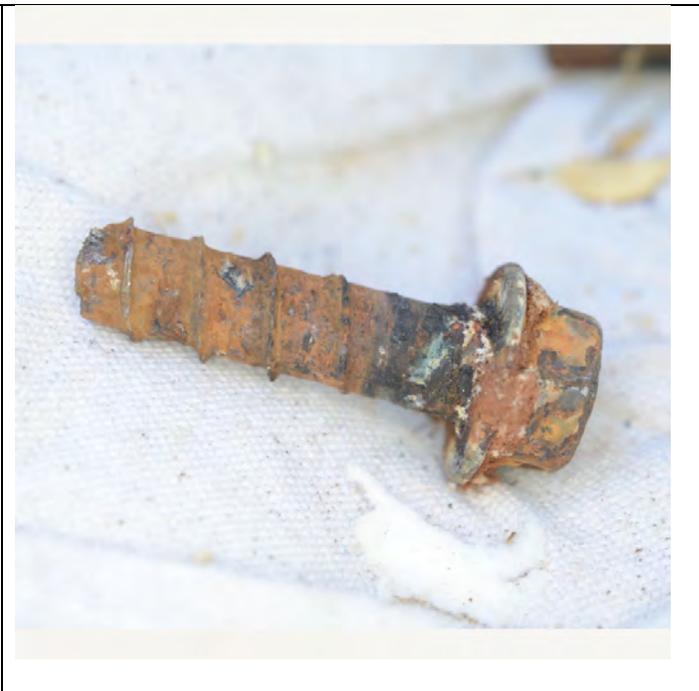
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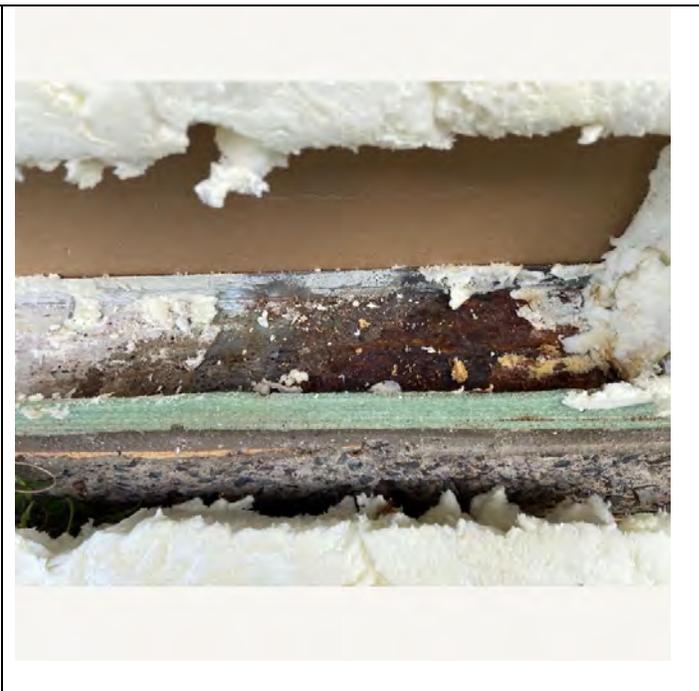
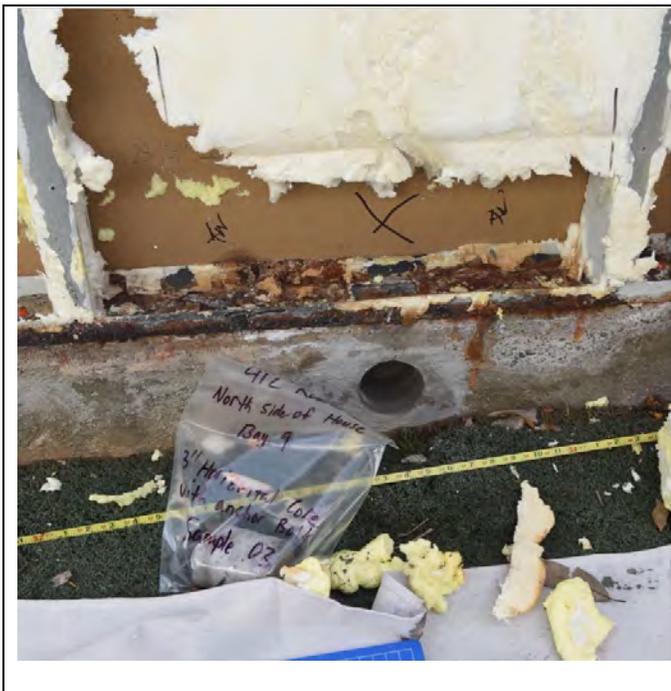
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Simpson Titen Anchor Photographs:



Metal Sill Track Photographs:



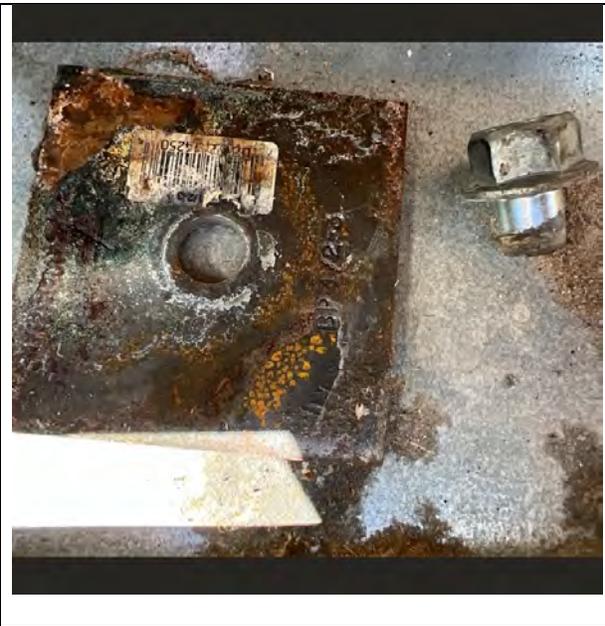
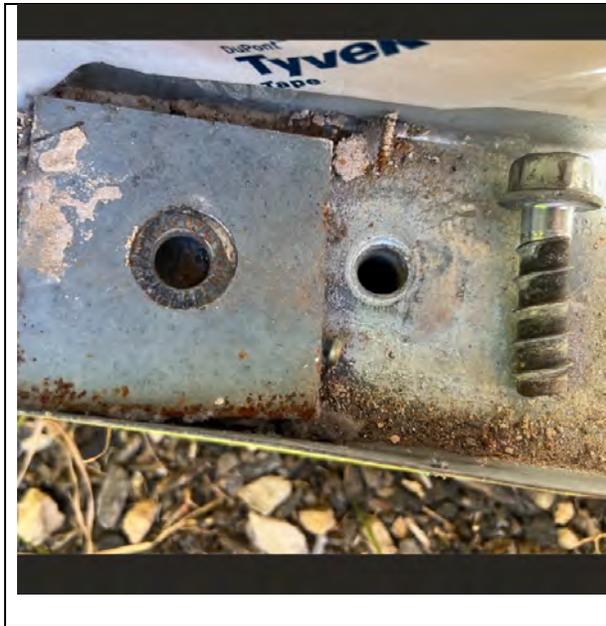
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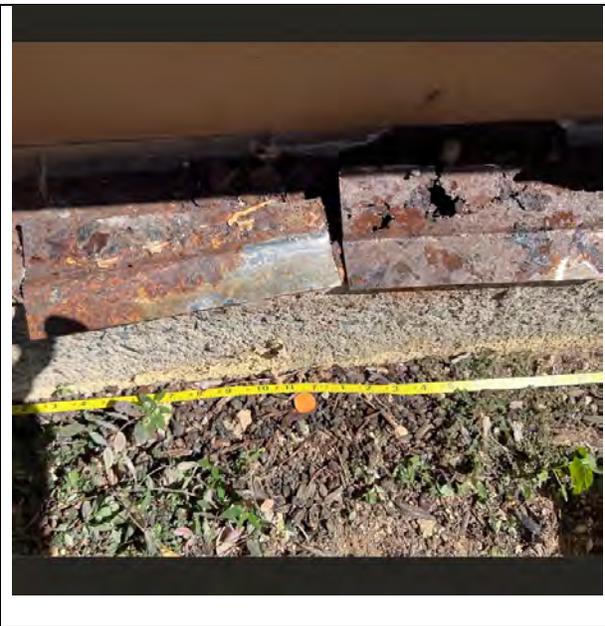
Metal Sill Track Photographs:



Simpson Titen Anchor Photographs:



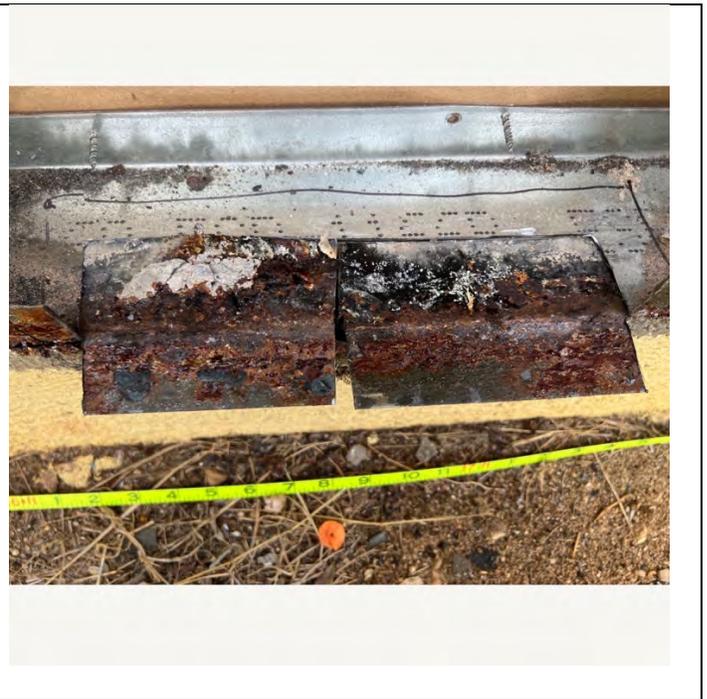
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Simpson Titen Anchor Photographs:



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Metal Sill Track Photographs:





holomua

COLLABORATIVE

OUR MISSION

To support and advance public policies that make Hawai'i affordable for all working families.

OUR VISION

Collaborative, sustainable, and evidence-based public policies that create a diverse and sustainable Hawai'i economy, an abundance of quality job opportunities, and a future where all working families living in Hawai'i can thrive.

BOARD MEMBERS

Jason Fujimoto
Meli James, *Board Chair*
Micah Kāne
Brandon Kurisu
Brad Nicolai
Mike Pietsch
Sunshine Topping

ADVISORY COMMITTEE

Josh Feldman
Brittany Heyd
Alicia Moy
Ed Schultz

Josh Wisch
President & Executive Director

827 Fort Street Mall, 2nd Floor
Honolulu, Hawaii 96813

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HolomuaCollaborative.org

Page 1 of 2

Committee: House Committee on Consumer Protection & Commerce
Bill Number: HB 420, Relating to Remedies
Hearing Date and Time: February 12, 2025 at 2:00pm (Room 329)
Re: Testimony of Holomua Collaborative in support

Aloha Chair Matayoshi, Vice Chair Chun, and Committee members:

We write in support of HB 420 HD1, Relating to Remedies. This bill clarifies the applicability of the statute of repose for actions arising from construction defects. It clarifies the required contents of a notice of claim of construction defect served on a contractor. It amends the process and time frame for a claimant to accept a contractor's offer to settle or inspect and authorize the contractor to proceed with repairs. It limits the amount a claimant can recover if the claimant rejects a contractor's reasonable proposal for inspection or a reasonable offer to remedy. And it clarifies the consequences of rejecting an offer of settlement.

As an organization that is devoted to finding ways to keep all local working families in Hawai'i by making sure they can afford to stay, preventing unnecessary increases to the cost of home building is a critical part of the puzzle. This bill does so in a way that is safe, reasonable, and makes common sense.

Recent legal battles—based on overly broad defect litigation claims—have already hindered the ability of first-time homebuyers to secure government-backed mortgages, exacerbating Hawaii's critical housing shortage. The ambiguity and lack of concrete evidence regarding these overly broad defect claims has created obstacles for newly constructed home projects. As a result, entities like the Federal Housing Administration, the Veterans Administration, Fannie Mae, and Freddie Mac have all had to disqualify some new housing projects *because* they were stuck in ongoing—and needless—litigation.

With limited access to government-backed loan programs that can reduce the large 20% down payment typically required by commercial lending, many local first-time homebuyers and veterans are being excluded from the housing market as a direct result of this type of litigation.

The result is that local families have been stopped from buying homes that could otherwise keep them in Hawai'i. Local families have been prevented from buying homes they *want* to buy.

This is not a hypothetical problem. Just last year—as a direct result of this type of litigation—construction on over 800 homes and condominiums statewide was stopped. While construction has now restarted on the project, it was only after the homebuilder changed how they were building it. This change was not mandated by any state or county building code. It was, in a real sense, unnecessary. It was only done so that the homebuilder could continue building homes for local families *despite* the litigation.

This is just one recent example of how these legal disputes are skyrocketing construction costs, inflating insurance premiums, necessitating additional expenditure on legal underwriting, and prompting structural redesigns.

We all want our laws to protect home safety. But this is not that. This is simply exploiting loopholes in current law that are preventing homes from being built – homes that have been specifically designed to comply with existing building codes.

This bill will continue to allow any homeowner to file a lawsuit. It simply clarifies the processes in which a claimant brings an action under the Contractor Repair Act and the statute of repose. It also creates a stronger and fairer framework for warranty claims to be properly identified and documented, and appropriately investigated and addressed in a timely manner, before legal proceedings being.

Finally, it's important to note that frivolous class action lawsuits increase the cost of insurance that home builders must purchase. This cost is invariably passed on to the consumer. And whether that consumer is the homeowner themselves—or a local resident renting from a homeowner—it increases the cost of housing for local working families. In addition, it forces home builders to modify their building methods, which may not be the best solution either for the ultimate resident of the home, or for the quality of the build.

This is a sensible bill that will help us to continue building safe, affordable homes for local working families in Hawai'i, and we urge you to support it.

Sincerely,



Josh Wisch
President & Executive Director

HB-420-HD-1

Submitted on: 2/10/2025 5:20:03 PM

Testimony for CPC on 2/12/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Hawaii LECET	Hawaii Laborers & Employers Cooperation and Education Trust	Support	Written Testimony Only

Comments:

Hawaii LECET supports HB420 HD1.

HB-420-HD-1

Submitted on: 2/10/2025 6:36:00 PM

Testimony for CPC on 2/12/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Mike Golojuch, Sr.	Palehua Townhouse Association	Oppose	Written Testimony Only

Comments:

We oppose HB420. Please defer this bill.

Mike Golojuch, Sr, President, Palehua Townhouse Association



Testimony to the House Committee on Consumer Protection & Commerce

Representative Scot Z. Matayoshi, Chair
Representative Cory M. Chun, Vice Chair

Wednesday, February 12, at 2:00PM
Conference Room 329 & Videoconference



RE: HB420 HD1 Relating to Remedies

Aloha e Chair Matayoshi, Vice Chair Chun, and Members of the Committee:

My name is Sherry Menor, President and CEO of the Chamber of Commerce Hawaii ("The Chamber"). The Chamber supports House Bill 420 House Draft 1 (HB420 HD1), which clarifies the statute of repose for construction defect claims, specifies required details in defect notices to contractors, streamlines the settlement and inspection process, and limits recovery amounts if a claimant rejects a reasonable repair or settlement offer.

HB420 HD1 aligns with our 2030 Blueprint for Hawaii: An Economic Action Plan, specifically under the policy pillar for Business Services. This bill promotes policies that drive economic growth, enhance workforce opportunities, and improve the quality of life for Hawaii's residents.

Hawaii's housing crisis, worsened by the August 2023 Maui wildfires, is driven by the nation's highest housing costs, which have tripled since the 1990s. A major issue is excessive construction defect litigation, inflating insurance costs and discouraging development. Current laws allow vague claims without giving contractors a chance to inspect or fix defects, leading to costly settlements that don't benefit homeowners and further limit supply. Ambiguities in the Contractor Repair Act and statute of repose have prolonged disputes, creating uncertainty for developers and homeowners.

This bill streamlines defect claim resolutions, reducing unnecessary litigation. It ensures the statute of repose applies to all claims, closes fraudulent concealment loopholes, and requires specific defect details. It also improves contractor inspection and repair processes, discourages baseless claims, and limits excessive damages for rejected settlements. The Chamber supports this measure to boost affordable housing and create a balanced legal framework protecting both builders and homeowners.

The Chamber of Commerce Hawaii is the state's leading business advocacy organization, dedicated to improving Hawaii's economy and securing Hawaii's future for growth and opportunity. Our mission is to foster a vibrant economic climate. As such, we support initiatives and policies that align with the 2030 Blueprint for Hawaii that create opportunities to strengthen overall competitiveness, improve the quantity and skills of available workforce, diversify the economy, and build greater local wealth.

We respectfully ask to pass House Bill HB420 HD1. Thank you for the opportunity to testify.



MUTUAL HOUSING
ASSOCIATION OF HAWAII

"Building our communities with respect, integrity, and aloha..."

Kekaulike Courtyards ♦ Ko'oloa'ula ♦ Lihu'e Court Townhomes ♦ Palolo Homes

February 10, 2025

The Honorable Scot Matayoshi, Chair
and the Members of the House Committee on Commerce and Consumer Protection
Hawai'i State Capitol
415 South Beretania Street
Honolulu, Hawai'i 96813

Dear Chair Matayoshi and Committee Members:

Subject: House Bill 420 HD1 – Relating to Remedies

The Mutual Housing Association of Hawai'i, Inc. ("Mutual Housing") strongly supports House Bill 420 HD1, which seeks to provide clearer guidelines in the Contractor Repair Act ("CRA") which governs the process for homeowners and builders to address construction defects in local homes. Mutual Housing is a local non-profit that owns, develops and operates low-income housing for Hawai'i families. Our team has over three decades experience providing affordable housing to thousands of local families.

We believe that HB420 HD1 offers a sensible solution by establishing clearer guidelines that will lead to a more collaborative and fair process when construction defects arise. We have experienced first-hand how opportunistic law firms have manipulated well-intentioned regulations for their monetary gain. Frivolous and harmful lawsuits are hampering the development and delivery of much needed affordable housing as legal costs and other resources are lost addressing litigation. Our building industry cannot afford these added costs and the negative impacts it has on the investment for new homes.

HB 420 HD1 will help reduce wasteful litigation, stabilize costs, and allow the construction industry to focus on producing quality homes for Hawai'i's families at this critical time. Thank you for the opportunity to provide this testimony.

Sincerely,

David M. Nakamura
Executive Director

The Honorable Scot Matayoshi, Chair
and Members of the Committee on Commerce and Consumer Protection
Hawai'i State House of Representatives
Hawai'i State Capitol
415 S. Beretania Street
Honolulu, HI 96813

RE: Strong Support for HB420 HD1 – Relating to Remedies

Aloha Chair Matayoshi, Vice Chair Chun, and Members of the Committee,

I am testifying in **strong support of HB420 HD1** because it will ensure that homeownership remains attainable and provides a better process for homeowners to resolve alleged construction defects.

The Contractor Repair Act was originally designed to encourage cooperation between homeowners and builders, allowing defects to be identified and fixed without unnecessary legal battles. Unfortunately, loopholes in the current law have led to a rise in lawsuits that delay repairs, drive up housing costs, and discourage new home construction. This has made it harder for families—especially first-time homebuyers—to afford a home in Hawai'i.

The impact of these lawsuits goes beyond homebuilders. Families trying to buy homes face higher costs and fewer financing options because lenders are hesitant to approve loans for properties tied up in litigation. Homeowners dealing with defects are forced into drawn-out legal disputes instead of getting timely repairs. Even entire communities have suffered, with some homeowner associations advised to neglect maintenance to strengthen legal claims, leaving shared spaces in disrepair.

HB420 HD1 helps address these problems by restoring the original intent of the Contractor Repair Act. It ensures builders have the opportunity to make repairs before a lawsuit is filed, reduces unnecessary legal costs, and makes the process fairer for homeowners. This bill will help keep housing affordable, protect communities, and ensure homeowners get the timely repairs they deserve.

I urge the committee to pass HB420 HD1 to support homebuyers, homeowners, and Hawai'i's housing future.

Mahalo,

Gregory C. Brandes

The Honorable Scot Matayoshi, Chair
and Members of the Committee on Commerce and Consumer Protection
Hawai'i State House of Representatives
Hawai'i State Capitol
415 S. Beretania Street
Honolulu, HI 96813

RE: Strong Support for HB420 HD1 – Relating to Remedies

Aloha Chair Matayoshi, Vice Chair Chun, and Members of the Committee,

I am testifying in **strong support of HB420 HD1** because it will ensure that homeownership remains attainable and provides a better process for homeowners to resolve alleged construction defects.

As I understand it, HB420 introduces essential reforms to protect homeowners and condo board associations from aggressive attorneys and unnecessary construction defect lawsuits.

The bill ensures homebuilders have a fair opportunity to inspect and repair defects before legal action and encourages direct engagement with homeowners, leading to more timely repairs. Currently, once a lawsuit is filed and a class action is certified by a judge, homebuilders are prohibited from communicating directly with homeowners to resolve legitimate defect claims. Worse yet, many homeowners don't realize they're part of a lawsuit, and litigation can drag on for nearly a decade, delaying repairs and impacting homeowners' abilities to sell or refinance.

HB420 reforms will ensure faster resolution of construction defects while protecting homeowners' rights to timely repairs and open, transparent communication. The Contractor Repair Act was originally designed to encourage cooperation between homeowners and builders, allowing defects to be identified and fixed without unnecessary legal battles. Unfortunately, loopholes in the current law have led to a rise in lawsuits that delay repairs, drive up housing costs, and discourage new home construction. This has made it harder for families—especially first-time homebuyers—to afford a home in Hawai'i.

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I urge the committee to pass HB420 HD1 to support homebuyers, homeowners, and Hawai'i's housing future.

Mahalo!

Kathleen Georges
Malachi Cleaning, Inc

February 12, 2025

The Honorable Scot Z. Matayoshi, Chair

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

RE: House Bill 420, HD1, Relating to Remedies

HEARING: Wednesday, February 12, 2025, at 2:35 p.m.

Aloha Chair Matayoshi, Vice Chair Chun, 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 Hawaii and its over 10,000 members. HAR **supports** House Bill 420, HD1, which clarifies the applicability of the statute of repose for actions arising from construction defects. Clarifies the required contents of a notice of claim of construction defect served on a contractor. Amends the process and time frame for a claimant to accept a contractor's offer to settle or inspect and authorize the contractor to proceed with repairs. Limits the amount a claimant can recover if the claimant rejects a contractor's reasonable proposal for inspection or a reasonable offer to remedy. Clarifies the consequences of rejecting an offer of settlement. Effective 7/1/3000

Recent litigation over construction defects have posed significant challenges for housing in Hawaii. These lawsuits, which can be frivolous, have stalled housing developments. First-time homebuyers are particularly affected, as these claims hinder their access to government-backed mortgages. Consequently, FHA, VA, Fannie Mae, and Freddie Mac have disqualified condominium projects facing litigation. Without access to low down payment programs and lacking the 20% down payment required by portfolio lending, many first-time homebuyers and veterans are unable to purchase homes.

As such, this measure can help to prevent frivolous lawsuits by giving homebuilders and homeowners more chances to resolve construction issues early and fairly.

Mahalo for the opportunity to provide testimony on this measure.

February 11, 2025

The Honorable Scot Matayoshi, Chair
And Members of the Commerce and Consumer Protection
Hawaii State Senate

RE: SB420 HD1 – RELATING TO THE CONTRACTOR REPAIR ACT

Aloha Chair Matayoshi, Vice Chair Chun and Members of the Committee,

I am writing to express my strong **SUPPORT** of SB420 HD1 – RELATING TO THE CONTRACTOR REPAIR ACT relating to construction defects in housing.

R. M. Towill Corporation (RMTC) is one of the state's largest and most experienced locally owned engineering Companies. RMTC has 120 employees with 40 licensed engineers, 12 LEED Accredited Professionals, three Envision Sustainability Professionals, three licensed surveyors, and nine full-time planning professionals. RMTC has completed over 20,000 projects in Hawaii and throughout the Pacific Basin. This includes the infrastructure planning and design for most of the major residential developments on Oahu within the past 25 years, over 300 miles of roadway in Hawaii and the Pacific, \$500 million in harbor infrastructure, and the upgrade and expansion of the largest wastewater treatment facility in the State.

RMTC has provided its engineering service to various housing developers, and we are aware of all the offsite infrastructure and permitting difficulties that they already need to overcome to provide affordable housing. Recently, there has been defect litigation that have forced developers to put a stop to the further development of housing. This is simply devastating to those homeowners awaiting for a home to live in. Also, the halting of housing development has a direct impact to the engineering and construction community. Our industry has committed manpower and other expenses to continue helping developers to continue building the much needed infrastructure and satisfy the housing shortage. We are concerned that the ripple effect that halting of housing will have on other industries that depends on housing development. In addition, we understand that first time homebuyers who need government backed mortgage are unable to get these loans and are essentially denied the opportunity to own a home.

The amendment to the Contractor Repair Act will be vital for homeowners to deal with construction defects in a fair and transparent manner. Homeowners need to spend less

time worrying about potential construction defects and spend more time taking care of their families.

As a well established local Company, RMTC strongly supports HB420 HD1. We believe that the amendment will allow developers to address construction defects expeditions and will eventually deter unfounded litigations and allow Hawaii to keep chipping away at our housing crisis. We humbly ask for your support to these amendments.

Sincerely

Collins Lam

Vice President

The Honorable Scot Matayoshi, Chair
and Members of the Committee on Commerce and Consumer Protection
Hawai'i State House of Representatives
Hawai'i State Capitol
415 S. Beretania Street
Honolulu, HI 96813

RE: Strong Support for HB420 HD1 – Relating to Remedies

Aloha Chair Matayoshi, Vice Chair Chun, and Members of the Committee,

I am testifying in **strong support of HB420 HD1** because it will ensure that homeownership remains attainable and provides a better process for homeowners to resolve alleged construction defects.

The Contractor Repair Act was originally designed to encourage cooperation between homeowners and builders, allowing defects to be identified and fixed without unnecessary legal battles. Unfortunately, loopholes in the current law have led to a rise in lawsuits that delay repairs, drive up housing costs, and discourage new home construction. This has made it harder for families—especially first-time homebuyers—to afford a home in Hawai'i.

The impact of these lawsuits goes beyond homebuilders. Families trying to buy homes face higher costs and fewer financing options because lenders are hesitant to approve loans for properties tied up in litigation. Homeowners dealing with defects are forced into drawn-out legal disputes instead of getting timely repairs. Even entire communities have suffered, with some homeowner associations advised to neglect maintenance to strengthen legal claims, leaving shared spaces in disrepair.

HB420 HD1 helps address these problems by restoring the original intent of the Contractor Repair Act. It ensures builders have the opportunity to make repairs before a lawsuit is filed, reduces unnecessary legal costs, and makes the process fairer for homeowners. This bill will help keep housing affordable, protect communities, and ensure homeowners get the timely repairs they deserve.

I urge the committee to pass HB420 HD1 to support homebuyers, homeowners, and Hawai'i's housing future.

Mahalo!



Paradigm
CONSTRUCTION LLC

The Honorable Scot Matayoshi, Chair

and Members of the Committee on Commerce and Consumer Protection

Hawai'i State House of Representatives

Hawai'i State Capitol

415 S. Beretania Street Honolulu, HI 96813

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I urge the committee to pass HB420 HD1 to support homebuyers, homeowners, and Hawai'i's housing future.

Alex Kwon

President

Paradigm Construction LLC

The Honorable Scot Matayoshi, Chair
and Members of the Committee on Commerce and Consumer Protection
Hawai'i State House of Representatives
Hawai'i State Capitol
415 S. Beretania Street
Honolulu, HI 96813

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Mahalo!

Joey Gomez

The Honorable Scot Matayoshi, Chair
and Members of the Committee on Commerce and Consumer Protection
Hawai'i State House of Representatives
Hawai'i State Capitol
415 S. Beretania Street
Honolulu, HI 96813

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I urge the committee to pass HB420 HD1 to support homebuyers, homeowners, and Hawai'i's housing future.

Mahalo!

Craig Nishimura

craign@grayhongnojima.com

February 11, 2025

The Honorable Scot Matayoshi, Chair
and Members of the Committee on Commerce and Consumer Protection
Hawai'i State House of Representatives
Hawai'i State Capitol
415 S. Beretania Street
Honolulu, HI 96813

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I urge the committee to pass HB420 HD1 to support homebuyers, homeowners, and Hawai'i's housing future.

Mahalo!

A-Plus Seamless Rain gutters, Inc.
Katherine Ishida
808-623-0394

HB-420-HD-1

Submitted on: 2/11/2025 8:54:02 AM

Testimony for CPC on 2/12/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Guy Taylor	Z Contractors Inc.	Support	Written Testimony Only

Comments:

February 11, 2025

To the Honorable: Scott Matayoshi, Chair

and members of the Commerce and Consumer Protection

Hawai'i State House of Representatives, Hawai'i State Capitol

Good day Chair Matayoshi, Vice Chair Chun, and Members of the Committee,

My name is Guy Taylor, and I am a general contractor here in Hawai'i. I am testifying in strong support of HB420 HD1.

The Contractor Repair Act was intended to foster collaboration between builders and homeowners, ensuring defects are addressed efficiently. Unfortunately, this process has been derailed by attorneys exploiting legal loopholes to file class action lawsuits that are often unnecessary and hurting both the construction industry here in Hawai'i and the homeowners that purchase these properties. In many cases the homeowners don't even know they are part of this litigation due to the lawyers sending post type cards notifying them which gets tossed in the trash. These lawsuits delay projects, increase costs, and disrupt the housing market. We as builders face heightened risks, which leads to higher construction costs, fewer housing projects, and reduced affordability.

We build quality housing following the building codes to the tee using the highest quality material and hardware specified per the building codes. We are also signatory with the Hawai'i Carpenters Union and use skilled tradesmen. If this matter is not addressed the

home building industry will continue to struggle under the weight of legal uncertainty and rising costs and perhaps on certain upcoming projects the developers will choose to take their business to the mainland.

HB420 HD1 offers a solution by establishing clearer guidelines that will lead to a more fair and cooperative process for addressing construction defects. This bill will reduce unnecessary litigation, stabilize costs, and allow builders to focus on delivering quality homes for Hawai'i's residents. I respectfully ask that the committee will pass HB420 HD1 to support both the Homebuyers as well as the building industry here in Hawai'i.

Thank you

Guy Taylor

Z Contractors Inc.

gtaylorhawaii@gmail.com

The Honorable Scot Matayoshi, Chair
and Members of the Committee on Commerce and Consumer Protection
Hawai'i State House of Representatives
Hawai'i State Capitol
415 S. Beretania Street
Honolulu, HI 96813

RE: Strong Support for HB420 HD1 – Relating to Remedies

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I am testifying in **strong support of HB420 HD1** because it will ensure that homeownership remains attainable and provides a better process for homeowners to resolve alleged construction defects.

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I urge the committee to pass HB420 HD1 to support homebuyers, homeowners, and Hawai'i's housing future.

Mahalo!
Carole Ueki
carole@kyinternational.com

The Honorable Scot Matayoshi, Chair
and Members of the Committee on Commerce and Consumer Protection
Hawai'i State House of Representatives
Hawai'i State Capitol
415 S. Beretania Street
Honolulu, HI 96813

RE: Strong Support for HB420 HD1 – Relating to Remedies

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I urge the committee to pass HB420 HD1 to support homebuyers, homeowners, and Hawai'i's housing future.

Best regards,

Robert Yoneoka, AIA

KY International Inc.

▪ February 11, 2025

The Honorable Scot Z. Matayoshi, Chair
The Honorable Cory M. Chun, Vice Chair
and Members of the House Committee on Consumer Protection & Commerce

Re: Testimony: HB 420, HD1 Relating to Remedies
Hearing: February 12, 2025 at 2:00 PM, Conference Room 329

Dear Chair Matayoshi, Vice Chair Chun, and Committee Members:

Stanford Carr Development (SCD) supports HB 420, HD1 which enhances clarity and fairness in resolving construction defects.

Under the current Contractor Repair Act (HRS §672E-3), claimants must provide a 90-day advance notice before filing a legal complaint, detailing the alleged defects. However, claims are often vague and overly broad. We support the proposed amendments requiring greater specificity in defect descriptions before initiating legal action.

Additionally, we endorse the proposed changes to:

- **HRS §672E-4**, which ensures both the claimant and contractor cooperate in timely inspections; and
- **HRS §672E-6**, which facilitates defect repairs through settlement rather than litigation.

While HB 420, HD1 may seem to impose additional requirements on consumers, it ultimately protects them from unnecessary litigation driven by legal counsel prioritizing their own financial gain over their clients' best interests.

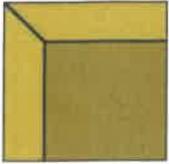
As a developer with over 30 years of experience who stands behind our workmanship, I, along with my peers, simply request the opportunity to remedy defects in good faith—rather than waste valuable time and resources on costly legal battles.

Thank you for the opportunity to provide comments on this measure.

Respectfully,



Stanford S. Carr



Newport Pacific Cabinets, Inc.

99-129 B WAIUA WAY, AIEA, HAWAII 96701

O: 808.486.6008 | F: 808.486.6668 | info@npcabinets.com



February 11 2025

*The Honorable Scot Matayoshi, Chair
and Members of the Committee on Commerce and Consumer Protection
Hawai'i State House of Representatives
Hawai'i State Capitol
415 S. Beretania Street Honolulu, HI 96813*

*RE: Strong Support for **HB420 HD1** – Relating to Remedies*

Aloha Chair Matayoshi, Vice Chair Chun, and Members of the Committee,

I am testifying in strong support of HB420 HD1 because it will ensure that homeownership remains attainable and provides a better process for homeowners to resolve alleged construction defects.

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I urge the committee to pass HB420 HD1 to support homebuyers, homeowners, and Hawai'i's housing future.

Mahalo!

Stephen Yuen
President



Hawaii Operating Engineers Industry
Stabilization Fund PAC
2181 Lauwiliwili Street
Kapolei, HI 96707
Phone: (808) 845-6221
Website: www.hoeisf.com

February 12, 2025

House Committee on Consumer Protection & Commerce

Rep. Scot Z. Matayoshi, Chair

Rep. Cory M. Chun, Vice Chair

TESTIMONY IN SUPPORT

House Bill 420, HD 1, Relating to Remedies

Aloha Chair Matayoshi, Vice Chair Chun, and Members of the Committee:

Thank you for the opportunity to submit testimony on behalf of the Hawaii Operating Engineers Industry Stabilization Fund Political Action Committee (HOEISF PAC). The HOEISF PAC is a non-profit labor management organization whose core mission is to represent the interests of the Operating Engineers Local Union No. 3 and Hawaii's leading contractors and ensure that the industry is thriving and sustainable for the future.

We are writing in **support of HB 420, HD 1**, which provides much-needed clarity to the process surrounding construction defect claims. This measure ensures that the statute of repose is properly applied, refines the requirements for notices of claims, and streamlines the process for accepting settlement offers.

Affordable housing remains one of Hawaii's most pressing challenges. The high cost of construction, coupled with legal uncertainties, discourages investment in new housing developments. A well-defined and efficient process for addressing construction defect claims will help mitigate risk and create a more stable environment for builders, homeowners, and contractors alike.

The proposed changes in HB 420, HD 1 provide homeowners with a more structured pathway to resolve disputes while avoiding unnecessary litigation. By prioritizing early notification and encouraging fair and timely resolutions, this bill enhances consumer protection while ensuring that Hawaii's construction industry remains strong. A clear, efficient system benefits all stakeholders, enabling projects to move forward without the burden of prolonged legal battles.

Thank you for the opportunity to provide our testimony in support and we urge you to pass this measure.



**HAWAII STATE HOUSE OF REPRESENTATIVES
COMMITTEE ON COMMERCE AND CONSUMER PROTECTION
Conference Room 329 & Videoconference
State Capitol
2:00 pm**

February 12, 2025

Subject: HB 420, Relating to Remedies

Chair Matayoshi, Vice Chair Chun, and members of the Committee:

My name is Roseann Freitas, CEO of the Building Industry Association of Hawaii (BIA-Hawaii). Chartered in 1955, the Building Industry Association of Hawaii is a professional trade organization affiliated with the National Association of Home Builders, representing the building industry and its associates. BIA-Hawaii takes a leadership role in unifying and promoting the interests of the industry to enhance the quality of life for the people of Hawaii. Our members build the communities we all call home.

BIA-Hawaii is in strong support of HB 420, Relating to Remedies. This bill clarifies the applicability of the statute of repose for actions arising from construction defects, clarifies the required contents of a notice of claim of construction defect served on a contractor, amends the process and time frame for a claimant to accept a contractor's offer to settle or inspect and authorize the contractor to proceed with repairs, limits the amount a claimant can recover if the claimant rejects a contractor's reasonable proposal for inspection or a reasonable offer to remedy, and clarifies the consequences of rejecting an offer of settlement.

Hawaii's homebuilders are committed to delivering high-quality homes that meet or exceed industry standards. However, construction defect claims have increasingly led to costly litigation, delaying necessary repairs and driving up housing costs. SB 179 provides a balanced, pre-litigation resolution process, allowing contractors to address and repair alleged defects before homeowners file lawsuits.

We appreciate the opportunity to provide our comments on this matter.



Hawai'i YIMBY
Honolulu, HI 96814
hawaiiyimby.org
info@hawaiiyimby.org

February 12, 2025

House Committee on Consumer Protection & Commerce
Hawai'i State Capitol
Honolulu, HI 96813

RE: SUPPORT for HB 420 HD1 - RELATING TO REMEDIES

Aloha Chair Matayoshi, Vice Chair Chun, and Members of the Committee,

On behalf of Hawai'i YIMBY, we are writing in **support of HB 420 HD1** which would clarify the Contractor Repair Act and outline a balanced and clear path to reconciliation when a legitimate construction defect claim is made.

We believe the main solution to our housing crisis is building more housing. As currently stands, imbalance and lack of clarity within the Contractor Repair Act is both slowing down and halting housing production and not yielding adequate remedy for legitimate construction defect claims. If overly-broad, time-consuming litigation is allowed to continue, we will have fewer homes built for Hawai'i residents and will continue to have residents whose homes have legitimate defects that cannot be fixed in a timely manner due to ongoing litigation or insufficient settlement funds. These effects impact current and future generations' access to homeownership, which will have long-lasting effects on our local population and economy. It is important that we identify and correct barriers to housing production, while continuing to require the highest standards of our home builders and provide appropriate protections for our homeowners. We would like to emphasize that the intent of this bill is to continue to protect homeowners who encounter legitimate defect claims by defining a reconciliation process that requires a good faith effort from home builders to provide an appropriate and timely repair. The homeowners' right to litigate a claim is maintained, and should be the final step taken, not the first. In a housing crisis with limited supply, limited financing, and skyrocketing construction and insurance costs, we cannot



Hawai'i YIMBY
Honolulu, HI 96814
hawaiiyimby.org
info@hawaiiyimby.org

continue to allow time and money consuming litigation to be the first path chosen towards reconciliation of construction defect claims.

Hawai'i YIMBY (*Yes In My Backyard*) is a volunteer-led grassroots advocacy organization dedicated to supporting bold and effective solutions for Hawai'i's devastating housing crisis. Our members are deeply concerned about Hawai'i's chronic and worsening housing shortage, which has caused home prices to rise much faster than incomes and pushes thousands of kama'āina out to the mainland or into homelessness every single year.

We ask your support for this bill. Thank you for the opportunity to testify.

Sincerely,

Damien Waikoloa

Chapter Lead, Hawai'i YIMBY

Edgardo Díaz Vega

Chapter Lead, Hawai'i YIMBY





SINCLAIR DRYWALL, INC.

905 Kaimalianni Highway, Box 107, Kailua, Hawaii 96734
Phone: (808) 261-0047 Fax: (808) 261-8410

The Honorable Scot Matayoshi, Chair
and Members of the Committee on Commerce and Consumer Protection
Hawai'i State House of Representatives
Hawai'i State Capitol
415 S. Beretania Street
Honolulu, HI 96813

RE: Strong Support for HB420 HD1 – Relating to Remedies

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SB179 helps address these problems by restoring the original intent of the Contractor Repair Act. It ensures builders have the opportunity to make repairs before a lawsuit is filed, reduces unnecessary legal costs, and makes the process fairer for homeowners. This bill will help keep housing affordable, protect communities, and ensure homeowners get the timely repairs they deserve.

I urge the committee to pass SB179 to support homebuyers, homeowners, and Hawai'i's housing future.

Mahalo!

SINCLAIR DRYWALL, INC.

KARL SINCLAIR, President

The Honorable Scot Matayoshi, Chair
and Members of the Committee on Commerce and Consumer Protection
Hawai'i State House of Representatives
Hawai'i State Capitol
415 S. Beretania Street
Honolulu, HI 96813

RE: Strong Support for HB420 HD1 – Relating to Remedies

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As a contractor who has been involved in the construction of thousands of new homes over several decades, I can tell you that we stand behind the quality of our work, often going above and beyond what it “contractually” required of us when it comes to repairs. We pride ourselves in ensuring that homeowners are satisfied. However, when attorneys get involved and actually prevent us from making repairs that we agree should be made, no one wins.

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Mahalo!



Keith Emerson
President, Island Flooring

The Honorable Scot Matayoshi, Chair
and Members of the Committee on Commerce and Consumer Protection
Hawai'i State House of Representatives
Hawai'i State Capitol
415 S. Beretania Street
Honolulu, HI 96813

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I urge the committee to pass HB420 HD1 to support homebuyers, homeowners, and Hawai'i's housing future.

Mahalo!

HB-420-HD-1

Submitted on: 2/11/2025 12:22:28 PM

Testimony for CPC on 2/12/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Mark Daranciang	KY International, Inc.	Support	Written Testimony Only

Comments:

The Honorable Scot Matayoshi

and Members of the Committee on Commerce and Consumer Protection

Hawai‘i State House of Representatives

Hawai‘i State Capitol

415 S. Beretania Street
Honolulu, HI 96813

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I urge the committee to pass HB420 HD1 to support homebuyers, homeowners, and Hawai'i's housing future.

Thank you.

Mark Daranciang

mark@kyinternational.com



House Committee on Consumer Protection & Commerce
Rep. Scot Z. Matayoshi, Chair
Rep. Cory M. Chun, Vice Chair

Wednesday, February 12, 2025
2:00 pm
Conference Room 329

Aloha Chair Matayoshi, Vice Chair Chun, and Members of the Committee on Consumer Protection and Commerce,

Castle & Cooke is in **strong support** of HB420, HD1.

As one of Hawai'i's longstanding homebuilders, Castle & Cooke is committed to delivering high-quality housing that meets the needs of local families. However, the current Contractor Repair Act (CRA) has strayed from its original intent of fostering collaboration between builders and homeowners to resolve construction defects efficiently. Instead, it has become a tool for excessive litigation, often driven by legal loopholes that encourage unnecessary lawsuits.

These lawsuits have significant consequences: **they delay much-needed housing projects, increase costs, and contribute to Hawai'i's housing crisis.** Builders now face heightened risks, which make financing and constructing homes more challenging. The result is fewer housing projects, escalating costs, and reduced affordability for local families.

Castle & Cooke strongly supports HB420, HD1 because it provides a **fair and balanced approach to addressing construction defect claims**—one that prioritizes resolution over litigation. By establishing clearer guidelines, this bill will reduce unnecessary lawsuits, stabilize costs, and create a more predictable environment for homebuilders. This, in turn, will allow us to continue developing communities that provide local residents with high-quality, attainable housing.

We respectfully urge your support of HB420, HD1. Mahalo for your time and consideration.

Sincerely,

A handwritten signature in blue ink that reads "Garret Matsunami". The signature is fluid and cursive, written over a light blue horizontal line.

Garret J. Matsunami
Executive Vice President & Chief Operations Officer
Castle & Cooke Homes Hawaii, Inc.

TRU - DOOR

HAWAII

91-295 Kauhi Street
Kapolei, Hawaii 96707
TEL. (808) 682-0307 FAX (808) 682-0635

February 10, 2025

The Honorable Scot Matayoshi, Chair
and Members of the Committee on Commerce and Consumer Protection
Hawai'i State House of Representatives
Hawai'i State Capitol
415 S. Beretania Street
Honolulu, HI 96813

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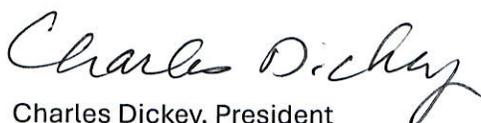
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I urge the committee to pass HB420 HD1 to support homebuyers, homeowners, and Hawai'i's housing future.

Mahalo!



Charles Dickey, President

TRU - DOOR

HAWAII

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Mahalo!



Steven Wong, Project Manager

The Honorable Scot Matayoshi, Chair
and Members of the Committee on Commerce and Consumer Protection
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Mahalo!

Lynne Sokugawa

Vinyl Tech and Masonry, Inc.

The Honorable Scot Matayoshi, Chair
and Members of the Committee on Commerce and Consumer Protection
Hawai'i State House of Representatives
Hawai'i State Capitol
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Chris Sokugawa

Vinyl Tech and Masonry, Inc.

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Vince Sokugawa

Vinyl Tech and Masonry, Inc.

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and Members of the Committee on Commerce and Consumer Protection
Hawai'i State House of Representatives
Hawai'i State Capitol
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Shawn Sokugawa

Vinyl Tech and Masonry, Inc.

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and Members of the Committee on Commerce and Consumer Protection
Hawai'i State House of Representatives
Hawai'i State Capitol
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Dayle Tejada

Vinyl Tech and Masonry, Inc.

The Honorable Scot Matayoshi, Chair
and Members of the Committee on Commerce and Consumer Protection
Hawai'i State House of Representatives
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Mahalo!

Parris Ernst

Hawaii Fence Builders

Testimony of Christopher Hikida

TO: Honorable Scot Matayoshi
Honorable Cory Chun
The Thirty-Third Legislative Session 2025
Committee on Commerce and Consumer Protection

Re: **OPPOSITION to H.B. 420**

Dear Chair Matayoshi, Vice Chair Chun, and Members of the Committee:

My name is Christopher Hikida, and I am a Partner in the Hawaii office of the law firm of Kasdan Turner Thomson Booth, LLLC. We practice plaintiff-side construction defect litigation and we represent homeowners and associations seeking safe and code-compliant housing by pursuing their legal rights against developers and contractors.

I **OPPOSE H.B. 420** as it would make homes more costly for consumers by putting the costs for contractors' mistakes on the homeowner; and it would be constitutionally problematic by creating special protections for a class of contractors and builders that are not afforded to other defendants.

I. H.B. 420 DOES NOT Achieve the Goals of Affordability, Instead Making Housing More Costly

H.B. 420 does not achieve the goal of creating more affordable homes in Hawaii. Instead, it would make purchasing a home ultimately more costly for homeowners, as it would shift cost of repairing construction defects to the homeowners—homeowners would be responsible not only for the initial costs of purchasing a home, but for subsequent costs to repair defects created by the developers and contractors. H.B. 420 does this by making it easier for developers and contractors

HAWAII*

1003 Bishop Street
Suite 1180
Honolulu, Hawaii 96813
808.369.8393
808.369.8392 Fax

ARIZONA

3200 North Central Avenue
Suite 2100
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602.224.7800
602.224.7801 Fax

CALIFORNIA (SOUTHERN)

18100 Von Karman Avenue
Suite 750
Irvine, California 92612
949.851.9000
949.833.9455 Fax

CALIFORNIA (NORTHERN)

1280 Civic Drive.
Suite 200
Walnut Creek, California 94596
925.906.9220
925.906.9221 Fax

NEW MEXICO

6301 Indian School Road NE
Suite 614
Albuquerque, New Mexico 87110
505.219.4204
505.219.4205 Fax

to get away with shoddy workmanship, and preventing homeowners from recovering the funds needed to repair construction defects in their homes.

H.B. 420 would hurt consumers by (1) preventing homeowners from pursuing their legitimate construction defect claims; and (2) creating an unequal bargaining field, significantly disadvantaging the homeowner while giving developers and contractors the upper hand in the resolution process. Specifically, H.B. 420 would hurt consumers by:

- Preventing Homeowners From Bringing any Claims After Two Years of Discovery—creating special protections only for builders and contractors
- Preventing Homeowners From Recovering For Violations of Numerous Building Codes, Including Violations Those Affecting Life and Safety of Residents
- Gutting Class Actions for Homeowners
- Forcing Homeowners to Accept Inadequate Offers
- Turning the Contractor Repair Act Into a One-Directional Process

II. Construction Defects Are Hidden Costs That Make Home Ownership Unaffordable

My firm currently represents over 2,000 unit owners through their associations in various high-rise buildings throughout Honolulu including buildings which are over 88% workforce housing. We also represent thousands of homeowners on Oahu, Maui, Kauai, and Hawaii in certified class action lawsuits regarding corroded foundation systems due to improper construction.

The homeowners we represent face significant and immediate issues due to construction defects, for which they do not have sufficient funds to repair. For example, the following are a small sample of the issues our clients face after purchasing a defective home:

- Defects in fire protection systems affecting life and safety of homeowners

- Defects in plumbing systems leading to constant sewer smells, leaks, backups, and water damage in homes
- Defective materials used for exterior screens and windows, leading to dangerous conditions where panels or windows fall off the side of high-rise buildings onto walkways below

Construction defects lead to significant regular costs for the homeowner and associations, who are required to conduct temporary repairs just to keep their homes habitable. And the permanent solutions often come at a significant expense for the homeowners and associations—requiring millions or tens of millions of dollars. This is money that homeowners and associations do not have—especially given the high cost of housing in Hawaii.

III. H.B. 420 Prevents Homeowners From Recovering For Legitimate Defect Claims

H.B. 420 will prevent homeowners from recovering for legitimate construction defects by (A) unreasonably limiting the timeframe in which homeowners can bring claims; (B) preventing homeowners from bringing legitimate construction defect claims; and (C) demolishing the class action process for homeowners.

A. H.B. 420 unreasonably cuts the time in which a homeowner can bring a cause of action violating the Equal Protection clause of the Fourteenth Amendment and its state counterpart

H.B. 420 modifies HRS § 657-8, the Statute of Repose, to require that homeowners bring any cause of action, including claims under contract, tort, statute or otherwise, within two years from when the “cause of action accrued”.

This change would make Hawaii’s Statute of Repose the most restrictive in the United States—most all states have a ten-year statute of repose from date of completion without the additional time limitation from when the cause of action accrued. Other states don’t have a statute

of repose that provides additional limitations from when the cause of action accrued because statute of limitations already exist for the various causes of action (i.e. negligence, breach of contract, etc.).

Similarly, Hawaii already has statute of limitations for various causes of action, such as negligence and breach of contract. H.B. 420, by limiting all causes of action for construction defect to 2 years would offend the Equal Protection clause of the Fourteenth Amendment and its State counterpart treating contractors and builders as a special class of persons subject to stronger protections. See *Fujioka v. Kam*, 55 Haw. 7, 514 P.2d 568 (1973) and *Shibuya v. Architects Haw.*, 65 Haw. 26, 647 P.2d 276 (1982), finding that versions of HRS § 657-8 violated the equal protections clause because they benefitted a special class of contractors and builders based on their membership in the construction industry.

For example, a 6-year statute of limitations already exists for Breach of Contract or Breach of Warranty claims under HRS § 657-1. H.B. 420 would shrink that to two (2) years from when the breach was discovered—entitling builders and contractors to a shorter time frame in which they could be liable for similar claims. This would mean that a plaintiff in any other case (including any contractor suing for breach of a construction contract) could bring a breach of contract claim during a 6-year time frame, while homeowners and associations would be unfairly limited to 2 years in construction defect cases.

This significantly shortened time frame is highly problematic, especially where there are multiple factors that often prevent homeowners and associations from expeditiously bringing claims. For example, homeowners often don't realize that problems they face are caused by underlying construction defects until a consultant is involved; homeowners have to go through a long and onerous prelitigation process prior to filing a claim; developers often continue to have

sway over the board of the association, even after the developer control period is over; and developers often put clauses in the association's governing documents such as requiring developer approval prior to filing lawsuits, thwarting the association's efforts to timely bring its claims.

The proposed bill also defines the term "substantial completion" as the earliest of the issuance of a temporary Certificate of Occupancy – which can be a date well before the building is truly completed – or the earliest of the filing of a Notice of Completion. It is well known that oftentimes, to start the lien period for claimants or subcontractors and materials suppliers, these notices are often published long before a building is finished and transferred to homeowners.

B. H.B. 420 unreasonably limits actionable claims and strips homeowners of the right to pursue life-safety Building Code violations

H.B. 420 further constrains homeowners by preventing them from bringing claims for violations of the Building Code that provides for life and safety building requirements. H.B. 420 only allows homeowners to bring claims for "material violations" – and then states that in order to pursue claims for Building Code violations, the violations have to pose or cause significant damage to the performance of the building.

This legislation would leave no remedies to fix critical fire or life safety defects until after there is a tragedy.

Moreover, H.B. 420 also contains language which is 100% contrary to the existing language in all model building codes published by the International Code Council (ICC), which states:

1. The fact that the plans contain code violations does not constitute approval of the code violation.

2. The fact that the building was inspected and even obtained a final sign-off does not constitute approval of the violation.
3. The fact that a Certificate of Occupancy was issued by the Building Office does not constitute approval as to code compliance.

H.B. 420 turns that concept on its head and instead says that if there was plan approval and inspection, there can be no material violation. This would mean that contractors and builders could escape liability through plan approval or an inspection, even if the violation is clearly a defect that affects the homeowners and needs to be repaired.

C. H.B. 420 guts the class action process

H.B. 420 proposes to destroy the well-developed practice of class actions in Hawaii. Courts have specifically followed the framework for class actions under Rule 23 of the Hawaii Rules of Civil Procedure. Hawaii has specifically allowed for class actions to be filed, where one or more individuals act in a representative capacity for themselves and all persons similarly situated. The current practice here in marrying HRS §672E with Rule 23 of the Hawaii Rules of Civil Procedure is to certify the class, then allow contractors to inspect a representative sample of the homes.

Owners of variously identified mass-produced tract homes are a proper and perfect example of where class actions are necessary—since it would be unfeasible to require each homeowner to obtain and pay their own legal fees. However, H.B. 420 attempts to abolish the class action process by requiring each class member to comply with HRS § 672E, which by this proposed statute includes inspection of each dwelling subject to the claim.

This is the antithesis of a class action where one acts on behalf of the class—it would make the construction defect recovery process expensive and significantly time-consuming.

IV. H.B. 420 Gives Contractors and Builders Unequal Bargaining Power

H.B. 420 would significantly disadvantage homeowners and advantage builders and contractors during the resolution process by penalizing homeowners who reject developer and contractor's offers and turning HRS § 672E into a one-way flow of information.

A. H.B. 420 will force homeowners into accepting low-ball offers

The provisions in H.B. 420 promotes settlement by coercing homeowners into accepting any offer made during the Contractor Repair Act process—essentially requiring the homeowner to accept the contractor's initial offer. H.B. 420, at Section 674E-4(c), states: 'the claimant shall accept a contractor's proposal' (emphasis added) to inspect, without regard to how intrusive it may be—allowing a contractor to harass an owner with unreasonable demands.

H.B. 420 then sets forth as a statutory limit that, if the homeowner rejects the contractor's offer, that the claimant's recovery "shall be limited" to the reasonable value of the repair determined on the date of the offer and the amount of the offered monetary payment. Thus, the contractors get to set for the exact nature of the repair and they determine its scope – and the amount of the offered monetary payment becomes a de facto limit of the recovery.

As such, the contractor gets to unilaterally determine and limit the recovery, depriving the owner of having a jury determine the cost of repair.

Moreover, attorney fees are used as a weapon, after navigating the limit on the recovery set forth in the proposed statute, if the homeowner does not do better than the offer, the owner is precluded from recovering their own fees on any claim. Even though Hawaii, being an assumpsit state, allows prevailing parties in contract claims to recover fees unless precluded by express terms in the contract. This proposed legislation abrogates that right.

While H.B. 420 seeks to penalize homeowners who do not accept a contractor's offer, it does not provide any similar incentive to contractors who fail to make a reasonable offer during the Contractor Repair Act process.

The amendments under H.B. 420 would therefore allow contractors to use the procedures of the Contract Repair Act to strong-arm homeowners into accepting insufficient repairs or costs for repair, and ultimately deny homeowners sufficient recovery to repair the construction defects in their homes.

B. H.B. 420 will create a cumbersome prelitigation process

H.B. 420 also imposes unreasonable hurdles in the Contractor Repair Act for homeowners to satisfy, requiring the homeowner and associations to provide to the Contractors all of their investigative work product and provide both attorney work product and expert work product prior to litigation. The bill requires that, if available to the claimant, 'actual evidence' of both the nature and cause of the construction defect and necessary repairs be provided, including expert reports, photographs, videotapes, and any testing done. This will provide grounds for contractors to argue that homeowners and associations have failed to meet the requirements of the Contractor Repair Act, thus making it exceedingly difficult to proceed towards a just resolution.

The current version the Contractor Repair Act already requires homeowners to provide significant information on the defects by describing the construction defect claims in detail, providing all test results related to the claims, and providing access to contractors to inspect all testing and conduct its own testing.

In contrast, the Contractor Repair Act does not require the contractor to provide ANY information on the homes despite having constructed them. In reality, contractors have the most practical information related to the construction defects of the building and how those defects can

be reasonably repaired. Contractors have all the construction documents showing how the building was actually constructed, which is critical for information needed for all parties (including the homeowners) to assess the defects and necessary repairs. And yet contractors are not required to provide this or any information during the Contractor Repair Act process. As a result, homeowners and associations cannot obtain the necessary documents during the Contractor Repair Act process to adequately assess the construction defects and determine an appropriate repair and are forced to move forward to litigation—where they are finally able to obtain discovery.

Therefore, H.B. 420 would further prejudice homeowners in what is already a biased process that requires only a one-way flow of information from homeowner to contractor.

V. CONCLUSION

Developers supporting H.B. 420 attempt to frame the construction defect process as a core cause of unaffordable housing in Hawaii, without providing any actual evidence. They do not provide a solution that promotes better initial construction—which would significantly cut down on total costs. Rather, they propose changes in H.B. 420, that makes it more profitable to continue with the status quo—failing to fix the underlying issue of quality control.

However, H.B. 420 would not achieve the goals of this Committee to make housing more affordable. On the contrary, it would only allow developers and contractors to avoid liability for construction defects, and make it harder for homeowners to obtain sufficient recovery to repair the issues. H.B. 420 would ultimately shift the costs of construction defects on homeowners who will not only have to pay for housing, but will also have to subsequently pay to repair the contractors defects. Ultimately, H.B. 420 would make housing less affordable for consumers.

Thank you for your consideration.

Very Truly Yours,



Christopher K. Hikida
Kasdan Turner Thomson Booth LLC
chikida@kasdancdlaw.com

February 12, 2025

House Committee on Consumer Protection & Commerce
Rep. Scot Z. Matayoshi, Chair
Rep. Cory M. Chun, Vice Chair

Wednesday, February 12, 2025
2:00 p.m. Conference Room #329 and via videoconference



Working together for Kapolei

RE: HB420HD1 – Relating to Remedies

Dear Chair Matayoshi, Vice Chair Chun, members of the Committee,

My name is Kiran Polk, and I am the Executive Director & CEO of the Kapolei Chamber of Commerce. The Kapolei Chamber of Commerce is an advocate for businesses in the Kapolei region including Waipahu, Kapolei, 'Ewa Beach, Nānakūli, Wai'anae and Mākaha. The Chamber works on behalf of its members and the business community to improve the regional and State economic climate and help West O'ahu businesses thrive. We are a member-driven, member-supported organization representing the interests of all types of business: small, medium or large, for profit or non-profit businesses or sole proprietorship.

The Kapolei Chamber of Commerce strongly supports HB420 which amends the statute addressing actions arising from construction defects. This will help to ensure that homeownership is attainable and a better, streamlined process for homeowners to resolve construction defects.

The Contractor Repair Act was initially established to foster cooperation between homeowners and builders, allowing for the identification and rectification of defects without resorting to unnecessary litigation. Regrettably, existing loopholes in the law have resulted in an increase in lawsuits that delay repairs, elevate housing costs, and dissuade new home construction. This situation has particularly impacted families, especially first-time homebuyers, by making it more challenging to afford homes in Hawai'i. The repercussions of these lawsuits extend beyond builders. **Families attempting to purchase homes encounter higher costs and limited financing options as lenders are reluctant to approve loans for properties** embroiled in legal disputes. Homeowners facing defects are compelled into protracted legal battles rather than receiving timely repairs.

West O'ahu is the fastest growing region in the State. We are in an affordable housing crisis. The housing market in West O'ahu, including new home inventory, provides the much-needed options for our young families and new home buyers as well as our growing veteran population on the west side. First time home buyers and veterans have faced restricted financing options because of these lawsuits.

Construction of these new developments are being put on hold because of these lawsuits. The cost of the home and insurance goes up because of these lawsuits, making it even more expensive for developers to build homes and consequently more expensive for people to buy homes.

In conclusion, the proposed changes align with the principles of proactive conflict resolution, promoting a collaborative approach to addressing construction defects. The emphasis on early notification is a strategic and pragmatic step that can significantly contribute to the expeditious resolution of issues, benefiting all stakeholders involved.

Thank you for this opportunity to provide testimony.

Respectfully,

Kiran Polk
Executive Director & CEO

The Honorable Scot Matayoshi, Chair
and Members of the Committee on Commerce and Consumer Protection
Hawai'i State House of Representatives
Hawai'i State Capitol
415 S. Beretania Street
Honolulu, HI 96813

RE: Strong Support for HB420 HD1 – Relating to Remedies

Aloha Chair Matayoshi, Vice Chair Chun, and Members of the Committee,
I am testifying in **strong support of HB420 HD1** because it will ensure that homeownership remains attainable and provides a better process for homeowners to resolve alleged construction defects.

The Contractor Repair Act was originally designed to encourage cooperation between homeowners and builders, allowing defects to be identified and fixed without unnecessary legal battles. Unfortunately, loopholes in the current law have led to a rise in lawsuits that delay repairs, drive up housing costs, and discourage new home construction. This has made it harder for families—especially first-time homebuyers—to afford a home in Hawai'i.

The impact of these lawsuits goes beyond homebuilders. Families trying to buy homes face higher costs and fewer financing options because lenders are hesitant to approve loans for properties tied up in litigation. Homeowners dealing with defects are forced into drawn-out legal disputes instead of getting timely repairs. Even entire communities have suffered, with some homeowner associations advised to neglect maintenance to strengthen legal claims, leaving shared spaces in disrepair.

HB420 HD1 helps address these problems by restoring the original intent of the Contractor Repair Act. It ensures builders have the opportunity to make repairs before a lawsuit is filed, reduces unnecessary legal costs, and makes the process fairer for homeowners. This bill will help keep housing affordable, protect communities, and ensure homeowners get the timely repairs they deserve.

I urge the committee to pass HB420 HD1 to support homebuyers, homeowners, and Hawai'i's housing future.

Mahalo!
Iris Abe
iris@kyinternational.com

THE GENTRY COMPANIES



February 11, 2025

The Honorable Scot Z. Matayoshi, Chair
The Honorable Cory M. Chun, Vice Chair
House Committee on Consumer Protection & Commerce
State House of Representatives
State Capitol
Honolulu, HI 96813

Subject: **H.B. 420, H.D. 1 RELATING TO REMEDIES**
Hearing: Wednesday, February 12, 2025; 2:00 pm
Conference Room 329, State Capitol

Dear Chair Matayoshi, Vice Chair Chun, and Members of the Committee,

My name is Quentin Machida and I am testifying on behalf of Gentry Homes, Ltd. in strong **SUPPORT** of the subject bill which proposes much-needed changes to our laws relating to repairs of construction. The Contractor Repair Act (CRA) under Chapter 672E was intended to provide a means for builders and homeowners to efficiently and collaboratively address legitimate construction defects that are discovered within a certain time period. As a homebuilder who has existed in Hawaii for over 55 years and who desires to continue building homes in our island state, we believe that our reputation is of utmost importance. It is in our best interest to not only build the best homes possible, but to also proactively address any legitimate construction defect claims as quickly and effectively as possible.

Unfortunately, our company and a number of other homebuilders have recently been the target of a rising number of class action lawsuits which have prohibited us from addressing construction defect claims as quickly and efficiently as possible. This harms the homeowner, our companies, and the community as a whole. These types of lawsuits have had a deleterious effect on the overall housing market by delaying housing construction, restricting mortgage lending, increasing insurance costs, impacting jobs, decreasing supply, and increasing the overall cost of housing. Without reform, Hawaii's housing crisis will continue to worsen because of the detrimental impacts of such lawsuits on not only potential homebuyers, but the construction industry as a whole. As a developer of workforce housing for local families, we find this to be both undesirable and unacceptable.

HB420, as amended, offers a solution by establishing clearer guidelines that will lead to a more fair and cooperative process for addressing construction defects. This bill will reduce unnecessary litigation, stabilize costs, and allow builders to focus on delivering quality homes for Hawaii's residents. I respectfully urge your support. Mahalo.

Sincerely,

GENTRY HOMES, LTD.

A handwritten signature in black ink, appearing to read "Quentin Machida", written in a cursive style.

Quentin Machida
President and CEO

February 11, 2025

The Honorable Scot Matayoshi, Chair
and Members of the Committee on Commerce and Consumer Protection
Hawai'i State House of Representatives
Hawai'i State Capitol
415 S. Beretania Street
Honolulu, HI 96813

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I urge the committee to pass HB420 HD1 to support homebuyers, homeowners, and Hawai'i's housing future.

Mahalo!

Ricardo Academic

February 11, 2025

The Honorable Scot Matayoshi, Chair
and Members of the Committee on Commerce and Consumer Protection
Hawai'i State House of Representatives
Hawai'i State Capitol
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Mahalo!

Joemelyn Adviento

February 11, 2025

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Mahalo!

Glenn Alcalde

February 11, 2025

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Mahalo!

Kekahi Reiny-Aloy

February 11, 2025

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Mahalo!

Andrew K. Amina

February 11, 2025

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Tea Sio Leimoni Asipeli

February 11, 2025

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Dean Au

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Mahalo!

Desmond Banglos

February 11, 2025

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Eleazar Jeffrey Bantillo

February 11, 2025

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Russel Barcena

February 11, 2025

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Mahalo!

Bobby Brown

February 11, 2025

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Mahalo!

Aldrin Cabana

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Lazaro F. Cabral

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Kaipo Galeon

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Eric Miranda

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Mahalo!

Royanne L. Cano

February 11, 2025

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Spencer Chock

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Dan Corrales, Jr.

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Federico Dabu

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Mahalo!

Robert Iwasaki

February 11, 2025

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Hawai'i State Capitol
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Mahalo!

Donovan C. Hansen

February 11, 2025

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Hawai'i State House of Representatives
Hawai'i State Capitol
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Clinton Joseph Hatori

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Randolf He'o, Jr.

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Jennifer Hipa

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Delson Kaeo

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Perfecto D. Labrador

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Kalikiano Libokmeto

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Carel Daniel Pancipanci

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HB420 HD1 helps address these problems by restoring the original intent of the Contractor Repair Act. It ensures builders have the opportunity to make repairs before a lawsuit is filed, reduces unnecessary legal costs, and makes the process fairer for homeowners. This bill will help keep housing affordable, protect communities, and ensure homeowners get the timely repairs they deserve.

I urge the committee to pass HB420 HD1 to support homebuyers, homeowners, and Hawai'i's housing future.

Mahalo!

Kaipo Santa Elena

February 11, 2025

The Honorable Scot Matayoshi, Chair
and Members of the Committee on Commerce and Consumer Protection
Hawai'i State House of Representatives
Hawai'i State Capitol
415 S. Beretania Street
Honolulu, HI 96813

RE: Strong Support for HB420 HD1 – Relating to Remedies

Aloha Chair Matayoshi, Vice Chair Chun, and Members of the Committee,

I'm a member of the Operating Engineers Local 3, and I am testifying in **strong support of HB420 HD1** because it will ensure that homeownership remains attainable and provides a better process for homeowners to resolve alleged construction defects.

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Mahalo!

Daniel Sarajina, Jr.

February 11, 2025

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Mildred Soriano

February 11, 2025

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February 11, 2025

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Hawai'i State House of Representatives
Hawai'i State Capitol
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Justin Tanouye

February 11, 2025

The Honorable Scot Matayoshi, Chair
and Members of the Committee on Commerce and Consumer Protection
Hawai'i State House of Representatives
Hawai'i State Capitol
415 S. Beretania Street
Honolulu, HI 96813

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Mahalo!

Matthew Teixeira

February 11, 2025

The Honorable Scot Matayoshi, Chair
and Members of the Committee on Commerce and Consumer Protection
Hawai'i State House of Representatives
Hawai'i State Capitol
415 S. Beretania Street
Honolulu, HI 96813

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Mahalo!

Rommer Vilep

February 12, 2025

TO: Chair Matayoshi and members of the House Committee on Consumer Protection & Commerce
RE: HB 420, HD1 Relating to Remedies

Dear Chair Matayoshi and Committee Members,

Housing Hawai'i's Future is a nonprofit dedicated to creating opportunities for Hawai'i's next generation by ending the workforce housing shortage.

We support HB 420, HD1.

Our organization appreciates the hard work that went into drafting this legislation over the past year. Housing Hawai'i's Future supported HB 2213 of the 2024 Legislative Session. To that end, much of the language our organization offered in support of HB 2213 of 2024 applies to this bill.

Over the last year, the situation hasn't changed. In fact, it is growing worse.

We live in a litigious state. And lawyers are not always a force for good. Occasionally, the net result of litigation is negative for society. In this case, a small group of well-heeled plaintiffs attorneys threaten the for-sale attached multi-family product type.

The attorneys threaten an entire housing product type. And unfortunately for us, that product type is the entry point into homeownership for many families. Because of litigation, first-time homebuyers using FHA and VA loans won't be able to buy units.

The litigation is not being brought to benefit the consumer. If it were, consumers would be satisfied with repair or remedy for any defects. Rather, the litigation is brought because a small cabal of attorneys sense that regulation in Hawai'i is weak and they can exploit the system for personal gain.

As insurance costs increase, fewer homes are built and our housing crisis gets worse.

By protecting contractors from unscrupulous litigation, HB420 also protects affordable workforce housing for our residents. **Let's advance HB 420, HD1.**

Thank you,



Lee Wang
Executive Director
Housing Hawai'i's Future
lee@hawaiisfuture.org



Perry Arrasmith
Director of Policy
Housing Hawai'i's Future
perry@hawaiisfuture.org



LATE

February 11, 2025

Chair Scot Matayoshi

Vice Chair Cory Chun

Members of the House Committee on Consumer Protection and Commerce

Thirty-Third Legislature, Regular Session of 2025

Subject: Strong Support for HB420 HD1 – Relating to Remedies

Aloha Chair Matayoshi, Vice Chair Chun, and Members of the Committee,

My name is Lee Tokuhara, and I lead Government Relations and Community Affairs for D.R. Horton Hawaii. I am submitting this testimony in **strong support of HB420 HD1**, which seeks to reform the Contractor Repair Act (CRA) and clarify important aspects of the statute of repose under HRS § 657-8.

As one of Hawaii's largest homebuilders, D.R. Horton, alongside Castle & Cooke, Haseko, Gentry Homes, and Stanford Carr, plays a pivotal role in addressing our state's housing shortage. We are committed to developing multi-family units, condominiums, townhouses, and production housing that maximize Oahu's limited land and offer affordable options for working residents and families.

However, the current legal environment undermines these efforts. The dense nature of these projects makes them prime targets for class-action lawsuits from construction defect attorneys. The statistics are alarming: before 2010, only six construction defect lawsuits were filed in Hawaii. Since 2010, that number has surged to 65. This exponential increase in litigation poses a serious threat to the future of housing development in our state.

Five recent class-action lawsuits resulted in attorneys collecting nearly \$50 million in fees. Some of these cases dragged on for more than eight years, leaving both homeowners and builders in prolonged uncertainty. What's more concerning is that once a class-action lawsuit is filed and certified, we are legally prohibited from directly communicating with the homeowners involved. This leaves homeowners unaware of their inclusion in a lawsuit and uninformed about their rights, such as the option to opt out.

130 Merchant Street, Suite 112 · Honolulu, Hawaii 96813 · 808.521.5661

www.drhorton.com/hawaii

To address these challenges, SB179 introduces key statutory clarifications and reforms that will protect both homeowners and builders, while promoting a more cooperative and efficient resolution process.

Comments and Suggestions on Specific Provisions:

1. Clarifying the Statute of Repose (HRS § 657-8):

The proposed language in HRS § 657-8(a) reiterates what the statute already provides concerning its applicability to all types of actions. The current language specifies that "no action to recover damages... arising out of any deficiency or neglect in the planning, design, construction, supervision and administering of construction, and observation of construction relating to an improvement to real property shall be commenced more than two years after the cause of action has accrued, but in any event, not more than ten years after the date of completion of the improvement." The insertion of the phrase "no action, whether in contract, tort, statute, or otherwise" clarifies that the prohibition applies universally, aligning with the fundamental purpose of a statute of repose.

2. Purpose of the Statute of Repose (HRS § 657-8(e)):

The 10-year limit within HRS § 657-8 serves as a statute of repose, establishing an absolute bar to claims after the defined period. Unlike statutes of limitations, statutes of repose are not subject to judicial extension or equitable tolling. The U.S. Supreme Court clarified this distinction in *CTS Corp. v. Waldburger*, 573 U.S. 1 (2014), emphasizing that statutes of repose provide defendants with certainty and finality, shielding them from perpetual liability.

In enacting this statute, the Legislature balanced the rights of claimants with the need for legal certainty for contractors. Notably, several states have statutes of repose shorter than Hawai'i's 10-year period, underscoring the reasonableness of our current law.

3. Defining Material Violations (HRS § 657-8(f) & § 657-8(g)):

The proposed language in HRS § 657-8(f) and the definition of "material violation" in § 657-8(g) are modeled after Florida Statute 553.84 (2023). To address concerns, we are open to modifying the definition to specify "a building code violation that exists within a completed building, structure, or facility which may result, or has resulted, in physical harm to a person or significant damage to the performance of a building or its systems." This adjustment allows claimants to pursue valid claims while preventing frivolous lawsuits aimed at inflating settlement values.

4. Enhancing the Contractor Repair Act Process (HRS § 672E-3):

The proposed changes in HRS § 672E-3(a) and (b) ensure that claimants and contractors have access to essential information for meaningful participation in the repair process. Claimants with existing reports, photographs, or testing results are required to share them, facilitating timely and effective repairs. Importantly, these amendments do not preclude

class actions but promote transparency and informed decision-making among potential class members.

5. Inspection and Access Provisions (HRS § 672E-4(c)):

Concerns were raised regarding inspection access under HRS § 672E-4(c). The proposed language clarifies existing requirements by specifying that both parties must agree on the time and date for inspections, ensuring reasonable access during normal working hours. This change adds protections for both claimants and contractors without imposing additional burdens.

6. Settlement Incentives (HRS § 672E-6):

The proposed language at HRS § 672E-6 incentivizes early and reasonable settlement offers from contractors while encouraging claimants to consider these offers seriously. It preserves claimants' rights to pursue further recovery if they achieve better outcomes in court or arbitration. Similar provisions exist in other states' Contractor Repair Acts, including Idaho, Alaska, and Texas.

Conclusion:

SB179 fosters a balanced approach that safeguards homeowners' rights while enabling builders to continue contributing to Hawai'i's housing supply. The reforms ensure that legitimate defects are addressed swiftly and fairly, reducing unnecessary litigation that ultimately burdens homeowners, builders, and the broader community.

For the sake of Hawaii's families and the health of our housing market, I respectfully urge you to pass SB179. Thank you for the opportunity to provide testimony. I am available to answer any questions you may have.

Mahalo,



Lee Tokuhara
Vice-President, Government Relations and Community Affairs
D.R. Horton Hawaii



Commercial Sheetmetal Co. Inc.

94-142 LEOLEO STREET * WAIPAHU, HAWAII 96797

PHONE: (808) 671-4002 FAX: (808) 676-7965

2/11/2025

The Honorable Scot Matayoshi, Chair
and Members of the Committee on Commerce and Consumer Protection
Hawai'i State House of Representatives
Hawai'i State Capitol
415 S. Beretania Street Honolulu, HI 96813

RE: Strong Support for HB420 HD1 – Relating to Remedies

Aloha Chair Matayoshi, Vice Chair Chun, and Members of the Committee,

My name is Glenn Saito. I work in Hawai'i's building industry, and a representative Commercial Sheetmetal, I am testifying in strong support of HB420.

The Contractor Repair Act was intended to foster collaboration between builders and homeowners, ensuring defects are addressed reasonably and efficiently. Unfortunately, this process has been derailed by attorneys exploiting legal loopholes to file lawsuits that are often unnecessary or trivial. These lawsuits delay projects, increase costs, and disrupt the housing market. Builders face heightened risks, which leads to higher construction costs, fewer housing projects, and reduced affordability.

For those of us in the building industry, these issues have real consequences. Rising litigation costs make it harder to keep housing projects on schedule and within budget. Builders are less willing to take on projects, impacting jobs and delaying much-needed housing production. Without reform, the home building industry will continue to struggle under the weight of legal uncertainty and rising costs.

HB420 offers a solution by establishing clearer guidelines that will lead to a more fair and cooperative process for addressing construction defects. This bill will reduce unnecessary litigation, stabilize costs, and allow builders to focus on delivering quality homes for Hawai'i's residents. I respectfully urge your support. Mahalo.

Respectfully,

Commercial Sheetmetal Co., Inc.
contactus@csm-co.com



HASEKO DEVELOPMENT, INC.

February 11, 2025

The Honorable Scot Matayoshi, Chair
& Members of the Committee on Commerce and Consumer Protection
Hawaii State House of Representatives
Hawaii State Capitol
415 S. Beretania Street
Honolulu, HI 96813

Aloha Chair Matayoshi, Vice Chair Chun, and Members of the Committee

RE: Support HB420 HD1 – Relating to Remedies

My name is Lisa Enanoria, and I am the Senior Manager of Communications for Haseko Development, Inc. in 'Ewa Beach. My company and I strongly support HB420 HD1 because it will improve the process for homeowners to address construction defects, while ensuring that homeownership remains attainable.

The original intent of the Contractor Repair Act was to foster collaboration between homeowners and builders, enabling defects to be identified and fixed without resorting to lengthy legal disputes. However, the current law has loopholes that have led to an increase in lawsuits, causing delays in repairs, escalating housing costs, and deterring new home construction. As a result, it has become more difficult for Hawai'i families to afford purchasing homes.

We urge you to support HB420 HD1 to help restore the original intent of the Contractor Repair Act.

Sincerely,

A handwritten signature in black ink, appearing to read "Lisa Enanoria".

Lisa Enanoria
Senior Manager of Communications
Haseko Development, Inc.



1001 Bishop Street #625 | Honolulu, HI 96813
866-295-7282 | aarp.org/hi | hiaarp@aarp.org |
Twitter.com/aarphawaii | facebook.com/aarphawaii

The State Legislature
House Committee on Consumer Protection & Commerce
Wednesday, February 12, 2025
Conference Room 329, 2:00 p.m.

LATE

TO: The Honorable Scot Z. Matayoshi, Chair
FROM: Keali'i S. López, State Director
RE: Support for H.B. 420 HD1 Relating to Remedies

Aloha Chair Matayoshi, Vice Chair Chun and Members of the Committee:

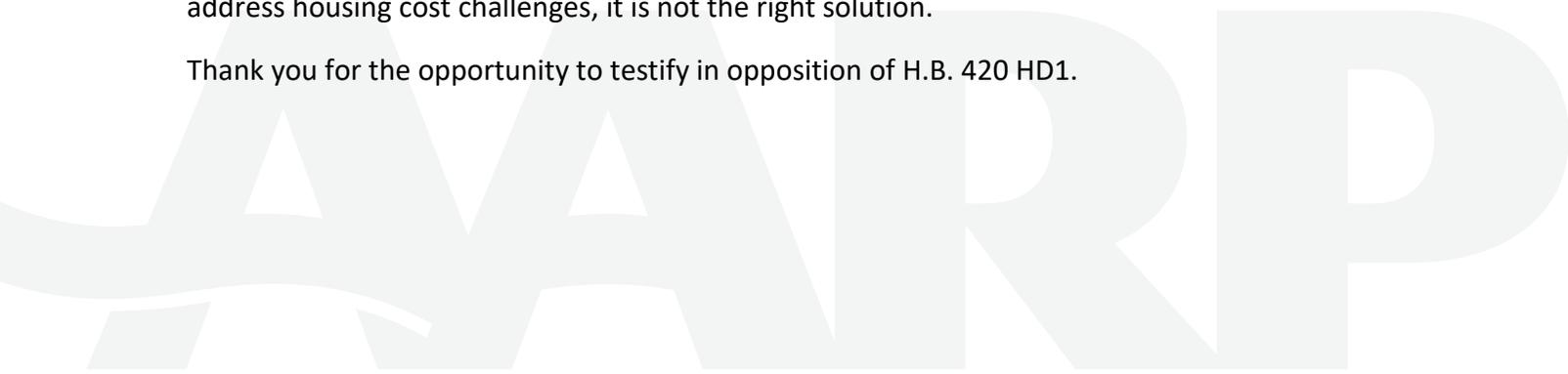
I am Keali'i Lopez, State Director for AARP Hawai'i. AARP is a nonprofit, nonpartisan, social impact organization dedicated to empowering people fifty and older to choose how they live as they age. We advocate at the state and federal level for the issues that matter most to older adults and their families. On behalf of our nearly 135,000 members statewide, thank you for the opportunity to share our testimony.

AARP opposes of H.B. 420 HD1 which attempts to address the complex and litigious nature of consumer and contractor concerns regarding construction defects. The bill takes a step in the wrong direction and reduces, if not strips, important consumer safeguards. H.B.420 HD1 complicates matters for consumers who are not well-versed in the intricate details of building codes, architectural plans, contractor requirements, and occupancy certifications. This bill overlooks the challenges faced by the average homebuyer, making it even more difficult for them to navigate the already complex landscape of construction and housing regulations.

AARP supports efforts to increase housing development in Hawai'i. We recognize that delays and costly litigation are significant challenges. The current process for addressing defects is ineffective for both consumers and developers. Hawai'i should consider adopting more balanced approaches established in other jurisdictions.

We recommend that the parties, with the legislature's help, find less harmful and costly strategies to provide developers with greater certainty. This should balance the need for timely, cost-effective development with the needs of consumers making significant investments. We urge the parties to find a more effective way to address everyone's concerns. While H.B. 420 HD1 aims to address housing cost challenges, it is not the right solution.

Thank you for the opportunity to testify in opposition of H.B. 420 HD1.



Testimony of
Pacific Resource Partnership

Hawai'i State Legislature, House Committee on Consumer Protection & Commerce
Honorable Chair Scot Matayoshi and Honorable Vice Chair Cory Chun
Wednesday, February 12, 2025

LATE

Subject: Strong Support for HB420 – Relating to Remedies

Aloha Chair Matayoshi, Vice Chair Chun, and Members of the Committee:

On behalf of Pacific Resource Partnership (PRP), which represents thousands of unionized carpenters and hundreds of general contractors across Hawai'i, we strongly support HB420, which seeks to reform and strengthen the pre-litigation Contractor Repair Act (CRA). This legislation is critical to protecting homeownership opportunities, ensuring fairness in the construction industry, and addressing the severe housing crisis that continues to impact working families in our state.

Stopping Lawsuit Abuse to Keep Housing Attainable

Hawai'i is already one of the most expensive places to live in the United States. Unfortunately, unscrupulous mainland attorneys have exploited legal loopholes, weaponizing class action lawsuits against homebuilders in a cookie-cutter fashion. These lawsuits are often unnecessary and do little to address actual construction defects. Instead, they create a chilling effect on housing development, forcing homebuilders to forgo the construction of hundreds of desperately needed homes, apartments, and condominiums.

The repercussions of this predatory legal strategy extend far beyond builders. The ripple effects touch:

- **Homebuyers**, who find it harder to qualify for federally backed home loans because lenders are wary of financing properties entangled in litigation.
- **Homeowners**, who are blocked from selling their homes while their property is wrapped up in a lawsuit they never consented to in the first place.
- **Communities**, which are deprived of housing supply, keeping prices high and pushing local families out of the market.

Prioritizing Repairs Over Lawsuits

One of the most troubling aspects of these lawsuits is that once a home, apartment, or condominium is included in class action litigation, homeowners lose their ability to communicate directly with the homebuilder to request necessary repairs. Instead of a timely resolution, they are left in limbo for years while the legal process drags on. And when the case is finally settled, homeowners often receive only a fraction of what was promised, while the attorneys walk away with massive fees.

The intent of the original Contractor Repair Act was to foster a cooperative, good-faith process between builders and homeowners to address legitimate construction defects. However, the current system has been hijacked by a handful of mainland attorneys, turning homeownership into a battleground for profit-driven litigation.

A Balanced Solution for Hawai'i's Housing Future

HB420 restores the original purpose of the Contractor Repair Act and ensures that:

- Homeowners receive timely repairs without unnecessary legal intervention.

(Continued From Page 1)

- Homebuilders remain accountable for legitimate defects while being protected from abusive lawsuits.
- Future homebuyers can access a stable housing market without legal barriers.
- Lenders can confidently finance properties without fear of drawn-out litigation.
- Hawai'i's construction workforce remains strong, with builders empowered to continue projects without the looming threat of unnecessary lawsuits.

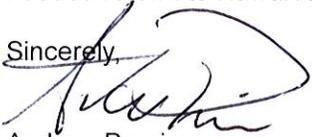
We urge this committee to pass HB420 and take a stand against the legal abuse that is stalling much-needed housing development in Hawai'i.

By ensuring a fair and effective process for resolving construction defects, we can protect homeownership, safeguard Hawai'i's workforce, and promote a more sustainable and affordable housing market for all.

Mahalo for your time and consideration.

Pacific Resource Partnership stands ready to support this effort and work with lawmakers to bring much-needed reform to Hawai'i's housing industry.

Sincerely,



Andrew Pereira
Director of Public Affairs
Pacific Resource Partnership



HB-420-HD-1

Submitted on: 2/10/2025 6:25:20 PM

Testimony for CPC on 2/12/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Anne Anderson	Individual	Oppose	Written Testimony Only

Comments:

Please defer this bill.

Sincerely,

Anne Anderson

The Honorable Scot Matayoshi, Chair
and Members of the Committee on Commerce and Consumer Protection
Hawai'i State House of Representatives
Hawai'i State Capitol
415 S. Beretania Street
Honolulu, HI 96813

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I urge the committee to pass HB420 HD1 to support homebuyers, homeowners, and Hawai'i's housing future.

Mahalo!

HB-420-HD-1

Submitted on: 2/10/2025 8:18:15 PM

Testimony for CPC on 2/12/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Primrose Leong-Nakamoto	Individual	Oppose	Written Testimony Only

Comments:

Please defer this bill as it will make it difficult to recover damages from developers for construction defects. I was able to collect on said defects based on how it reads now with strong documentation. This has helped homeowners for payments that they shouldn't have to pay for unforeseen things that could only happen during construction time.

Respectfully submitted,

Primrose Leong-Nakamoto

HB-420-HD-1

Submitted on: 2/11/2025 5:53:52 AM

Testimony for CPC on 2/12/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Lance S. Fujisaki	Individual	Oppose	Written Testimony Only

Comments:

Please defer this bill.

The Honorable Scot Matayoshi, Chair
and Members of the Committee on Commerce and Consumer Protection
Hawai'i State House of Representatives
Hawai'i State Capitol
415 S. Beretania Street
Honolulu, HI 96813

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I urge the committee to pass HB420 HD1 to support homebuyers, homeowners, and Hawai'i's housing future.

Mahalo!

A handwritten signature in black ink, appearing to read "Scot Matayoshi". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

The Honorable Scot Matayoshi, Chair
and Members of the Committee on Commerce and Consumer Protection
Hawai'i State House of Representatives
Hawai'i State Capitol
415 S. Beretania Street Honolulu, HI 96813

RE: Strong Support for HB420 HD1 – Relating to Remedies

Aloha Chair Matayoshi, Vice Chair Chun, and Members of the Committee,

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Mahalo,

Sheryl E. Nojima

The Honorable Scot Matayoshi, Chair
and Members of the Committee on Commerce and Consumer Protection
Hawai'i State House of Representatives
Hawai'i State Capitol
415 S. Beretania Street
Honolulu, HI 96813

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Mahalo!

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Richard W. Luga

The Honorable Scot Matayoshi, Chair
and Members of the Committee on Commerce and Consumer Protection
Hawai'i State House of Representatives
Hawai'i State Capitol
415 S. Beretania Street
Honolulu, HI 96813

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I urge the committee to pass HB420 HD1 to support homebuyers, homeowners, and Hawai'i's housing future.

Mahalo!

Michael Nojima

The Honorable Scot Matayoshi, Chair
and Members of the Committee on Commerce and Consumer Protection
Hawai'i State House of Representatives
Hawai'i State Capitol
415 S. Beretania Street
Honolulu, HI 96813

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I urge the committee to pass HB420 HD1 to support homebuyers, homeowners, and Hawai'i's housing future.

Mahalo!

Guy Fukushima

February 11, 2025

Chair Scot Matayoshi
Vice Chair Cory Chun
and Members of the Commerce Protection and Commerce Committee
Thirty-Third Legislature, Regular Session of 2025
Hawai'i State House of Representatives
Hawai'i State Capitol
415 S. Beretania Street
Honolulu, HI 96813

Honorable Chair Matayoshi, Vice Chair Chun and Members of the Committee:

Testimony in Support of HB420 HD1 – RELATING TO REMEDIES

I am a civil engineer in the construction industry and have been practicing in Hawaii for over 40 years. Too often I see homeowners being taken advantage of by opportunistic attorneys and are left on the short end. Attorneys convince homeowners to participate in class-action lawsuits and end up taking much of the settlement claims, leaving homeowners with insufficient funds to perform the repairs that they originally requested.

I believe HB420 will be a positive measure to help builders perform the necessary repairs for homeowners before attorneys can get involved. That is why I support this measure and ask that the committee pass HB420.

Homeownership should be a happy and exciting moment in people's lives. Too often the legal process is protracted, and the needed repairs are left unresolved, leaving the homeowner in a stressful and unpleasant situation. When the process is completed, homeowners are left frustrated by not having enough money to complete the repairs needed. Repair costs sometimes increase due to the lengthy litigation period.

Thank you very much for your time and consideration.

Mahalo,

Greg Hiyakumoto, PE

The Honorable Scot Matayoshi, Chair
and Members of the Committee on Commerce and Consumer Protection
Hawai'i State House of Representatives
Hawai'i State Capitol
415 S. Beretania Street
Honolulu, HI 96813

RE: Strong Support for HB420 HD1 – Relating to Remedies

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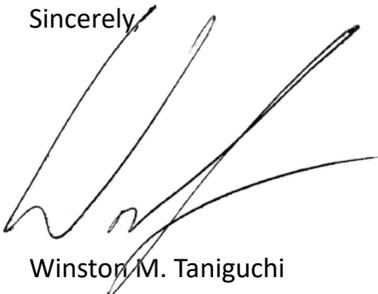
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I urge the committee to pass HB420 HD1 to support homebuyers, homeowners, and Hawai'i's housing future.

Mahalo for your time and consideration.

Sincerely,

A handwritten signature in black ink, appearing to read 'Winston M. Taniguchi', written over a white background.

Winston M. Taniguchi

The Honorable Scot Matayoshi, Chair
and Members of the Committee on Commerce and Consumer Protection
Hawai'i State House of Representatives
Hawai'i State Capitol
415 S. Beretania Street
Honolulu, HI 96813

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I urge the committee to pass HB420 HD1 to support homebuyers, homeowners, and Hawai'i's housing future.

Mahalo!

Landon Lum

The Honorable Scot Matayoshi, Chair
and Members of the Committee on Commerce and Consumer Protection
Hawai'i State House of Representatives
Hawai'i State Capitol
415 S. Beretania Street
Honolulu, HI 96813

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I urge the committee to pass HB420 HD1 to support homebuyers, homeowners, and Hawai'i's housing future.

Sincerely,

David Yoshida

The Honorable Scot Matayoshi, Chair
and Members of the Committee on Commerce and Consumer Protection
Hawai'i State House of Representatives
Hawai'i State Capitol
415 S. Beretania Street
Honolulu, HI 96813

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Hawai'i State House of Representatives
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I urge the committee to pass HB420 HD1 to support homebuyers, homeowners, and Hawai'i's housing future.

Mahalo!
Vivyan Lin
vivyan@kyinternational.com

The Honorable Scot Matayoshi, Chair
and Members of the Committee on Commerce and Consumer Protection
Hawai'i State House of Representatives
Hawai'i State Capitol
415 S. Beretania Street
Honolulu, HI 96813

RE: Strong Support for HB420 HD1 – Relating to Remedies

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HB420 HD1 helps address these problems by restoring the original intent of the Contractor Repair Act. It ensures builders have the opportunity to make repairs before a lawsuit is filed, reduces unnecessary legal costs, and makes the process fairer for homeowners. This bill will help keep housing affordable, protect communities, and ensure homeowners get the timely repairs they deserve, eventually, help our children and grandchildren to be afforded the local housing properties, so they can be afforded living in our Aina, our home in Hawaii.

I urge the committee to pass HB420 HD1 to support homebuyers, homeowners, and Hawai'i's housing future.

Mahalo!



John Chen

The Honorable Scot Matayoshi, Chair
and Members of the Committee on Commerce and Consumer Protection
Hawai'i State House of Representatives
Hawai'i State Capitol
415 S. Beretania Street
Honolulu, HI 96813

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Mahalo!
Pei Pei Chan
peipeic@kyinternational.com

HB-420-HD-1

Submitted on: 2/11/2025 8:59:34 AM

Testimony for CPC on 2/12/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Toby Hanzawa	Individual	Support	Written Testimony Only

Comments:

The Honorable Scot Matayoshi, Chair

and Members of the Committee on Commerce and Consumer Protection

Hawai‘i State House of Representatives

Hawai‘i State Capitol

415 S. Beretania Street Honolulu, HI 96813

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The Honorable Scot Matayoshi, Chair
and Members of the Committee on Commerce and Consumer Protection
Hawai'i State House of Representatives
Hawai'i State Capitol
415 S. Beretania Street
Honolulu, HI 96813

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I urge the committee to pass HB420 HD1 to support homebuyers, homeowners, and Hawai'i's housing future.

Mahalo!
Joyce Leung
joyce@kyinternational.com

HB-420-HD-1

Submitted on: 2/11/2025 9:31:16 AM

Testimony for CPC on 2/12/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Laurie Sokach	Individual	Oppose	Written Testimony Only

Comments:

Aloha,

Please defer this bill.

While I agree that there are a lot of construction defects lawsuits against developers, I don't agree with stopping the ability for associations to sue when they have been the victim of very poor construction. The cases that I have seen or been a part of have been completely justified.

It is amazing the things I have seen get approved by the planning department. I think the county should be included in the lawsuits because of what they allowed to be approved. Almost like the building inspector walked through the inspection with a blind fold on.

While I agree that something needs to change in this regard and that we have an issue in Hawaii with housing. I think developers need to do a much better job on the construction side of what they are offering as product and what they have gotten away with for decades in the islands.

Why is it that developers start new companies with each development they build, I think one reason is because they fully intend to build an inferior product, cut corners, payoff County inspectors and cheat the consumer of a quality built and code compliant complex.

I would say, stop allowing bad developers from building subpar complexes that owners have to sue to get repairs done that should never have been allowed in the first place.

Sincerely,

Laurie Sokach AMS, PCAM

27 Year Professional Community Portfolio Manager

Kona, Hawaii

The Honorable Scot Matayoshi, Chair
and Members of the Committee on Commerce and Consumer Protection
Hawai'i State House of Representatives
Hawai'i State Capitol
415 S. Beretania Street
Honolulu, HI 96813

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I urge the committee to pass HB420 HD1 to support homebuyers, homeowners, and Hawai'i's housing future.

Mahalo!

A handwritten signature in black ink, appearing to read "Brent Miller". The signature is written in a cursive, flowing style.

HB-420-HD-1

Submitted on: 2/11/2025 10:25:27 AM

Testimony for CPC on 2/12/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Derrick Ching	Individual	Support	Written Testimony Only

Comments:

The Honorable Scot Matayoshi, Chair

and Members of the Committee on Commerce and Consumer Protection

Hawai‘i State House of Representatives

Hawai‘i State Capitol

415 S. Beretania Street

Honolulu, HI 96813

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I urge the committee to pass HB420 HD1 to support homebuyers, homeowners, and Hawai'i's housing future.

Thank you,

Derrick Ching

derrickc@kyinternational.com

February 11, 2025

Chair Scot Matayoshi
Vice Chair Cory Chun
Members of the House Committee on Consumer Protection & Commerce
Thirty-Third Legislature, Regular Session of 2025

RE: HB420 HD1 – Relating to Remedies

Aloha Chair Matayoshi, Vice Chair Chun, and Members of the Consumer Protection & Commerce Committee,

I'm a member of the Hawaii Regional Council of Carpenters, and I'm writing to **strongly support SB179** because it will help keep people working and make sure more local families can afford a home.

I work hard building homes in Hawai'i, but I can't even afford to buy one myself. Too many people I know, co-workers, family, friends—are struggling to find a place to live. The cost of housing keeps going up, and these construction defect lawsuits are making it worse.

Instead of fixing problems, some lawyers are taking advantage of the system by suing first, which drives up costs and stops projects before builders can even make repairs. That means fewer jobs and higher housing prices for all of us.

That's not how it should work. Homeowners should be able to trust that their communities are being taken care of, but sometimes legal games get in the way. I've heard of cases where lawsuits drag on for years, leaving neighborhoods in bad shape because no one wants to take responsibility while they wait for a payout. That's not fair to the people living there—they just want safe, well-kept homes, not a legal battle that makes things worse.

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Mahalo,

Robert S. Ofoia

February 11, 2025

Chair Scot Matayoshi
Vice Chair Cory Chun
Members of the House Committee on Consumer Protection & Commerce
Thirty-Third Legislature, Regular Session of 2025

RE: HB420 HD1 – Relating to Remedies

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Kealiiomana Keola

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Noah Kaaiai-Boner

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Roderick Delos Santos

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Thirty-Third Legislature, Regular Session of 2025

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Aloha Chair Matayoshi, Vice Chair Chun, and Members of the Consumer Protection & Commerce Committee,

I'm a member of the Hawaii Regional Council of Carpenters, and I'm writing to **strongly support SB179** because it will help keep people working and make sure more local families can afford a home.

I work hard building homes in Hawai'i, but I can't even afford to buy one myself. Too many people I know, co-workers, family, friends—are struggling to find a place to live. The cost of housing keeps going up, and these construction defect lawsuits are making it worse.

Instead of fixing problems, some lawyers are taking advantage of the system by suing first, which drives up costs and stops projects before builders can even make repairs. That means fewer jobs and higher housing prices for all of us.

That's not how it should work. Homeowners should be able to trust that their communities are being taken care of, but sometimes legal games get in the way. I've heard of cases where lawsuits drag on for years, leaving neighborhoods in bad shape because no one wants to take responsibility while they wait for a payout. That's not fair to the people living there—they just want safe, well-kept homes, not a legal battle that makes things worse.

SB179 is about fairness. It makes sure repairs happen before lawsuits and stops attorneys from using these cases to get rich while working families pay the price. This bill will help keep construction going, keep jobs steady, and make housing more affordable for all of us.

Please pass SB179 so we can get back to work and make Hawai'i a place where people like me can actually afford to live.

Mahalo,

Federick Tamayo

February 11, 2025

Chair Scot Matayoshi
Vice Chair Cory Chun
Members of the House Committee on Consumer Protection & Commerce
Thirty-Third Legislature, Regular Session of 2025

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Mahalo,

Loyce Morris

February 11, 2025

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Thirty-Third Legislature, Regular Session of 2025

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Mahalo,

Spencer Orr

February 11, 2025

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Members of the House Committee on Consumer Protection & Commerce
Thirty-Third Legislature, Regular Session of 2025

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Randall Aoki

February 11, 2025

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Thirty-Third Legislature, Regular Session of 2025

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Travis Murakami

February 11, 2025

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Members of the House Committee on Consumer Protection & Commerce
Thirty-Third Legislature, Regular Session of 2025

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Mahalo,

Ricky Jermaine Lameg

February 11, 2025

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Thirty-Third Legislature, Regular Session of 2025

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Mahalo,

Brent Raymond

February 11, 2025

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Members of the House Committee on Consumer Protection & Commerce

Thirty-Third Legislature, Regular Session of 2025

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Mahalo,

Steve Anderson

February 11, 2025

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Vice Chair Cory Chun

Members of the House Committee on Consumer Protection & Commerce

Thirty-Third Legislature, Regular Session of 2025

RE: HB420 HD1 – Relating to Remedies

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Mahalo,

Ariel Agustin

February 11, 2025

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Vice Chair Cory Chun
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Thirty-Third Legislature, Regular Session of 2025

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Mahalo,

Alani Uyeno

The Honorable Scot Matayoshi
and Members of the Committee on Commerce and Consumer Protection
Hawai'i State House of Representatives
Hawai'i State Capitol
415 S. Beretania Street
Honolulu, HI 96813

RE: Strong Support for HB420 HD1 – Relating to Remedies

Dear Rep. Matayoshi, and Members of the Committee:

I am testifying in support of HB420 HD1 because it will ensure that homeownership remains attainable and provides a better process for homeowners to resolve alleged construction defects.

The Contractor Repair Act was originally designed to encourage cooperation between homeowners and builders, allowing defects to be identified and fixed without unnecessary legal battles. Unfortunately, loopholes in the current law have led to a rise in lawsuits that delay repairs, drive up housing costs, and discourage new home construction. This has made it harder for families—especially first-time homebuyers—to afford a home in Hawai'i.

The impact of these lawsuits goes beyond homebuilders. Families trying to buy homes face higher costs and fewer financing options because lenders are hesitant to approve loans for properties tied up in litigation. Homeowners dealing with defects are forced into drawn-out legal disputes instead of getting timely repairs. Even entire communities have suffered, with some homeowner associations advised to neglect maintenance to strengthen legal claims, leaving shared spaces in disrepair.

HB420 HD1 helps address these problems by restoring the original intent of the Contractor Repair Act. It ensures builders have the opportunity to make repairs before a lawsuit is filed, reduces unnecessary legal costs, and makes the process fairer for homeowners. This bill will help keep housing affordable, protect communities, and ensure homeowners get the timely repairs they deserve.

I urge the committee to pass HB420 HD1 to support homebuyers, homeowners, and Hawai'i's housing future.

Thank you.

Raphael Tran

raphael@kyinternational.com

February 11, 2025

Chair Scot Matayoshi

Vice Chair Cory Chun

Members of the House Committee on Consumer Protection & Commerce

Thirty-Third Legislature, Regular Session of 2025

RE: HB420 HD1 – Relating to Remedies

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Mahalo,

Brett Johnson

The Honorable Scot Matayoshi, Chair
and Members of the Committee on Commerce and Consumer Protection
Hawai'i State House of Representatives
Hawai'i State Capitol
415 S. Beretania Street
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I John Mendonca, am testifying in **strong support of HB420 HD1** because it will ensure that homeownership remains attainable and provides a better process for homeowners to resolve alleged construction defects.

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February 11, 2025

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Thirty-Third Legislature, Regular Session of 2025

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Mahalo,

Bubba Makinney

February 11, 2025

Chair Scot Matayoshi

Vice Chair Cory Chun

Members of the House Committee on Consumer Protection & Commerce

Thirty-Third Legislature, Regular Session of 2025

RE: HB420 HD1 – Relating to Remedies

Aloha Chair Matayoshi, Vice Chair Chun, and Members of the Consumer Protection & Commerce Committee,

I'm a member of the Plumbers & Fitters UA Local 675, and I'm writing to **strongly support SB179** because it will help keep people working and make sure more local families can afford a home.

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Mahalo,

Dedric Kea

February 11, 2025

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Members of the House Committee on Consumer Protection & Commerce

Thirty-Third Legislature, Regular Session of 2025

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Mahalo,

Donald Barenaba

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Hawai'i State House of Representatives
Hawai'i State Capitol
415 S. Beretania Street
Honolulu, HI 96813

RE: Strong Support for HB420 HD1 – Relating to Remedies

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Mahalo!

Melvin Goldstein-Kaehu

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and Members of the Committee on Commerce and Consumer Protection
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Henry T Y Kwok

Henry@kyinternational.com

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John Oury

The Honorable Scot Matayoshi, Chair
and Members of the House Committee on Consumer Protection and Commerce
Hawai'i State House of Representatives
Hawai'i State Capitol
415 S. Beretania Street
Honolulu, HI 96813

RE: Strong Support for HB420 HD1 – Relating to Remedies

Aloha Chair Matayoshi, Vice Chair Chun, and Members of the Committee,

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The impact of these lawsuits goes beyond homebuilders. Families trying to buy homes face higher costs and fewer financing options because lenders are hesitant to approve loans for properties tied up in litigation. Homeowners dealing with defects are forced into drawn-out legal disputes instead of getting timely repairs. Even entire communities have suffered, with some homeowner associations advised to neglect maintenance to strengthen legal claims, leaving shared spaces in disrepair.

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Jaycob Quemado-Smith

February 11, 2025

Chair Scot Matayoshi

Vice Chair Cory Chun

Members of the House Committee on Consumer Protection & Commerce

Thirty-Third Legislature, Regular Session of 2025

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SB179 is about fairness. It makes sure repairs happen before lawsuits and stops attorneys from using these cases to get rich while working families pay the price. This bill will help keep construction going, keep jobs steady, and make housing more affordable for all of us.

Please pass SB179 so we can get back to work and make Hawai'i a place where people like me can actually afford to live.

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Jerome Kupukaa

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Mikal Yonehara

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Jestin Barayuga

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Val Tiburcio

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Albijay Brillantes

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Keaka Fernandez

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HB420 HD1 helps address these problems by restoring the original intent of the Contractor Repair Act. It ensures builders have the opportunity to make repairs before a lawsuit is filed, reduces unnecessary legal costs, and makes the process fairer for homeowners. This bill will help keep housing affordable, protect communities, and ensure homeowners get the timely repairs they deserve.

I urge the committee to pass HB420 HD1 to support homebuyers, homeowners, and Hawai'i's housing future.

Mahalo!

Allan Sildora, Jr.

HB-755-HD-1

Submitted on: 2/11/2025 2:06:24 PM

Testimony for CPC on 2/12/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Heather Desensi	Individual	Support	Written Testimony Only

Comments:

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LATE

HB-420-HD-1

Submitted on: 2/12/2025 10:14:49 AM

Testimony for CPC on 2/12/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Kevin mccallum	Individual	Support	Written Testimony Only

Comments:

As a consumer, and a licensed contractor in the state of Hawai'i for 20 years, I urge you to pass HB420 HD 1. The current right to repair law is outdated and unclear. I think it is important to have a clear set of rules on how construction defects/issues are adressed both from the contractors side and from the consumers side. Until we make these changes there will be exploitation of the current laws to benefit parties that truly do not care what the issues are, but know they can exploit the system for financial gain.

Please address this issue and help make Hawai'i a better place. Thank you!

Kevin McCallum

William M. McKeon
215 Naniloa Drive
Wailuku, Hawaii 96793

LATE

February 12, 2025

House of Representatives - Committee on Commerce and Consumer Protection
The Thirty-Third Legislature, Regular Session of 2025

Testimony in Opposition to HB 420 RELATING TO REMEDIES

Dear Chair, Vice-Chair and Committee Members,

I write to strongly **oppose** Bill 420, which overwhelmingly favors wealthy mainland developers and builders at the expense of local homeowners, especially those in Lahaina.

I have lived full-time on Maui for the past 40 years with my Maui born and raised wife, a retired public school teacher. As a resident and attorney working daily to help about 600 Lahaina fire victims rebuild, I have deep concerns about the high costs this bill will impose on homeowners.

As evidenced by the rebuilding following Hurricane Iniki in 1992, Hawai'i has already seen the consequences of rushed and substandard construction in the aftermath of a disaster. This bill as written would embolden wealthy developers and builders to prioritize profit over safety, fast-tracking construction with little regard for building code compliance, quality or long-term repair and maintenance costs. Over 2,200 homes and buildings will be constructed in Lahaina in the coming years, and limiting remedies will cost Lahaina owners millions of dollars.

Local homeowners, who are already struggling, will bear the financial burden of these decisions. Access to justice will become significantly more difficult given the many hurdles that the developer/builder lobby wants to erect by limiting homeowner remedies. For example, D.R. Horton has a market capitalization of over \$40 billion (<https://companiesmarketcap.com/dr-horton/marketcap/>) and net income of \$4.8 billion (<https://www.macrotrends.net/stocks/charts/DHI/dr-horton/net-income>). Large developers and builders have vast resources to avoid and delay accountability. Local families can barely afford to buy a home, let alone engage in costly and protracted legal battles to fix those homes.

Hawaii's housing crisis is undeniable. UHERO's The Hawaii Housing Factbook 2024 <https://uhero.hawaii.edu/the-hawaii-housing-factbook-2024/> reports what we all know: Hawai'i has the highest land and construction costs in the nation. UHERO concludes that while these barriers are significant, they are compounded by various regulatory barriers, like permit delays, zoning laws, etc. These barriers are the problem that needs to be addressed; limiting consumer remedies is not the answer.

Thank you for your time and consideration.

William M. McKeon