STAND. COM. REP. NO. 691

Honolulu, Hawaii

March 8, 2011

RE: H.B. No. 924 H.D. 2

Honorable Calvin K.Y. Say Speaker, House of Representatives Twenty-Sixth State Legislature Regular Session of 2011 State of Hawaii

Sir:

Your Committees on Consumer Protection & Commerce and Judiciary, to which was referred H.B. No. 924, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO INSURANCE,"

beg leave to report as follows:

The purpose of this bill is to clarify the interpretation of commercial liability insurance policies affecting construction professionals.

Wailea MF-9 Associates, LLC; Koga Engineering & Construction, Inc.; the Building Industry Association of Hawaii; Royal Contracting, Co.; the Painting and Decorating Contractors Association of Hawaii; Albert C. Kobayashi, Inc.; Ralph S. Inouye Co., Ltd.; Constructors Hawaii Inc.; Alan Shintani, Inc.; Nan, Inc.; Hawaiian Dredging Construction Company; the General Contractors Association; Pacific Resource Partnership; Lindemann Construction Inc.; Morris Kozai Landscapes, LLC.; Clay Chapman Iwamura Pulice & Nervell; Choice Fence; Air Central Inc.; Kalu Glass Co., Inc.; SteelTech, Inc.; Royal Contracting Co., Ltd.; Rons Construction Corporation; S & M Sakamoto, Inc.; and Robert M. Kaya Builders, Inc., supported this measure. First Insurance Company, Sand Insurance; Hawaii Insurers Council; and the Property Casualty Insurers Association of America opposed this bill. Department of Commerce and Consumer Affairs presented concerns. A concerned individual presented comments.

Your Committees amended this bill by:

- (1) Clarifying the purpose section to explain the purpose and intent of the measure as amended;
- (2) Removing the provisions concerning the duty to defend for construction defect claims;
- (3) Inserting definitions of "contractor" and "licensed contractor" and substituting the term "commercial general liability insurance" for "liability insurance policy" and amending its definition;
- (4) Amending the new section to avoid possible conflicts with section 431:1-209(1), (13), or (15);
- (5) Limiting the new section to licensed contractors only;
- (6) Clarifying the interpretation of a liability insurance policy to address the issues in the Group Builders case;
- (7) Clarifying that the new section shall not be construed to cover additional contractual obligations;
- (8) Clarifying that any provision in a policy that is in violation of this section is void but shall not effect the rest of the coverage in the policy;
- (9) Placing the new section in Part II of Article I of the Insurance Code; and
- (10) Making technical, nonsubstantive amendments for clarity, consistency, and style.

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. 924, H.D. 1, as amended herein, and recommend that it pass Third Reading in the form attached hereto as H.B. No. 924, H.D. 2.

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

GILBERT KEITH-AGARAN, Chair

ROBERT N. HERKES, Chair

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## State of Hawaii House of Representatives The Twenty-sixth Legislature

## Record of Votes of the Committee on Consumer Protection & Commerce

Bill/Resolution No.: HB 924 HD1	ommittee Referral: ERB, CPC	/JUD   Date:	2/23	/2011			
☐ The committee is reconsidering its previous decision on the measure.							
The recommendation is to:  Pass, unamended (as is)  Pass, with amendments (HD)  Hold  Pass short form bill with HD to recommit for future public hearing (recommit)							
CPC Members	Ayes	Ayes (WR)	Nays	Excused			
1. HERKES, Robert N. (C)							
2. YAMANE, Ryan I. (VC)							
3. BROWER, Tom							
4. CABANILLA, Rida T.R.							
5. CARROLL, Mele							
6. ITO, Ken							
7. KEITH-AGARAN, Gilbert S.C.							
8. LUKE, Sylvia							
9. McKELVEY, Angus L.K.			With				
10. MORITA, Hermina M.							
11. OSHIRO, Blake K.							
12. SOUKI, Joseph M.							
13. TSUJI, Clift							
14. CHING, Corinne W.L.							
15. MARUMOTO, Barbara C.							
16. THIELEN, Cynthia							
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TOTAL (16)	70	2		4			
The recommendation is:  Adopted  If joint referral, did not support recommendation.  committee dcronym(s)							
Vice Chair's or designee's signature:							
Distribution: Original (White) – Committee Duplicate (Yellow) – Chief Clerk's Office Duplicate (Pink) – HMSO							

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## State of Hawaii House of Representatives The Twenty-sixth Legislature

## Record of Votes of the Committee on Judiciary

HB 924, HD 1	Committee Referral:	Date: 2/	23/11				
☐ The committee is reconsidering its previous decision on the measure.							
The recommendation is to:  □ Pass, unamended (as is)  Pass, with amendments (HD) □ Hold □ Pass short form bill with HD to recommit for future public hearing (recommit)							
JUD Members	Ayes	Ayes (WR)	Nays	Excused			
1. KEITH-AGARAN, Gilbert S.C. (	(C)						
2. RHOADS, Karl (VC)							
3. BROWER, Tom							
4. CABANILLA, Rida T.R.							
5. CARROLL, Mele							
6. HERKES, Robert N.							
7. ITO, Ken							
8. LUKE, Sylvia							
9. McKELVEY, Angus L.K.			_				
10. MORITA, Hermina M.							
11. OSHIRO, Blake K.							
12. SOUKI, Joseph M.	\(\sum_{\sum_{\color}}\)						
13. TSUJI, Clift							
14. FONTAINE, George R.							
15. MARUMOTO, Barbara C.							
16. THIELEN, Cynthia				<u></u>			
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TOTAL (16)	11	1	0	4			
The recommendation is:  Adopted  If joint referral, did not support recommendation.  committee acronym(s)							
Vice Chair's or designee's signature:							
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