

Testimony of the Contractors License Board

**Before the
House Committee on Finance
Thursday, February 20, 2020
12:00 p.m.
State Capitol, Conference Room 308**

**On the following measure:
H.B. 1799, H.D. 1, RELATING TO CONTRACTORS**

Chair Luke and Members of the Committee:

My name is Neal Arita, and I am the Legislative Committee Chairperson of the Contractors License Board (Board). The Board opposes this bill.

The purpose of this bill is to prohibit the performance of incidental and supplemental work by a specialty contractor on any new work in the C-48 structural steel classification.

The Board discussed this bill at its meeting on February 14, 2020. The Board believes too many variables exist in construction work, including, but not limited to, new construction work, to carve out a specialty classification that cannot be performed as incidental and supplemental work. The Board respectfully submits that its Final Order Upon Remand, issued October 18, 2013 (BFO)¹, should remain the current standard in the construction industry for incidental and supplemental work.

In addition, the Board respectfully submits that the limit of incidental and supplemental work that all specialty contractors can perform has already been established by the Hawaii Supreme Court in District Council 50 v. Lopez, 129 Haw. 281, 298 P.3d 1045 (2013) (DC 50). Among other things, the Court in DC 50 interpreted the term “incidental and supplemental” in Hawaii Revised Statutes chapter 444 to be less than a majority. The Board complied with this directive and interpreted less than a majority to mean less than 50 percent. The Board also determined that to qualify as incidental and supplemental work, that work must be subordinate to, directly related to, and necessary for the completion of the work of greater importance that is within the

¹ See In the Matter of the Petition for Declaratory Relief of District Council 50 of the International Union of Painters and Allied Trades and Aloha Glass Sales & Service, Inc., CLB-DR-2006-2, for the BFO.

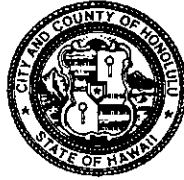
scope of the licensee's license (i.e., the primary work the specialty contractor is licensed to perform), and that work must represent less than 50 percent of the project (as measured in relation to the project's total cost or extent).

Since October 2013, the Board has consistently applied this standard to numerous scope of work inquiries. The Board carefully considers each inquiry pertaining to incidental and supplemental work and studies each project's plans and specifications. The Board considers many factors, including: life safety; cost; extent of work; number of man hours; amount of materials involved; proximity of other specialty contracting work to the primary work; and whether the work is less than a majority of the project. The Board's current implementation of its BFO is comprehensive, fair, and protects the public's health and safety.

Thank you for the opportunity to testify on this bill.

DEPARTMENT OF DESIGN AND CONSTRUCTION
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February 18, 2020

The Honorable Sylvia Luke, Chair
The Honorable Ty J.K. Cullen, Vice-Chair
and Members of the Committee on Finance
The House
State Capitol, Room 308
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair Luke, Vice-Chair Cullen, and Members:

SUBJECT: House Bill No. 1799 HD1
Relating to Contractors

The Department of Design and Construction (DDC) respectfully **opposes** House Bill No. 1799 HD1, which specifies that, "any new work under a C-48 specialty license (structural steel contractor) or any sublicense shall not be deemed to be incidental and supplemental work." DDC administers a large number of construction contracts every year, many of which include some structural steel content.

The proposed legislation would make an exception regarding structural steel subcontractors that sets a very undesirable precedent. It would create a situation that is likely to generate more protests, because if there is one piece of structural steel in a project, the general contractor must list that subcontractor or have their bid thrown out.

Based on the above consideration, DDC respectfully **opposes** House Bill No. 1799 HD1.

Thank you for the opportunity to express our opposition to this bill.

Sincerely,

A handwritten signature in black ink, appearing to read "M. Yonamine", is written over a horizontal line.

Mark Yonamine, P.E.
Director

IRONWORKERS STABILIZATION FUND

February 18, 2020

Sylvia Luke, Chair
Committee on Finance
House of Representative
State Capitol
415 S. Beretania Street
Honolulu, Hawaii 96813

Dear Honorable Chair Luke and Members of the Committee on Finance:

Re: Strong Support for HB 1799 – Relating to Contractors

We are in Strong Support of HB 1799, Relating to Contractors.

First, it should be recognized that this bill states any new structural steel projects. We believe that there should not be any incidental or supplemental work for any structural steel projects. Structural steel is the backbone and supports the load of the building. We believe that it should only be done by licensed firms that have the required knowledge and expertise to erect and install the structure of a building.

Additionally, it is incomprehensible to believe that anybody in this State would let their family and friends live or work in buildings not built by licensed contractors. We firmly believe that this issue is a Public Safety issue and that even the State of Hawaii should understand that it should not allow any unlicensed contractor to build any project.

The licensing requirement was done to protect public safety. We don't see how it is in the best interest of the State to allow unlicensed contractors to do incidental or supplemental work on a structure of a building.

Consequently, we ask you support this bill as it will lead to the protection of the general public. Thank you for your consideration on this matter.