Honolulu, Hawaii

Mark 3, 2006

RE: H.B. No. 1417 H.D. 1

Honorable Calvin K.Y. Say Speaker, House of Representatives Twenty-Third State Legislature Regular Session of 2006 State of Hawaii

Sir:

Your Committees on Consumer Protection & Commerce and Judiciary, to which was referred H.B. No. 1417 entitled:

"A BILL FOR AN ACT RELATING TO DESIGN PROFESSIONALS,"

beg leave to report as follows:

The purpose of this bill is to reduce the number of frivolous lawsuits brought against design professionals by requiring the filing of:

- (1) A certificate of merit with a complaint, cross-claim, counterclaim, or third party complaint stating that the plaintiff has consulted with a design professional who finds that the lawsuit has merit; and
- (2) A preliminary expert opinion affidavit, stating the expert's qualifications and the factual basis for each claim and relationship to the damages alleged, within 90 days of filing of the certificate of merit.

The American Council of Engineering Companies, American Institute of Architects, Coalition of Hawaii Engineering and Architectural Professionals, American Society of Civil Engineers, Engineering Concepts, Inc., Fukunaga & Associates, Inc., Hawaii Pacific Engineers, Inc., Gray, Hong, Nojima & Associates, Inc., Lincolne Scott, Inc., MK Engineers, Ltd, Masa Fujioka & Associates, Miyasato Kuniyoshi Engineers LLC, Miyashiro and Associates, Inc., Pacific Geotechnical Engineers, Inc., Earth

Tech, Inc., Finance Insurance, Ltd., Limtiaco Consulting Group, Sato & Associates, Inc., Shigemura, Lau, Sakanashi, Higuchi & Associates, Inc., Tanimura & Associates, Inc., Cedric D. O. Chong & Associates, Inc., Environet, Inc., and PLA Inc., submitted testimony in support of this bill. Consumer Lawyers of Hawaii opposed this bill.

Your Committees find that in 2004, the Right to Repair law was enacted to reduce litigation in the residential construction industry by providing an alternative dispute resolution procedure. When the law was enacted, it repealed the Design Conciliation Panel (DCP) law. As a result, design professionals lost the protection from unmerited lawsuits afforded by the requirement of an informal hearing before the DCP, and the execution of a certificate of consultation by a design professional. This bill would reinstate some of the protection that was lost.

Your Committees have amended this bill by changing its effective date to July 1, 2006. Technical, nonsubstantive amendments were also made for clarity and consistency.

As affirmed by the records of votes of the members of your Committees on Consumer Protection & Commerce and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1417, as amended herein, and recommend that it pass Third Reading in the form attached hereto as H.B. No. 1417, H.D. 1.

Respectfully submitted on behalf of the members of the Committees on Consumer Protection & Commerce and Judiciary,

SYLVIA LUKE, Chair

ROBERT N. HERKES, Chair

HB1417 HD1 HSCR CPC-JUD HMS 2006-2233

State of Hawaii House of Representatives The Twenty-third Legislature

Record of Votes of the Committee on Consumer Protection & Commerce

Bill/Resolution No.:	Date:	2/22/0	6			
Committee Referral: CPC JUD	☐ The committee is reconsidering its previous decision on the measure.					
The recommendation is to: Pass, unamended Pass, with amendments						
☐ Hold ☐ Recommit						
CPC Members	Ayes	Ayes (WR)	Nays	Excused		
1. HERKES, Robert N. (C)						
2. SCHATZ, Brian (VC)						
3. CALDWELL, Kirk	1					
4. ITO, Ken						
5. KANOHO, Ezra R.						
6. KARAMATSU, Jon Riki						
7. MORITA, Hermina M.						
8. SONSON, Alex M.						
9. SOUKI, Joseph M.						
10. MARUMOTO, Barbara C.						
11. STONEBRAKER, Bud						
TOTAL	9			2		
The recommendation is: Adopted						
☐ Not Adopted						
If joint referral, did not support recommendation.						
Committee acronym(s)						
Vice Chair's or designee's signature:						
Distribution: Original (White) – Committee Duplicate (Yellow) – Clerk's Office						

State of Hawaii House of Representatives The Twenty-third Legislature

Record of Votes of the Committee on Judiciary

Bill/Resolution No.: HB1417 (HSCR259)	Date:	2/22/06					
Committee Referral:	☐ The committee is reconsidering its						
	EDB, CPC/JUD previous decision on the measure.						
The recommendation is to: Pass, unamended	tion is to: Pass, unamended Pass, with amendments						
☐ Hold	□ Recommit						
JUD Members	Ayes	Ayes (WR)	Nays	Excused			
1. LUKE, Sylvia (C)							
2. OSHIRO, Blake K. (VC)	/			-			
3. CALDWELL, Kirk							
4. KANOHO, Ezra R.	✓						
5. KARAMATSU, Jon Riki							
6. MORITA, Hermina M.				/			
7. SONSON, Alex M.	/						
8. SOUKI, Joseph M.							
9. MARUMOTO, Barbara C.							
10. THIELEN, Cynthia				/			
		·					
TOTAL	/			3			
The recommendation is: Not Adopted Not Adopted							
If joint referral, did not support recommendation.							
Vice Chair's or designee's signature:							
Jour Cham							
Distribution: Original (White) – Committee Duplicate (Yellow) – HMSO Duplicate (Pink) – Clerk's Office							