

Honolulu, Hawaii

FEB 18 2009

RE: S.B. No. 203
S.D. 1

Honorable Colleen Hanabusa
President of the Senate
Twenty-Fifth State Legislature
Regular Session of 2009
State of Hawaii

Madam:

Your Committee on Commerce and Consumer Protection, to which
was referred S.B. No. 203 entitled:

"A BILL FOR AN ACT RELATING TO CONTRACTORS,"

begs leave to report as follows:

The purpose of this measure is to require that the Regulated Industries Complaints Office (RICO) of the Department of Commerce and Consumer Affairs issue a citation and a cease and desist order when an investigator determines that a person is acting as a contractor without a valid license and to amend penalty amounts for violations.

Your Committee received testimony in support of this measure from Iron Workers Stabilization Fund and Hawaii Building Construction Trades Council, AFL-CIO; and Subcontractors Association of Hawaii. Your Committee received testimony in opposition to this measure from the Department of Commerce and Consumer Affairs, Regulated Industries Complaints Office; General Contractors Association of Hawaii; and Building Industry Association-Hawaii.

Copies of written testimony are available for review on the Legislature's website.

Under current law, RICO investigators have discretion to issue a citation, which includes a cease and desist order, to persons acting as contractors without the appropriate license or to pursue a remedy through a criminal or civil action in the



circuit court. According to testimony from RICO, a citation is not always an appropriate tool to enforce compliance. A citation is designed to put an immediate stop to observed, ongoing activity; however, some violations are discovered "off-scene" such as during a review of documents. Additionally, a citation, unlike a circuit court action, does not allow for additional remedies such as restitution to affected consumers. Finally, current law already provides for fines to enforce compliance with licensing requirements. The penalties contained in this measure are inconsistent with existing fines.

Your Committee has adopted the recommendations of RICO to amend section 1 of this measure to allow an investigator to retain discretion to issue a citation, to clarify the cease and desist provision in a citation, and to increase the statutory penalties for violation of the contractor licensing requirements. Your Committee has also amended the effective date of this measure to provide an opportunity for further discussion.

As affirmed by the record of votes of the members of your Committee on Commerce and Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 203, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 203, S.D. 1, and be referred to the Committee on Judiciary and Government Operations.

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


ROSALYN H. BAKER, Chair



The Senate
Twenty-Fifth Legislature
State of Hawaii

Record of Votes
Committee on Commerce and Consumer Protection
CPN

Bill / Resolution No.:* <div style="font-size: 1.2em; font-family: cursive;">SB 203</div>	Committee Referral: <div style="font-size: 1.2em; font-family: cursive;">CPN, JGO</div>	Date: <div style="font-size: 1.2em; font-family: cursive;">2/11/2009</div>		
<div><input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____</div>				
The Recommendation is: <div style="display: flex; justify-content: space-between; align-items: flex-start;"><div><input type="checkbox"/> Pass, unamended 2312</div><div><input checked="" type="checkbox"/> Pass, with amendments 2311</div><div><input type="checkbox"/> Hold 2310</div><div><input type="checkbox"/> Recommit 2313</div></div>				
Members	Aye	Aye (WR)	Nay	Excused
BAKER, Rosalyn H. (C)	✓			
IGE, David Y. (VC)	✓			
ESPERO, Will	✓			
GREEN, M.D., Josh	✓			
IHARA, Jr., Les	✓			
SAKAMOTO, Norman				✓
HEMMINGS, Fred	✓			
TOTAL	6			1
Recommendation: <div style="display: flex; justify-content: space-around; align-items: center;"><div><input checked="" type="checkbox"/> Adopted</div><div><input type="checkbox"/> Not Adopted</div></div>				
Chair's or Designee's Signature: <div style="font-size: 1.5em; font-family: cursive; text-align: center;">David Y. Ige</div>				
Distribution: <div style="display: flex; justify-content: space-between; font-size: 0.8em;"><div>Original File with Committee Report</div><div>Yellow Clerk's Office</div><div>Pink Drafting Agency</div><div>Goldenrod Committee File Copy</div></div>				

***Only one measure per Record of Votes**