



February 24, 2025

The Honorable David A. Tarnas, Chair
The Honorable Mahina Poepoe, Vice Chair
House Committee on Judiciary & Hawaiian Affairs
State House of Representatives
State Capitol
Honolulu, HI 96813

Subject: **H.B. 420, H.D. 2 RELATING TO REMEDIES**
Hearing: Wednesday, February 26, 2025; 2:00 pm
Conference Room 325, State Capitol

Dear Chair Tarnas, Vice Chair Poepoe, 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 defects. 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.

Construction defects lawsuits not only delay the construction and sale of new homes, they also add to the overall cost of housing and jeopardize Hawaii's building industry. These lawsuits have not only delayed the construction of much-needed homes for Hawaii's residents, they have also affected people's livelihoods; decreased housing supply; restricted mortgage lending; affected insurance rates; and have increased the overall cost of housing.

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.

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 provider of workforce housing for local families, we find this to be both undesirable and unacceptable.

HB420, H.D. 2, 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.

Quentin Machida
President and CEO

HB-420-HD-2

Submitted on: 2/21/2025 2:22:52 PM

Testimony for JHA on 2/26/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Hawaii LECET	Individual	Support	Written Testimony Only

Comments:

Hawaii LECET supports HB420 HD2.



HAWAII REGIONAL COUNCIL OF CARPENTERS

February 26, 2025

TO: The Honorable David A. Tarnas, Chair
The Honorable Mahina Poepoe, Vice Chair
and Members of the House Committee on Judiciary & Hawaiian Affairs

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

The Honorable David Tarnas, Chair
and Members of the House Committee on Judiciary and Hawaiian Affairs
Hawai'i State House of Representatives
Hawai'i State Capitol
415 S. Beretania Street
Honolulu, HI 96813

RE: Strong Support for HB420 HD2 – Relating to Remedies

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

I am testifying in **strong support of HB420 HD2** 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 HD2 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 HD2 to support homebuyers, homeowners, and Hawai'i's housing future.

Mahalo!

Barry Sugita – Manager
Honolulu Fire Protection
94-1388 Moaniani St. #236
Waipahu, HI 96797
barry@honolulufire.net

HB-420-HD-2

Submitted on: 2/21/2025 2:45:37 PM

Testimony for JHA on 2/26/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Brent Matson	Bruce Matson Company, Inc.	Support	Written Testimony Only

Comments:

I strongly support this house bill. As a specialty contractor we are facing huge insurance premium increases due to litigation that follow completion of nearly every residential project we work on. We may have small issues that are easily repaired included on these claims, or have no issues yet we are included in these lawsuits and our insurance company has to defend us. I believe this is one of the reasons our premiums go up and we pass that cost along in the bids we submit to build these projects increasing the costs to the buyers. We recently recieved a claim on a project completed almost 10 years ago that had no claimed defects, how is that possible? This should not be allowed by attorneys that are only looking to line their wallets on the backs of the local contractors and ultimately home buyers. We have some of the highest housing prices in the nation and this is your opportunity to do something to slow the cost increases, please do it. Give us as contractors the opportunity to fix these issues without attorneys and insurance companies getting involved and driving up the cost. Thank you.



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

February 26, 2025

House Committee on Judiciary & Hawaiian Affairs

Rep. David Tarnas, Chair

Rep. Mahina Poepoe, Vice Chair

TESTIMONY IN SUPPORT

House Bill 420 HD2, Relating to Remedies

Aloha Chair Tarnas, Vice Chair Poepoe, 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 HB420 HD2**, 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 HB420 HD2 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.

HB-420-HD-2

Submitted on: 2/22/2025 8:23:51 AM

Testimony for JHA on 2/26/2025 2:00:00 PM

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

Comments:

The Honorable David Tarnas, Chair

and Members of the House Committee on Judiciary and Hawaiian Affairs

Hawai'i State House of Representatives

Hawai'i State Capitol

**415 S. Beretania Street
Honolulu, HI 96813**

RE: Support for HB420 HD2

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

My name is Guy Taylor, and I am a general contractor here in Hawaii. I am testifying in strong support of HB420 HD2.

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 Hawaii 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 Hawaii 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 HD2 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 HD2 to support both the Homebuyers as well as the building industry here in Hawaii.

Thank you

Guy Taylor

Z Contractors Inc.

gtaylorhawaii@gmail.com

February 26, 2025

The Honorable David A. Tarnas, Chair

House Committee on Judiciary & Hawaiian Affairs
State Capitol, Conference Room 325 & Videoconference

RE: House Bill 420, HD2, Relating to Remedies

HEARING: Wednesday, February 26, 2025, at 2:00 p.m.

Aloha Chair Tarnas, Vice Chair Poepoe, 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, HD2, which clarifies the applicability of the statute of repose for actions arising from construction defects. Specifies that a plaintiff's failure to plead with particularity the claim of fraudulent concealment, if the plaintiff raises the defense, subjects the plaintiff to liability for the costs incurred by the defendant, including attorneys' fees and costs. 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.



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 24, 2025

The Honorable David A. Tarnas, Chair and
the Members of the House Committee on Judiciary and Hawaiian Affairs
Hawai'i State Capitol
415 South Beretania Street
Honolulu, Hawai'i 96813

Dear Chair Tarnas and Committee Members:

Subject: House Bill 420 HD2 – Relating to Remedies

The Mutual Housing Association of Hawai'i, Inc. ("Mutual Housing") strongly supports House Bill 420 HD2, 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.

Mutual Housing is currently experiencing first-hand how wasteful construction litigation can impact innocent parties. Our organization developed the Kūlia affordable rental community in the Ho'opili master-planned community in 2020. Kūlia has not experienced any serious construction defects, however, attorneys that have filed a class action suit against D. R. Horton sent a letter last year trying to draw us into their class action lawsuit. We explained that we do not qualify to be a member of their class action as we are not a homebuyer and we had not experienced any construction problems in our development. Regardless of formal communication from our attorneys, these attorneys have refused to acknowledge our correspondence and we have had to file two legal motions to be removed from their class action. We are confounded that we have had to fight for our right to not be a part of their class action suit. Our non-profit has incurred unnecessary legal costs to prevent this misrepresentation and manipulation.

We believe that HB420 HD2 offers a sensible solution by establishing clearer guidelines that will lead to a more collaborative and fair process when construction defects arise. 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. The bill before you 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

HB-420-HD-2

Submitted on: 2/24/2025 7:18:55 AM

Testimony for JHA on 2/26/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Alex Kwon	Paradigm Construction LLC	Support	Written Testimony Only

Comments:

The Honorable David Tarnas, Chair

and Members of the House Committee on Judiciary and Hawaiian Affairs

Hawai‘i State House of Representatives

Hawai‘i State Capitol

415 S. Beretania Street
Honolulu, HI 96813

RE: Strong Support for HB420 HD2 – Relating to Remedies

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

I am testifying in strong support of HB420 HD2 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 HD2 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.

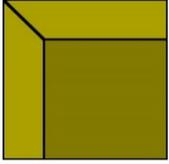
I urge the committee to pass HB420 HD2 to support homebuyers, homeowners, and Hawai'i's housing future.

Mahalo!

Alex M Kwon

President

Paradigm Construction LLC



Newport Pacific Cabinets, Inc.

99-129 B WAIUA WAY, AIEA, HAWAII 96701

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



February 24, 2025

The Honorable David Tarnas, Chair
and Members of the House Committee on Judiciary and Hawaiian Affairs
Hawai'i State House of Representatives
Hawai'i State Capitol
415 S. Beretania Street
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I urge the committee to pass HB420 HD2 to support homebuyers, homeowners, and Hawai'i's housing future.

Mahalo!

The Honorable David Tarnas, Chair
and Members of the House Committee on Judiciary and Hawaiian Affairs
Hawai'i State House of Representatives
Hawai'i State Capitol
415 S. Beretania Street
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The Honorable David Tarnas, Chair
and Members of the House Committee on Judiciary and Hawaiian Affairs
Hawai'i State House of Representatives
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415 S. Beretania Street
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I urge the committee to pass HB420 HD2 to support homebuyers, homeowners, and Hawai'i's housing future.

Mahalo!

Joey Gomez

The Honorable David Tarnas, Chair
and Members of the House Committee on Judiciary and Hawaiian Affairs
Hawai'i State House of Representatives
Hawai'i State Capitol
415 S. Beretania Street
Honolulu, HI 96813

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Mahalo!

Craig Nishimura

craign@grayhongojima.com

February 24, 2025

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and Members of the House Committee on Judiciary and Hawaiian Affairs
Hawai'i State House of Representatives
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I urge the committee to pass HB420 HD2 to support homebuyers, homeowners, and Hawai'i's housing future.

Mahalo!

A handwritten signature in black ink, appearing to be 'Steven Wong', written over a large, light-colored oval scribble.

Steven Wong
Project Manager
Tru-Door Hawaii
(808) 682-0307

February 24, 2025

The Honorable David Tarnas, Chair
and Members of the House Committee on Judiciary and Hawaiian Affairs
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 HD2 to support homebuyers, homeowners, and Hawai'i's housing future.

Mahalo!



Charles Dickey
President
Tru-Door Hawaii
(808) 682-0307

The Honorable David Tarnas, Chair
and Members of the House Committee on Judiciary and Hawaiian Affairs
Hawai'i State House of Representatives
Hawai'i State Capitol
415 S. Beretania Street
Honolulu, HI 96813

RE: Strong Support for HB420 HD2 – Relating to Remedies

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

I am testifying in **strong support of HB420 HD2** 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. My co-worker had this problem when she was buying her home last year. 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 HD2 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 HD2 to support homebuyers, homeowners, and Hawai'i's housing future.

Mahalo!

DeAnna Hayashi



February 26, 2025

TO: HONORABLE DAVID TARNAS, CHAIR, HONORABLE MAHINA POEPOE, VICE CHAIR, COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS.

SUBJECT: **SUPPORT OF H.B. 420 HD2, RELATING TO REMEDIES.** Clarifies the applicability of the statute of repose for actions arising from construction defects. Specifies that a plaintiff's failure to plead with particularity the claim of fraudulent concealment, if the plaintiff raises the defense, subjects the plaintiff to liability for the costs incurred by the defendant, including attorneys' fees and costs. 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 26, 2025
TIME: 2:00 p.m.
PLACE: Capitol Room 325

Dear Chair Tarnas, Vice Chair Poepoe 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 HD2, which clarifies the applicability of the statute of repose for actions arising from construction defects. Specifies that a plaintiff's failure to plead with particularity the claim of fraudulent concealment, if the plaintiff raises the defense, subjects the plaintiff to liability for the costs incurred by the defendant, including attorneys' fees and costs. 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.



GENERAL
CONTRACTORS
ASSOCIATION
OF HAWAII

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 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 HD2 to help alleviate some of the increasing costs of housing for local families.

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

The Honorable David Tarnas, Chair
and Members of the House Committee on Judiciary and Hawaiian Affairs
Hawai'i State House of Representatives
Hawai'i State Capitol
415 S. Beretania Street
Honolulu, HI 96813

RE: Strong Support for HB420 HD2 – Relating to Remedies

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

I am testifying in **strong support of HB420 HD2** 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 HD2 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 HD2 to support homebuyers, homeowners, and Hawai'i's housing future.

Mahalo!

Carole Ueki

carole@kyinternational.com

The Honorable David Tarnas, Chair
and Members of the House Committee on Judiciary and Hawaiian Affairs
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 HD2 to support homebuyers, homeowners, and Hawai'i's housing future.

Mahalo!



Young Democrats of Hawai'i

Executive Board:

Cori Terayama
President

Cameron Deptula
Vice-President

Jimmy Nguyen
Secretary

Isaiah Baclaan
Treasurer

Cindy Ng
**Young Democrats of
America National
Committeewoman**

Maria Glodilet Rallojay
**Membership and Events
Director**

Dave Nagaji
Campaign Director

Jennifer Tse
Internal Affairs Director

February 24, 2025

**RE: Testimony in Support of HB420 HD2, Relating to Remedies
Hearing Date: Wednesday, February 26, 2025 at 2:00 P.M.
Conference Room: 325**

Aloha e Chair Tarnas, Vice Chair Poepoe, and Members of the House Committee on Judiciary & Hawaiian Affairs,

The Young Democrats of Hawai'i (YDHI) **SUPPORTS HB420 HD2, RELATING TO REMEDIES.**

HB420 HD2 would clarify the applicability of the statute of repose for actions arising from construction defects and specifies that a plaintiff's failure to plead with particularity the claim of fraudulent concealment, if the plaintiff raises the defense, subjects the plaintiff to liability for the costs incurred by the defendant, including attorneys' fees and costs. The bill would further clarify the required contents of a notice of claim of construction defect served on a contractor and 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. Lastly, the bill would limit the amount a claimant can recover if the claimant rejects a contractor's reasonable proposal for inspection or a reasonable offer to remedy and would further clarify the consequences of rejecting an offer of settlement. Effective 7/1/3000.

YDHI supports this bill because it addresses key factors driving up housing costs—unpredictable litigation risks and excessive insurance costs, which directly limit housing development and affordability. Housing prices have tripled since the 1990s. For many young adults, homeownership feels increasingly out of reach, and we are being pushed out of the State to look for more affordable options in the continental U.S. One of the underlying causes of these challenges is the legal environment surrounding construction defect claims. Developers factor potential litigation expenses into their business models, resulting in fewer housing projects and higher prices for those that are built.

By requiring particularity in claims of fraudulent concealment and adjusting the process for accepting settlement offers, it promotes good-faith resolutions while discouraging litigation strategies that unnecessarily drive up costs. Young adults, many of whom are first-time homebuyers, benefit when housing markets are



Young Democrats of Hawai'i

predictable and accessible, rather than being burdened by excessive legal costs embedded into home prices.

YDHI is an organization whose mission is to increase the political strength of young democrats between 18 and 35 years old by providing opportunities for civic engagement, political advocacy, and participation in the Democratic Party of Hawai'i. YDHI consists of over 1,600 members.

Mahalo nui loa for the opportunity to testify in SUPPORT of HB420 HD2, RELATING TO REMEDIES.

February 24, 2025

The Honorable David Tarnas, Chair
and Members of the House Committee on Judiciary and Hawaiian Affairs
Hawai'i State House of Representatives
Hawai'i State Capitol
415 S. Beretania Street
Honolulu, HI 96813

Re: Testimony in SUPPORT of HB420 HD2

Dear Chair Tarnas and Members of the House Committee on Judiciary and Hawaiian Affairs,

I am President and CEO of Case Lombardi A Law Corporation, and have been practicing law in Hawaii with an emphasis on development and land use in Hawaii for more than 40 years. I stand on my previous testimony in relation to this bill. With respect to the current version, I support HB420 HD2 because it is an improvement on the existing Contractor Repair Act. Requiring a plaintiff to plead with particularity is useful, and it should be kept in any final bill. However, weakening the statute of repose provisions, as the HD2 draft does, reduces the value of such repose provisions by eliminating the certainty repose provisions otherwise create.

Very truly yours,

CASE LOMBARDI



Dennis M. Lombardi

The Honorable David Tarnas, Chair
and Members of the House Committee on Judiciary and Hawaiian Affairs
Hawai'i State House of Representatives
Hawai'i State Capitol
415 S. Beretania Street
Honolulu, HI 96813

RE: Strong Support for HB420 HD2 – Relating to Remedies

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

I am testifying in **strong support of HB420 HD2** 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 HD2 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 HD2 to support homebuyers, homeowners, and Hawai'i's housing future.

Mahalo!



HAWAIIANA

Hawaiiana Management Company, Ltd.
Pacific Park Plaza, Suite 700
711 Kapiolani Boulevard
Honolulu, Hawaii 96813
Tel: (808) 593-9100
Fax: (808) 593-6333

February 24, 2025

The Honorable David Tarnas, Chair
and Members of the House Committee on Judiciary and Hawaiian Affairs
Hawai'i State House of Representatives
Hawai'i State Capitol
415 S. Beretania Street
Honolulu, HI 96813

RE: Strong Support for HB420 HD2 – Relating to Remedies

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

My name is Jon McKenna, and I am the President of Hawaiiana Management Company, Ltd., Hawaii's leading association management firm, overseeing more than 700 associations across six islands. With over 25 years in property management and related fields, I have worked closely with condominium boards and associations of apartment owners (AOAOs).

These boards are composed of volunteer homeowners who dedicate their time to managing their communities. However, their volunteer status and varying levels of experience in complex legal and construction matters make them vulnerable to aggressive tactics employed by some attorneys. These attorneys often pressure boards into joining class-action construction defect lawsuits, even when issues could be resolved through more cooperative and less adversarial means.

The current loopholes in the Contractor Repair Act have allowed this exploitation to flourish. Instead of focusing on timely repairs, boards are drawn into prolonged legal battles that increase legal fees, burden homeowners with potential assessments, and strain community relations. Entire communities have been advised to neglect maintenance to strengthen legal claims, leaving shared spaces in disrepair and homeowners frustrated.

HB420 HD2 will help restore the original intent of the Contractor Repair Act by promoting a cooperative process that allows builders to address defects before litigation is pursued. This reform will protect our volunteer board members from undue legal pressures, ensure the financial stability of our communities, and foster a more harmonious living environment for all residents. It will also help keep housing affordable by reducing unnecessary legal costs and ensuring homeowners receive timely repairs.

I urge the committee to pass HB420 HD2 to support homebuyers, homeowners, and Hawai'i's housing future.

Very truly yours,

Jon McKenna, President
Hawaiiana Management Company, Ltd.

Leonard K.P. Leong
President

February 24, 2025

The Honorable David Tarnas, Chair
and Members of the House Committee on Judiciary and Hawaiian Affairs
Hawai'i State House of Representatives
Hawai'i State Capitol
415 S. Beretania Street
Honolulu, HI 96813



RE: Strong Support for HB420 HD2 – Relating to Remedies

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

As a concerned citizen I support HB420 since it will help to eliminate delay in house construction and purchase.

Housing shortage will only get worse if we are continuously fighting lawsuits.

Mahalo!


Leonard K.P. Leong
President

The Honorable David Tarnas, Chair
and Members of the House Committee on Judiciary and Hawaiian Affairs
Hawai'i State House of Representatives
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Mahalo!

Vinyl Tech and Masonry, Inc.

Lynne Sokugawa

The Honorable David Tarnas, Chair
and Members of the House Committee on Judiciary and Hawaiian Affairs
Hawai'i State House of Representatives
Hawai'i State Capitol
415 S. Beretania Street
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Mahalo!

Vinyl Tech and Masonry, Inc.

Dayle Tejada

The Honorable David Tarnas, Chair
and Members of the House Committee on Judiciary and Hawaiian Affairs
Hawai'i State House of Representatives
Hawai'i State Capitol
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Mahalo!

Hawaii Fence Builders

Parris Ernst

The Honorable David Tarnas, Chair
and Members of the House Committee on Judiciary and Hawaiian Affairs
Hawai'i State House of Representatives
Hawai'i State Capitol
415 S. Beretania Street
Honolulu, HI 96813

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Vinyl Tech and Masonry, Inc.

Chris Sokugawa

The Honorable David Tarnas, Chair
and Members of the House Committee on Judiciary and Hawaiian Affairs
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Hawai'i State Capitol
415 S. Beretania Street
Honolulu, HI 96813

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Mahalo!

Vinyl Tech and Masonry, Inc.

Shawn Sokugawa

The Honorable David Tarnas, Chair
and Members of the House Committee on Judiciary and Hawaiian Affairs
Hawai'i State House of Representatives
Hawai'i State Capitol
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Mahalo!

Vinyl Tech and Masonry, Inc.

Vince Sokugawa



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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info@holomuacollaborative.org

HolomuaCollaborative.org

Page 1 of 2

Committee: House Committee on Judiciary and Hawaiian Affairs
Bill Number: HB 420 HD2, Relating to Remedies
Hearing Date and Time: February 26, 2025 at 2:00pm (Room 325)
Re: Testimony of Holomua Collaborative in support

Aloha Chair Tarnas, Vice Chair Poepoe, and Committee members:

We write in support of HB 420 HD2, 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

The Honorable David Tarnas, Chair
and Members of the House Committee on Judiciary and Hawaiian Affairs
Hawai'i State House of Representatives
Hawai'i State Capitol
415 S. Beretania Street
Honolulu, HI 96813

RE: Strong Support for HB420 HD2 – Relating to Remedies

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

I am testifying in **strong support of HB420 HD2** 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.

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 is “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.

HB420 HD2 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 HD2 to support homebuyers, homeowners, and Hawai'i's housing future.

Mahalo!



Keith Emerson
President, Island Flooring

February 26, 2025

TO: Chair Tarnas and members of the House Judiciary & Hawaiian Affairs Committee
RE: HB 420, HD2 Relating to Remedies

Dear Chair Tarnas 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, HD2.

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. Consumers would be satisfied with repair or remedy for defects if it were. 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 worsens.

By protecting contractors from unscrupulous litigation, HB420 also protects affordable workforce housing for our residents. **Let's advance HB 420, HD2.**

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



Commercial Sheetmetal Co. Inc.

94-142 LEOLEO STREET * WAIPAHU, HAWAII 96797

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

2/25/2025

The Honorable David Tarnas, Chair
and Members of the House Committee on Judiciary and Hawaiian Affairs
Hawai'i State House of Representatives
Hawai'i State Capitol
415 S. Beretania Street
Honolulu, HI 96813

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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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I urge the committee to pass HB420 HD2 to support homebuyers, homeowners, and Hawai'i's housing future.

Respectfully,

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



Testimony of
Pacific Resource Partnership

Hawai'i State Legislature, House Committee on Judiciary & Hawaiian Affairs
Honorable Chair David Tarnas and Honorable Vice Chair Mahina Poepoe
Wednesday, February 26, 2025

Subject: Strong Support for HB420, HD2 – Relating to Remedies

Aloha Chair Tarnas, Vice Chair Poepoe, 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, HD2 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, HD2 restores the original purpose of the Contractor Repair Act and ensures that:

- Homeowners receive timely repairs without unnecessary legal intervention.
- 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.



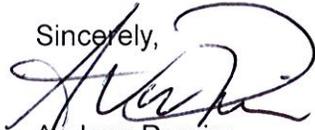
We urge this committee to pass HB420, HD2 and take a stand against the legal abuse that is stalling much-needed housing development in Hawai'i.

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





February 25, 2025

The Honorable David Tarnas, Chair
and Members of the House Committee on Judiciary and Hawaiian Affairs
Hawai'i State House of Representatives
Hawai'i State Capitol
415 S. Beretania Street Honolulu, HI 96813

RE: **HB 420, HD2 – Relating to Remedies**
Hearing Date: Wednesday, February 26, 2025 at 2:00pm
Conference Room 325, State Capitol

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

Mahalo for the opportunity to submit testimony on behalf of D.R. Horton Hawaii in **STRONG SUPPORT** of HB 420, HD2 – RELATING TO REMEDIES. This bill seeks to reform the Contractor Repair Act (CRA) under HRS § 672E and clarify important aspects of the statute of repose under HRS § 657-8. D.R. Horton is one of Hawaii's largest homebuilders and has been providing affordable housing, to first time buyers and workforce housing for Hawaii's families throughout the State for over fifty years. D.R. Horton Hawaii is a leader in building quality homes and condominiums and is actively developing our Ho`opili master planned community in Ewa Beach-East Kapolei.

D.R. Horton Hawaii is among several Hawaii homebuilders including Gentry Homes, Castle & Cooke Hawaii, Haseko and Stanford Carr Development, that play a pivotal role in addressing our state's housing shortage. We are committed to developing mixed residential communities that maximize Oahu's limited land and offer affordable options for Hawaii's working residents and families.

We are in the midst of a housing crisis that has been significantly exacerbated by the current legal environment. Projects that include multi-family units, condominiums, townhouses, and production housing are prime targets for class-action and condominium lawsuits filed by mainland construction defect attorneys in cookie-cutter cases. The numbers are alarming - before 2010, only six construction defect lawsuits were filed in Hawaii; since 2010, that number has surged to 65—a 10-fold increase. This surge in litigation poses a serious threat to future housing development. In five recent class-action lawsuits, attorneys collected nearly \$50 million in fees, with some cases dragging on for over eight years—leaving homeowners and builders in prolonged uncertainty.

What is more concerning is that once a class-action lawsuit is filed and certified, builders are prohibited from directly communicating with homeowners to earnestly address legitimate repairs. As a result, many homeowners do not realize they are included in a lawsuit, remain unaware of their right to opt out and encounter difficulties opting out.

HB 420 was introduced to address these challenges with key statutory clarifications and reforms that will protect both homeowners and builders, while promoting a more cooperative and efficient resolution process. Specifically, the bill would:

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

The proposed language in HRS § 657-8(a) would clarify that the statute is applicable to all types of actions by stating that "No action, whether in contract, tort, statute, or otherwise, to recover damages for any injury to property, real or personal, or for bodily injury or wrongful death, 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" which aligns with the fundamental purpose of the statute of repose.

The bill also clarifies that the statute of repose begins at the earlier of the following times: "(1) The issuance of a temporary certificate of occupancy; (2) The issuance of a certificate of occupancy; or (3) The filing of an affidavit of publication and notice of completion within the circuit court of the judicial circuit where the property is situated in compliance with section 507-43(f). If the improvement consists of multiple buildings or improvements, each building or improvement shall be considered as a separate improvement for purposes of determining the limitations period set forth in this section."

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. 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 must describe the claims with enough specificity for respondents to understand the potential defect. The claimants should also provide existing reports, photographs, and testing results and be required to share them, facilitating timely and effective repairs. Importantly, these amendments do not preclude the ability to file a lawsuit but do promote transparency and informed decision-making amongst claimants and potential class members.

4. 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.

5. 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.

HB 420 strikes a balanced approach that safeguards homeowners' rights while allowing builders to continue addressing Hawaii's housing needs. By ensuring that legitimate defects are resolved swiftly and fairly, these reforms help reduce unnecessary litigation that ultimately burdens homeowners, builders, and the broader community. For the sake of Hawaii's families and the long-term stability of our housing market, I respectfully urge you to pass HB 420. Mahalo for your consideration, it is much appreciated.

Sincerely,



Tracy Tonaki
President
Hawaii Division



1088 BISHOP STREET #408
HONOLULU, HI 96813
PH: (808) 597-1216

GREGG S. SERIKAKU
EXECUTIVE DIRECTOR

Via E-File

February 25, 2025

Representative David A. Tarnas, Chair
Representative Mahina Poepoe, Vice-Chair
House Committee on Judiciary and Hawaiian Affairs

Chair Tarnas, Vice Chair Poepoe, and Members of the Committee:

SUBJECT: HB420 HD2 Relating to Remedies

The Plumbing and Mechanical Contractors Association of Hawaii is the State's largest association representing contractors in the plumbing, air conditioning, refrigeration, steamfitter, and fire sprinkler trades throughout Hawaii.

PAMCA **supports** HB420 HD2, which clarifies the applicability, requirements, actions, and remedies under the Contractor Repair Act.

The Contractor Repair Act was originally created to provide contractors and homeowners a collaborative process to identify and repair construction defects, without having to resort to litigation. This process has worked to fairly deliver countless projects which meet both the homeowner's and contractor's expectations.

Unfortunately, loopholes in the Contractor Repair Act have been used to circumvent the collaborative process between homeowners and contractors, and have been exploited to pursue open-ended class action lawsuits resulting in substantial legal costs, delays in project delivery, higher insurance premiums, and a decreased willingness by contractors and developers to pursue homebuilding.

The amendments proposed in HB420 HD2 closes the loopholes in the current Contractor Repair Act, and ensures fairness for all parties involved.

Thank you for this opportunity to provide our testimony in support of HB420 HD2.

Respectfully,

A handwritten signature in black ink that reads "Gregg S. Serikaku".

Gregg S. Serikaku
Executive Director

**Testimony to the House Committee on Judiciary & Hawaiian Affairs
Representative David A. Tarnas, Chair
Representative Mahina Poepoe, Vice Chair**

**Wednesday, February 26, 2025, at 2:00PM
Conference Room 325 & Videoconference**

RE: HB420 HD2 Relating to Remedies

Aloha e Chair Tarnas, Vice Chair Poepoe, 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 2 (HB420 HD2), which clarifies the applicability of the statute of repose for actions arising from construction defects. Specifies that a plaintiff's failure to plead with particularity the claim of fraudulent concealment, if the plaintiff raises the defense, subjects the plaintiff to liability for the costs incurred by the defendant, including attorneys' fees and costs. 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.

HB420 HD2 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 faces a worsening housing crisis, intensified by the August 2023 Maui wildfires and rising litigation and insurance costs that deter development and drive up prices. The state has the nation's highest housing costs, with home prices more than tripling since the 1990s. Excessive construction defect litigation increases insurance costs and discourages developers, reducing housing supply. Existing laws, including the Contractor Repair Act and the statute of repose, fail to resolve claims efficiently, allowing vague defect complaints that prolong disputes and inflate costs. To address these issues, the legislature seeks legal reforms to promote fairness, efficiency, and affordability in housing.

The proposed bill clarifies construction defect claims, refines the statute of repose, and strengthens pleading requirements for fraudulent concealment. It establishes clear timelines for inspections, settlements, and repairs while limiting recovery amounts if claimants reject reasonable repair offers. By curbing frivolous litigation and excessive insurance costs, the bill encourages development and improves housing affordability. The Chamber supports this bill as a vital step toward easing the housing crisis, fostering responsible growth, and streamlining dispute resolution.

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



Chamber *of* Commerce HAWAII



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 420 House Draft 2. Thank you for the opportunity to testify.

The Honorable David Tarnas, Chair
and Members of the House Committee on Judiciary and Hawaiian Affairs
Hawai'i State House of Representatives
Hawai'i State Capitol
415 S. Beretania Street
Honolulu, HI 96813

RE: Strong Support for HB420 HD2 – Relating to Remedies

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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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I urge the committee to pass HB420 HD2 to support homebuyers, homeowners, and Hawai'i's housing future.

Mahalo!

Iris Abe

iris@kyinternational.com

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

February 25, 2025

Subject: OPPOSITION TO HB420

Dear Chair Tarnas, Vice Chair Poepoe, and Members of the Committee on
Judiciary & Hawaiian Affairs:

We hereby submit this testimony to OPPOSE HB420-RELATING TO REMEDIES.

1. Requiring Inspections of Every Class Home Undermines the CRA's Purposes

We urge the Committee to amend HB420 to limit Contractor Repair Act ("CRA") inspections in class actions to **representative samplings** of class homes, rather than requiring inspection of **every** class home. Allowing builders to insist on inspections of all class homes soundly defeats the CRA's core purposes and endangers Hawai'i homeowners.

We are one of the few law firms representing homeowners in class actions where builder demands for CRA inspections on all class homes have stalled disposition of those claims **for years**. The dangers of allowing CRA inspections on every class home are established in two sample cases where builders exploited CRA inspections for delay and litigation advantage.

Sample Case #1: In 2015, we filed class action claims for owners of approximately 2,700 Hawai'i homes. Initial destructive testing that all parties attended in 2017 confirmed defects in structural components:



Thereafter, the builders mounted various legal challenges, including demands for CRA inspections on all class homes, stalling disposition of the claims.

From May 2021 - April 2023, litigation was stayed while the builder inspected nearly 600 class homes. After finding that the builders engaged in "undue delay in exercising its Contractor Repair Act rights," the Court

ended class home inspections. These claims are still not resolved and are set for trial in January 2026, **more than 10 years** after filing the initial class claims for those defects.

Sample Case #2: In 2021, we filed class action claims for owners of approximately 4,800 Hawai'i homes. Initial destructive testing that all parties attended in 2021 confirmed defects in structural components:



Since then, the builders demanded CRA inspections on all class homes, stalling disposition of the claims.

From January 2023 - November 2024, litigation was periodically stayed for CRA inspections. During that period, owners and associations of owners offered 2,109 homes for inspections; the builders completed more than 1,500 inspections and cancelled or waived approximately 250 inspections. The builders never made a single H.R.S. § 672E-4(d) offer within fourteen days of those inspections. The builders also demanded mediation pursuant to H.R.S. § 672E-7, however, they refuse to propose or agree to a mediator. These claims are still not resolved and are set for trial in July 2026, **nearly 5 years** after filing the initial class claims for those defects.

Inspections of All Class Homes Undermines the CRA: 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).

In Sample Case #1 and Sample Case #2, the parties have easily incurred thousands of hours of legal fees and millions in costs over the years since the original class claims for these products were filed - solely because the builders insisted on CRA inspections for every class home. All the while, thousands of Hawai'i homeowners are left holding their breath through every hurricane season when they are exposed to structural hazards in their homes.

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Inspections limited to *representative samplings* of class homes in class actions like Sample Case #1 and Sample Case #2 would have shaved years from litigation, spared all parties incredible litigation costs, and fostered the efficient disposition of these claims, which are all core purposes of the CRA. However, allowing builders to insist on inspecting every home in a class action – which is what occurred in Sample Case #1 and Sample Case #2 – has the opposite effects, undermining the CRA's core purposes of speedy, precise, and cost-efficient resolution of construction defects.

2. 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.

3. 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 risks undermining purchase agreements and warranties drafted in reliance on the 2004 version of H.R.S. § 672E for more than the last two decades. For example, terms in a purchase agreement that allow a buyer to recover attorney fees and costs if they prevail in litigation would be undermined by the HB420 provisions that impose new risks, by allowing attorney fee awards in favor of builders and against homeowners. Moreover, a 10-year warranty that allows a homeowner to recover the cost of repairs would be artificially capped to the cost of repairs during the 672E process, which is typically years before disposition of a case. In the meantime, many factors affect those costs.

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 interpretation and enforcement, and result in lengthy litigation over how to square HB420 with more than two decades of contracts made consistent with 672E's existing provisions. Undermining existing contracts and warranties undermines homeowner rights.

4. 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.**" HB420 (emphasis added). 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."

5. 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 the parties have 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.

6. 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 ("HRCP") 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."

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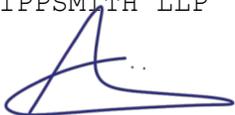
7. HB420 Creates a One-Sided, Pro-Contractor, Anti-Homeowner Process

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 can 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. We strongly urge the Legislature to protect Hawai'i homeowners by rejecting HB420 on all fronts.

Sincerely,

LIPPSMITH LLP



Graham B. LippSmith

The Honorable David Tarnas, Chair
and Members of the House Committee on Judiciary and Hawaiian Affairs
Hawai'i State House of Representatives
Hawai'i State Capitol
415 S. Beretania Street
Honolulu, HI 96813

RE: Strong Support for HB420 HD2 – Relating to Remedies

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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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Mahalo!

Jaime Bueno

The Honorable David Tarnas, Chair
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Donovan C. Hansen

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Crystal Balicoa

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Corinne Parras

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Darolee Prewitt

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Mahalo!

Robert Guerrero

The Honorable David Tarnas, Chair
and Members of the House Committee on Judiciary and Hawaiian Affairs
Hawai'i State House of Representatives
Hawai'i State Capitol
415 S. Beretania Street
Honolulu, HI 96813

RE: Strong Support for HB420 HD2 – Relating to Remedies

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

I am testifying in **strong support of HB420 HD2** because it will ensure that homeownership remains attainable and provides a better process for homeowners to resolve alleged construction defects.

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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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I urge the committee to pass HB420 HD2 to support homebuyers, homeowners, and Hawai'i's housing future.

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Carel Daniel Pancipanci

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Chase Nishimoto

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Ocean Ohelo

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Joseph Mikaele

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Nolan Kayahisa

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Delson Kaeo

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Dino Puropen

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Clinton Joseph Hatori

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Keola Ogitani

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Daniel Sarajina Jr.

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Jester Acosto

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Sonny Makekau

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Kenny Pacleb

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Chanso Rulona

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Keoni Maka

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Mahalo!

Bobby Brown

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Kaipo Galeon

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Mahalo!

Dawson K.T. Whitney

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Johnald G. Daguio

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Mahalo!

John Carlo Visaya

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Thach T. Phan

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Reymando Fiesta

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Titus Solmerin

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Mahalo!

Li'i Talalotu

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Robert F. Subee III

Hawai'i Construction Alliance

P.O. Box 179441
Honolulu, HI 96817
(808) 630-6689

February 26, 2025

The Honorable David Tarnas, Chair
The Honorable Mahina Poepoe, Vice Chair
and members
House Committee on Judiciary and Hawaiian Affairs
415 South Beretania Street
Honolulu, Hawai'i 96813

RE: Strong Support of HB420

Dear Chair Tarnas, Vice Chair Poepoe, and Members:

The Hawai'i Construction Alliance (HCA) is comprised of the Hawai'i Regional Council of Carpenters; the Laborers' International Union of North America, Local 368; the Operative Plasterers' and Cement Masons' Union, Local 630; International Union of Bricklayers & Allied Craftworkers, Local 1; and the Operating Engineers, Local Union No. 3. Together, the member unions of the Hawai'i Construction Alliance represent over 15,000 working men and women in the basic crafts of Hawai'i's construction industry.

The HCA strongly supports the passage of HB420 to address the escalating cost of developing desperately needed new housing in the state of Hawai'i. This measure creates a better path for homeowners to repair any defects to their homes, and it also protects them against predatory and litigious agents who seek to take advantage of them for their own financial gain. The high cost of building homes contributes significantly to the high cost of living in our state, causing many residents to move out of state. The HCA is working with local developers to address this issue and this measure is one of the solutions being presented. Therefore, we strongly ask for your committee's favorable action on HB420.

Mahalo,



Mālama Minn
Executive Director
Hawai'i Construction Alliance
execdir@hawaiiconstructionalliance.org



Testimony of Christopher Hikida

Honorable David A. Tarnas
Honorable Mahina Poepoe
Committee on Judiciary & Hawaiian Affairs
Thirty-Third Legislative Session 2025

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

Chair Tarnas, Vice Chair Poepoe, and Committee Members:

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, associations, and other entities seeking safe and code-compliant housing by pursuing their legal rights against Developers, Contractors, and Product Manufacturers.

I **OPPOSE** H.B. 420 as it would not achieve the goal of creating more affordable homes in Hawaii. Instead, it would make purchasing a home ultimately more costly for homeowners, as they would be responsible not only for the initial costs of purchasing a home, but for the subsequent repairs it takes to repair defects created by the developers and contractors.

While H.B. 420 radically alters the construction defect resolution process, it started as a unilateral bill proposed by developers and contractors and thus fails to include meaningful input from key parties involved in that process—including homeowners, associations, their attorneys, and most importantly mediators and judges who deal with these claims.

I. The Proposed Amended Version Of H.B. 420, While An Improvement, Still Contains Significant Problems That Harm Homeowners

As you are aware, we met with representatives from developer proponents of this bill on February 20, 2025, in an effort to resolve some of the key problems with H.B. 420. We understand that Representative Matayoshi sent you a copy of an amended version of the bill including changes discussed during the February 20 meeting.

While the amended version of H.B. 420 is an improvement over the previous version sent to the Committee on Judiciary & Hawaiian Affairs, it still contains significant problematic provisions, which would make it easier for developers and contractors to get away with shoddy workmanship, ultimately putting costs of construction defects on the purchaser, and preventing the

HAWAII*	ARIZONA	CALIFORNIA (SOUTHERN)	CALIFORNIA (NORTHERN)	NEW MEXICO
1003 Bishop Street Suite 1180 Honolulu, Hawaii 96813 808.369.8393 808.369.8392 Fax	3200 North Central Avenue Suite 2100 Phoenix, Arizona 85012 602.224.7800 602.224.7801 Fax	18100 Von Karman Avenue Suite 750 Irvine, California 92612 949.851.9000 949.833.9455 Fax	1280 Civic Drive. Suite 200 Walnut Creek, California 94596 925.906.9220 925.906.9221 Fax	6301 Indian School Road NE Suite 614 Albuquerque, New Mexico 87110 505.219.4204 505.219.4205 Fax

*KASDAN TURNER THOMSON BOOTH LLLC PRACTICE IS IN AFFILIATION WITH KASDAN TURNER THOMSON BOOTH LLP

homeowners from getting the recovery needed to repair their home from defects that are the responsibility of the developer or contractors.

It would do so by (1) completely altering the class action procedures to prevent a significant number of homeowners from recovering for construction defects; and (2) promoting an unequal bargaining field in the Contractor Repair Act process under HRS §672E, significantly disadvantaging the homeowner while giving developers and contractors the upper hand.

II. H.B. 420 Guts Class Actions—A Critical Vehicle For Individual Homeowner Recovery

Class actions provide individual homeowners who purchase homes that suffer from construction defects, with critical access to justice. It allows homeowners without funds and with common claims to collectively pursue legal action against larger developers and contractors.

Allowing for class of homeowners to pursue recovery through class action litigation is necessary in construction defect litigation, because: (1) carrying the burden of proof while prosecuting construction defect claims is too costly for individual homeowners; (2) the Contractor Repair Act process under HRS § 672E process is extremely time consuming—leading to significant delays before the homeowners can proceed to litigation; and (3) homeowners are often unaware of critical latent construction defects which are hidden within the walls of their home.

Class actions are thus critical to resolve construction defects in homes because it: (1) spreads litigation costs among the class; (2) allows for a streamlined recovery process; and provides recovery for homeowners who would not otherwise know that significant defects exist in their house.

H.B. 420 would *completely rewrite the way that class actions are practiced in Hawaii* by requiring every single homeowner to individually go through the Contractor Repair Act process. See Amended Version of H.B. 420 at p.5, ln. 16-20. This would make the process significantly more costly and time-consuming. In fact, the Contractor Repair Act process already poses a significant delay for homeowners attempting to get recovery—often a single Association or home can take two years to complete the process and there is no timeline provided in the Contractor Repair Act. H.B. 420, by making the process exponentially more complicated and requiring every homeowner to go through the Contractor Repair Act, would create an *indefinite delay* in homeowners' ability to recover.

The real reason that proponents of H.B. 420 want this bill is that it would eliminate significant portions of the class—by cutting out homeowners that don't initially and proactively engage in the Contractor Repair Act process. However, there are many reasons that homeowners don't initially participate in the process. For example, homeowners often do not know that these defects exist, especially when there are latent defects—such as in fire-protection systems, where the defects are not evident until there is an actual fire. This does not mean that their houses should not be fixed or that it is not important to ensure that all homes are made safe—regardless of whether the homeowner is aware of the defects. If H.B. 420 were to pass, developers and contractors would

be able to evade responsibility for numerous latent defects, and as a result, many homeowners would be stuck with significant defects that could affect their life and safety.

III. H.B. 420 Does Not Promote Early Resolution But Allows Contractors To Weaponize The Contractor Repair Act And Delay Recovery

Hawaii law, in the present version of HRS §672E, provides a framework for owners to present claims, and if not settled, proceed to arbitration or court trials. In the current statute, the builders and contractors already have a right to repair construction defects or pay for repairs. However, they typically use the statute to delay claims; not resolve them. Any bill to amend the Contractor Repair Act would therefore need to do two things: (1) set a *timeframe* for the Contractor Repair Act; and (2) allow for *mutual* exchange of information in the process.

The Contractor Repair Act does not provide a specific timeframe for the completion of the process. Instead, the prelitigation procedure is deemed completed only after the parties mediate the claims. This proposed bill does nothing to remedy this glaring defect. Contractors take advantage of this process by refusing to schedule mediation and delaying it once started, thus prolonging the Contractor Repair Act process. The Contractor Repair Act process can take more than two years before the matter can proceed to litigation, while the contractors drag their feet. This bill does nothing to resolve this issue. In fact, by requiring every homeowner in a class to go through the Contractor Repair Act process, H.B. 420 would allow contractors to delay the process indefinitely.

While the Contractor Repair Act does not require the contractor to provide ANY construction information on the residential project, it already requires homeowners to describe the construction defect claims in detail, provide all test results related to the claims, and provide access to contractors to inspect all testing and conduct its own testing. H.B. 420 requires the homeowner to produce even more information.

Contractors already take advantage of this process by refusing to move forward, arguing that homeowners have failed to provide sufficient information in order to proceed. **For example, in one case where our client requested construction documents during the Contractor Repair Act to assess the defects and proposed repairs, the general contractor, subcontractors, and developer’s response was to “den[y] this request as the responding party has no obligation to provide such documents under HRS §672E.”**

This uneven exchange of information is a significant impediment to homeowners, who need documents resolve the issues during the Contractor Repair Act process. Homeowners need numerous documents to adequately assess the scope and nature of defects, and determine what repairs are appropriate. In order to make a meaningful decision on resolution, homeowners need construction documents such as plans, RFIs, submittals, specifications, and construction photos, which are not privileged, and contain important information on how the building has been constructed—allowing homeowners to assess any offers made during the Contractor Repair Act.

Without adequately addressing these two issues, H.B. 420 fails to create a process that positions the parties for resolution, and in fact, creates a more hostile environment for homeowners and more avenues for contractors to weaponize the Contractor Repair Act.

IV. Conclusion

The amended version of H.B. 420 put forth by Representative Matayoshi after the February 25 meeting is an improvement over the initial bill. However, it is still inherently problematic—because it represents a significantly unilateral bill with developer and contractor proposals. These proposals, if effective, will radically alter the construction defect resolution process in Hawaii without material input from interested parties, such as homeowners, associations, their counsel, and most importantly mediators and judges who deal with such conflicts.

H.B. 420 will prevent numerous homeowners from recovering for real and significant construction defects, and will allow developers and contractors to weaponize the Contractor Repair Act by significantly delaying the recovery process.

We therefore **OPPOSE** H.B. 420 and ask that this Committee defer this bill, to allow for more meaningful input from all interested parties.

Thank you for your consideration.

Very Truly Yours,



Christopher K. Hikida

Kasdan Turner Thomson Booth LLLC



**HAWAII STATE HOUSE OF REPRESENTATIVES
COMMITTEE ON JUDICIARY
Conference Room 325 & Videoconference
State Capitol
2:00 pm**

February 26, 2025

Subject: HB 420, Relating to Remedies

Chair Tarnas, Vice Chair Poepoe, 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.



The Honorable David A. Tarnas, Chair
and Members of the Committee on Judiciary & Hawaiian Affairs
Hawai'i State House of Representatives
Hawai'i State Capitol
415 S. Beretania Street
Honolulu, HI 96813

RE: Strong Support for HB420 HD2

Aloha Chair Tarnas, Vice Chair Poepoe, 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 HD2 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 HD2 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 HD2 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



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

February 26, 2025

House Committee on Judiciary and Hawaiian Affairs
Hawai'i State Capitol
Honolulu, HI 96813

RE: SUPPORT for HB 420 HD2 - RELATING TO REMEDIES

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

On behalf of Hawai'i YIMBY, we are writing in **support of HB 420 HD2** 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



February 26, 2025

House Committee on Judiciary & Hawaiian Affairs
Representative David A. Tarnus, Chair
Representative Mahina Poepoe, Vice Chair



Working together for Kapolei

Wednesday, February 26, 2025
2:00 p.m. Conference Room #325 and via videoconference

RE: HB420HD2 – Relating to Remedies

Dear Chair Tarnus, Vice Chair Poepoe, 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 David Tarnas, Chair
and Members of the House Committee on Judiciary and Hawaiian Affairs
Hawai'i State House of Representatives
Hawai'i State Capitol
415 S. Beretania Street
Honolulu, HI 96813

RE: Strong Support for HB420 HD2 – Relating to Remedies

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

I am testifying in **strong support of HB420 HD2** 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 HD2 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 HD2 to support homebuyers, homeowners, and Hawai'i's housing future.

Mahalo,

Gregory C. Brandes

Level 5 Drywall

The Honorable David Tarnas, Chair
and Members of the House Committee on Judiciary and Hawaiian Affairs
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 HD2 to support homebuyers, homeowners, and Hawai'i's housing future.

Mahalo!



Wesley Deguchi

The Honorable David Tarnas, Chair
and Members of the House Committee on Judiciary and Hawaiian Affairs
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 HD2 to support homebuyers, homeowners, and Hawai'i's housing future.

Mahalo!

LAW OFFICES OF PHILIP S. NERNEY, LLLC

A LIMITED LIABILITY LAW COMPANY
335 MERCHANT STREET, #1534, HONOLULU, HAWAII 96806
PHONE: 808 537-1777

February 22, 2025

Honorable David A. Tarnas
Honorable Mahina Poepoe
Committee on Judiciary & Hawaiian Affairs
415 South Beretania Street
Honolulu, Hawaii 96813

Re: **HB 420 HD2 OPPOSE**

Dear Chair Tarnas, Vice Chair Poepoe and Committee Members:

HB 420 HD2 would shift the burden and consequences of design and construction defects onto consumers. HB 420 HD2 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 HD2 covertly shifts the risk of loss onto the consumer.

The recent amendment, attending to the issue of fraudulent concealment, marginally, does nothing to alter the fundamental harm that HB 420 HD2 to consumers.

HB 420 HD2 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 HD2 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 HD2 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.

Promoting more robust alternative dispute resolution opportunities would have greater utility than the fundamentally flawed approach reflected in HB 420 HD2.

HB 420 HD2 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.

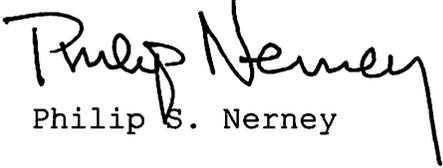
Honorable David A. Tarnas
Honorable Mahina Poepoe
February 22, 2025
Page 2 of 2

In both Fujioka v. Kam, 55 Haw. 7, 514 P.2d 568 (Haw. 1973)¹ and Shibuya v. Architects Hawaii Ltd., 65 Haw. 26, 647 P.2d 276 (Haw. 1982)², 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 HD2 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 HD2.³

Very truly yours,


Philip S. Nerney

1

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?

2

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.

³ The Committee should note that STAND. COM. REP. NO. 220 erroneously states both that Kasdan Turner Thomson Booth, LLLC 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.

February 24, 2025

Chair David Tarnas
Vice Chair Mahina Poepie
and Members of the House Committee on Judiciary and Hawaiian Affairs
Hawai'i State House of Representatives
Hawai'i State Capitol
415 S. Beretania Street Honolulu, HI 96813

Aloha Chair Tarnas, Vice Chair Poepoe, and Members of the Committee:

Testimony in Support of HB420 HD2 – 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 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 David Tarnas, Chair
and Members of the House Committee on Judiciary and Hawaiian Affairs
Hawai'i State House of Representatives
Hawai'i State Capitol
415 S. Beretania Street
Honolulu, HI 96813

RE: Strong Support for HB420 HD2 – Relating to Remedies

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

I am testifying in **strong support of HB420 HD2** 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 HD2 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 HD2 to support homebuyers, homeowners, and Hawai'i's housing future.

Mahalo!

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

HB-420-HD-2

Submitted on: 2/24/2025 8:04:08 AM

Testimony for JHA on 2/26/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Jessie Mae Teixeira	Individual	Support	Written Testimony Only

Comments:

The Honorable David Tarnas, Chair

and Members of the House Committee on Judiciary and Hawaiian Affairs

Hawai‘i State House of Representatives

Hawai‘i State Capitol

415 S. Beretania Street
Honolulu, HI 96813

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The Honorable David Tarnas, Chair
and Members of the House Committee on Judiciary and Hawaiian Affairs
Hawai'i State House of Representatives
Hawai'i State Capitol
415 S. Beretania Street
Honolulu, HI 96813

RE: Strong Support for HB420 HD2 – Relating to Remedies

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

I John Mendonca, am testifying in **strong support of HB420 HD2** because it will ensure that homeownership remains attainable and provides a better process for homeowners to resolve alleged construction defects.

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The Honorable David Tarnas, Chair
and Members of the House Committee on Judiciary and Hawaiian Affairs
Hawai'i State House of Representatives
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415 S. Beretania Street
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Mahalo!

A handwritten signature in black ink, appearing to read 'Richard W. Luga', with a long horizontal stroke extending to the right.

Richard W. Luga

The Honorable David Tarnas, Chair
and Members of the House Committee on Judiciary and Hawaiian Affairs
Hawai'i State House of Representatives
Hawai'i State Capitol
415 S. Beretania Street
Honolulu, HI 96813

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Mahalo!

Guy Fukushma

The Honorable David Tarnas, Chair
and Members of the House Committee on Judiciary and Hawaiian Affairs
Hawai'i State House of Representatives
Hawai'i State Capitol
415 S. Beretania Street
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Mahalo!

Michael Nojima

The Honorable David Tarnas, Chair
and Members of the House Committee on Judiciary and Hawaiian Affairs
Hawai'i State House of Representatives
Hawai'i State Capitol
415 S. Beretania Street
Honolulu, HI 96813

RE: Strong Support for HB420 HD2 – Relating to Remedies

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

I am testifying in **strong support of HB420 HD2** 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 HD2 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 HD2 to support homebuyers, homeowners, and Hawai'i's housing future.

Mahalo!

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Mahalo,

David Yoshida

HB-420-HD-2

Submitted on: 2/24/2025 9:24:42 AM

Testimony for JHA on 2/26/2025 2:00:00 PM

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

Comments:

The Honorable David Tarnas, Chair

and Members of the House Committee on Judiciary and Hawaiian Affairs

Hawai‘i State House of Representatives

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Mahalo!

HB-420-HD-2

Submitted on: 2/24/2025 9:31:38 AM

Testimony for JHA on 2/26/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Sheryl Nojima	Individual	Support	Written Testimony Only

Comments:

The Honorable David Tarnas, Chair

and Members of the House Committee on Judiciary and Hawaiian Affairs

Hawai‘i State House of Representatives

Hawai‘i State Capitol

415 S. Beretania Street Honolulu, HI 96813

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Mahalo!

Sheryl Nojima

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Mahalo!

Landon Lum

HB-420-HD-2

Submitted on: 2/24/2025 9:41:11 AM

Testimony for JHA on 2/26/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Samuel Wilder King II	Individual	Support	Remotely Via Zoom

Comments:

I support HB420 HD2 because it is an improvement on the existing Contractor Repair Act. Forcing a plaintiff to please with particularity is useful, and it should be kept in any final bill. However, weakening the statute of repose provisions, as the HD2 draft does, also reduces the value of such repose provisions by eliminating the certainty repose provisions otherwise create.

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I urge the committee to pass HB420 HD2 to support homebuyers, homeowners, and Hawai'i's housing future.

Mahalo!

Vivyan Lin

vivyan@kyinternational.com

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and Members of the House Committee on Judiciary and Hawaiian Affairs
Hawai'i State House of Representatives
Hawai'i State Capitol
415 S. Beretania Street
Honolulu, HI 96813

RE: Strong Support for HB420 HD2 – Relating to Remedies

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I urge the committee to pass HB420 HD2 to support homebuyers, homeowners, and Hawai'i's housing future.

Mahalo!

Pei Pei Chan

peipeic@kyinternational.com

HB-420-HD-2

Submitted on: 2/24/2025 10:02:57 AM

Testimony for JHA on 2/26/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Patricia Van Kuran	Individual	Support	Remotely Via Zoom

Comments:

The Honorable David Tarnas, Chair

and Members of the House Committee on Judiciary and Hawaiian Affairs

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

415 S. Beretania Street, Honolulu, HI 96813

RE: Strong Support for HB420 HD2 – Relating to Remedies

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

My name is Patricia Van Kuran, and I serve as Vice President and Private Banking Mortgage Loan Officer at First Hawaiian Bank. With over two decades of experience in residential mortgage lending, I have seen how access to affordable home financing can make or break the dream of homeownership for many families in Hawai‘i. I am concerned about the increase in litigation I have seen over the years and how it restricts loan options for those who need them most. As I am learning why litigation has been increasing, I am excited to see a bill like this come through our government.

I am testifying in **strong support of HB420 HD2** 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. I really see how this affects buyers with the fewest resources. They need lower down payment options like FHA, VA, or Fannie Mae/Freddie Mac with Private Mortgage Insurance and these types of loans are usually the first to pull out of

condo projects under litigation, no matter how severe or valid the lawsuit is. 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 HD2 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 HD2 to support homebuyers, homeowners, and Hawai'i's housing future.

Mahalo!

Patricia Van Kuran, NMLS #879707

Vice President & Private Banking Mortgage Loan Officer

First Hawaiian Bank

February 24, 2025

Adrienne Wong
P.O. Box 333
Wailuku, Maui, Hawaii 96793

The Honorable David Tarnas, Chair
and Members of the House Committee on Judiciary and Hawaiian Affairs
Hawai'i State House of Representatives
Hawai'i State Capitol
415 S. Beretania Street
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I urge the committee to pass HB420 HD2 to support homebuyers, homeowners, and Hawai'i's housing future.

Sincerely,



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Mahalo!



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I urge the committee to pass HB420 HD2 to support homebuyers, homeowners, and Hawai'i's housing future.

Mahalo!

Michele Murakami

michele@kyinternational.com

HB-420-HD-2

Submitted on: 2/24/2025 11:43:05 AM

Testimony for JHA on 2/26/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Daniel Sandomire	Individual	Support	Written Testimony Only

Comments:

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

My name is Daniel Sandomire. I am an architect and developer in Hawaii. I am testifying in strong support of HB420 HD2 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 Sandomire

HB-420-HD-2

Submitted on: 2/24/2025 12:43:28 PM

Testimony for JHA on 2/26/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Donna Benson	Individual	Support	Written Testimony Only

Comments:

The Honorable David Tarnas, Chair

and Members of the House Committee on Judiciary and Hawaiian Affairs

Hawai‘i State House of Representatives

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I urge the committee to pass HB420 HD2 to support homebuyers, homeowners, and Hawai'i's housing future.

Mahalo!

February 24, 2025

The Honorable David Tarnas, Chair
The Honorable Mahina Poepoe, Vice Chair
and Members of the House Committee on Judiciary and Hawaiian Affairs
Hawai'i State House of Representatives
Hawai'i State Capitol
415 S. Beretania Street
Honolulu, HI 96813

RE: Strong Support for HB420 HD2 – Relating to Remedies

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

My name is Linda Nakamura and as a mortgage professional, I am testifying in **strong support of HB420 HD2** 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 HD2 to support homebuyers, homeowners, and Hawai'i's housing future.

Mahalo!

Linda Nakamura

HB-420-HD-2

Submitted on: 2/24/2025 3:07:52 PM

Testimony for JHA on 2/26/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Victor R Wyman	Individual	Support	Written Testimony Only

Comments:

I offer stong support for HB420 HD2

February 24, 2025

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RE: Strong Support for HB420 HD2 – Relating to Remedies

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Mahalo!

Joseph Lee

February 24, 2025

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Mahalo!

Noah Ka'ai'ai-Boner

February 24, 2025

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Mahalo!

Keali'iomana Keola

February 24, 2025

The Honorable David Tarnas, Chair
and Members of the House Committee on Judiciary and Hawaiian Affairs
Hawai'i State House of Representatives
Hawai'i State Capitol
415 S. Beretania Street
Honolulu, HI 96813

RE: Strong Support for HB420 HD2 – Relating to Remedies

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

I'm a member of the Hawaii Regional Council of Carpenters (HRCC), and I am testifying in **strong support of HB420 HD2** 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 HD2 to support homebuyers, homeowners, and Hawai'i's housing future.

Mahalo!

Allan Taketa

February 24, 2025

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Ricky Jermaine Lameg

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

I'm a member of the Hawaii Regional Council of Carpenters (HRCC), and I am testifying in **strong support of HB420 HD2** 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 HD2 to support homebuyers, homeowners, and Hawai'i's housing future.

Mahalo!

Quentin Early

February 24, 2025

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Kyle Haina

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Russell Cabingas

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Bubba Makinney

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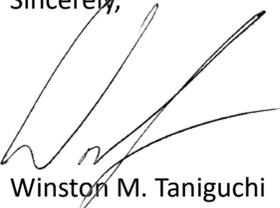
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I urge the committee to pass HB420 HD2 to support homebuyers, homeowners, and Hawai'i's housing future.

Mahalo for your time & consideration!

Sincerely,



Winston M. Taniguchi

February 24, 2025

The Honorable David Tarnas, Chair
and Members of the House Committee on Judiciary and Hawaiian Affairs
Hawai'i State House of Representatives
Hawai'i State Capitol
415 S. Beretania Street
Honolulu, HI 96813

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Mahalo!

Micah Soque

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Mahalo!

Tevita Valikoula

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Mahalo!

Bronson Millon

January 29, 2025

Chair Luke A. Evslin
Vice Chair Tyson K. Miyake
Members of the House Committee on Housing
Thirty-Third Legislature, Regular Session of 2025

Aloha Chair Evslin, Vice Chair Miyake, and Members of the Housing Committee,

My name is Yi Le Deng, and I work in Hawai'i's building industry. I am testifying in strong support of HB420.

The Contractor Repair Act was intended to foster collaboration between builders and homeowners, ensuring defects were addressed 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.

Yi Le Deng



February 25, 2025

The Honorable David Tarnas, Chair
and Members of the House Committee on Judiciary and Hawaiian Affairs
Hawai'i State House of Representatives
Hawai'i State Capitol
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Alvin Faumui

February 25, 2025

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Mahalo,

Spencer Chock

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Mahalo,

Nixon Atisanoe

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Mahalo,

Matt Regaspi

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Mahalo,

Mulu Sialeya

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Hunter Ho'ohuli

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Mason Reyes

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David Lee

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Nathaniel Mendoza

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Arthur Chester Somera

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I urge the committee to pass HB420 HD2 to support homebuyers, homeowners, and Hawai'i's housing future.

Mahalo,

Dan Corrales, Jr.

February 25, 2025

The Honorable David Tarnas, Chair
and Members of the House Committee on Judiciary and Hawaiian Affairs
Hawai'i State House of Representatives
Hawai'i State Capitol
415 S. Beretania Street
Honolulu, HI 96813

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Sheldon S.M. Young

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Thomas King

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Desmond Banglos

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Mahalo,

Eleazar Jeffrey Bantillo

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Thomas Cabus-Lopes

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Joemelyn Adviento

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Kekona B. Salazar

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Jerico Joshua Labosan

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Ariel Agustin

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Mahalo,

Dedric Kea

February 25, 2025

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Mahalo,

Donald Barenaba

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Mahalo,

Mikal Yonehara

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Jestin Barayuga

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Jonah Hamada

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Jonathan Ching

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Mahalo,

Melvin Goldstein-Kaehu

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John Oury

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Jaycob Quemado-Smith

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Val Tiburcio

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Albijay Brillantes

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Nill Edward

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I urge the committee to pass HB420 HD2 to support homebuyers, homeowners, and Hawai'i's housing future.

Mahalo,

Scott Nihei-Lopes

February 25, 2025

The Honorable David Tarnas, Chair
and Members of the House Committee on Judiciary and Hawaiian Affairs
Hawai'i State House of Representatives
Hawai'i State Capitol
415 S. Beretania Street
Honolulu, HI 96813

RE: Strong Support for HB420 HD2 – Relating to Remedies

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

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Mahalo,

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Mahalo,

Allan Sildora, Jr.

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Mahalo,

Diggo Tabada

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Mahalo,

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Mahalo,

Joshua Talon

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Mahalo,

Todd Baldwin

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Mahalo,

Cody Villarín

February 25, 2025

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Mahalo,

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Mahalo,

Kaipo Santa Elena

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Kalikiano Libokmeto

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Perfecto D. Labrador

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John Raquind

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Rommer Vilep

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

As Vice President of New Development Activities at Hawaiiiana Management Company, Ltd., I bring over 20 years of experience in commercial and residential property management. Since joining Hawaiiiana in 2011, I have dedicated my work to supporting condominium boards and associations of apartment owners (AOAOs) across Hawai'i. My role focuses on guiding newly established boards through the complexities of community management, from budget planning and maintenance fee structuring to overseeing inspections and ensuring compliance with governing documents.

Helping these volunteer boards transition to self-management has highlighted the dedication and commitment of homeowners who step up to serve their communities. However, their lack of legal and construction expertise often leaves them vulnerable to aggressive legal tactics, pushing them into costly and unnecessary litigation over construction defects—issues that could often be resolved through more cooperative approaches.

The Contractor Repair Act was originally designed to foster collaboration between homeowners and builders, but loopholes in the current law have led to increased litigation, higher housing costs, and delayed repairs. This situation places undue financial strain on associations and disrupts the sense of community that these volunteer boards work so hard to build and maintain.

HB420 HD2 aims to restore the collaborative spirit of the original Contractor Repair Act, giving builders a fair chance to address defects before lawsuits are filed. This reform will protect our volunteer board members from undue legal pressures, promote financial stability within communities, and ensure homeowners receive the timely repairs they deserve. Additionally, it will contribute to keeping housing affordable and accessible for families across Hawai'i.

I strongly urge the committee to pass HB420 HD2 to protect our communities, support homeownership, and promote a fair and efficient process for resolving construction defects.

Mahalo for your time and consideration.

HB-420-HD-2

Submitted on: 2/26/2025 10:51:25 AM

Testimony for JHA on 2/26/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Dallas Walker	Individual	Oppose	Remotely Via Zoom

Comments:

Aloha Chair, Vice Chair and Committee Members,

I respectfully oppose this measure.

Mahalo,

Dallas Walker