STAND. COM. REP. NO. 3127

Honolulu, Hawaii

MAR 2 4 2006

RE: H.B. No. 1417

H.D. 1 S.D. 1

Honorable Robert Bunda President of the Senate Twenty-Third State Legislature Regular Session of 2006 State of Hawaii

Sir:

Your Committee on Commerce, Consumer Protection, and Housing, to which was referred H.B. No. 1417, H.D. 1, entitled:

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

begs leave to report as follows:

The purpose of this measure is to require the filing of a certificate of merit with any complaint filed against a design professional, as well as require the filing of a preliminary expert opinion with restrictions on discovery.

Testimony in support of this measure was submitted by Environet, Inc.; Masa Fujioka & Associates; The Limitiaco Consulting Group; Engineering Solutions, Inc.; Cedric D.O. Chong & Associates, Incorporated; ControlPoint Surveying, Inc.; Miyasato Kuniyoshi Engineers LLC; the American Institute of Architects Hawaii State Council; the American Council of Engineering Companies of Hawaii; and the Coalition of Hawaii Engineering and Architectural Professionals. Testimony in opposition to this measure was submitted by the Department of Accounting and General Services, Consumer Lawyers of Hawaii, and one individual.

Your Committee finds that claims against design professionals were protected by a certificate of consultation screening process under the Design Professional Panel Law that was repealed as part of the Right to Repair Law enacted in 2004. This measure would reinstate the requirement of a certificate of consultation to discourage the filing of frivolous claims. Both those in support

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and in opposition to the measure agree that the procedure for certificates of consultation used by the Medical Claims Collection Panel is proven and effective in screening frivolous claims.

Your Committee further finds that matters relating to expert opinions and discovery are subject to existing court rules and are best addressed by the courts at this time.

Your Committee has amended this measure by:

- (1) Requiring the filing of a certificate of consultation during a procedure based upon the procedure used by the Medical Claims Conciliation Panel;
- (2) Deleting provisions relating to the filing of a certificate of merit with a complaint filed against a design professional; and
- (3) Deleting provisions related to the filing of expert opinions and discovery.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection, and Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1417, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1417, H.D. 1, S.D. 1, and be referred to the Committee on Judiciary and Hawaiian Affairs.

Respectfully submitted on behalf of the members of the Committee on Commerce, Consumer Protection, and Housing,

RON MENOR, Chair

## The Senate Twenty-Third Legislature State of Hawaii

## Record of Votes of the Committee on Commerce, Consumer Protection and Housing (Bills and Resolutions)

| Measure:* HB1417 HD1 CPH, JHW Date: 3-22-06  |   |  |      |  |
|--|---|--|------|--|
| The committee is reconsidering its previous decision on this measure.  If so, then the previous decision was to:           |   |  |      |  |
| The Recommendation is to:  |   |  |      |  |
| Pass, unamended Pass, with amendments Hold Recommit (2312) (2311) (2310) (2313)  |   |  |      |  |
| Members  | Ayes                                      | Ayes(WR)   | Nays | Excused  |
| MENOR, Ron (C)   |   |  |      |  |
| BAKER, Rosalyn H. (VC)   | <u>'</u>                                  |  |      |  |
| ESPERO, Will   |   |  |      |  |
| IGE, David Y.  |   |  |      |  |
| SAKAMOTO, Norman   |   |  |      |  |
| HOGUE, Bob   |   |  |      |  |
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| TOTAL  | 4   |  |      | )  |
| Recommendation:  Adopted  Not Adopted  |   |  |      |  |
| Chair's or Designee's Signature:  Kosaly H Bah   |   |  |      |  |
| Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy |   |  |      |  |

<sup>\*</sup>Do not list more than one measure per Record of Votes.