

## **Testimony of the Contractors License Board**

**Before the  
Senate Committee on Commerce and Consumer Protection  
Thursday, February 4, 2021  
9:30 a.m.  
Via Videoconference**

**On the following measure:  
S.B. 601, RELATING TO ROOFING CONTRACTORS**

Chair Baker 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 offers comments on this bill.

The purposes of this bill are to: (1) prohibit roofing contractors from offering to pay, in any monetary form, an insured's insurance deductible as an incentive to encourage the insured to hire the contractor; (2) allow insureds to rescind contracts with roofing contractors within five business days of receiving notification from an insurer that all or any part of a claim or contract is not a covered loss under the insured's insurance policy; and (3) allow the Board to revoke, suspend, or refuse to renew a contractor's license if the contractor performs as a public adjuster without a public adjuster license.

The Board will review this bill at its next publicly noticed meeting on February 19, 2021. In the meantime, the Board offers comments based on its prior opposition to similar bills. This bill creates separate requirements for roofing contractors relating to the insured under a property or casualty insurance policy. Additionally, the definition of "roofing contractor" on page 7, line 20 to page 8, line 10, is problematic because it will allow a roofing contractor to perform work that is currently outside the contractor's scope of practice.

For the Committee's information, administration bills H.B. 942/S.B. 1096, Relating to Insurance, were introduced this session and address the issue of unlicensed public adjusters. The contractor licensing law, codified in Hawaii Revised Statutes chapter 444, is not the appropriate statutory chapter to address unlicensed public adjusters.

Thank you for the opportunity to testify on this bill.

## **Please VOTE YES on SB 601. *A roofing repair job shouldn't be a roofing scam job!***

Summary of bill: SB 601 is a reasonable and balanced consumer protection bill that provides residential consumers with written disclosures about important aspects of the repair work and provides the consumer with the ability to rescind the roofing repair contracts within five business days of receiving notice that their homeowner's insurance claim for the roof has been denied in whole or in part.

### Reasons to VOTE YES on SB 2422:

- **SB 601 protects consumers from fly-by-night “storm scammer”**, who try to confuse, bully, and/or trick consumers into entering into a contract that sounds enticing but can leave them with shoddy or unfinished repair work;
- **The proposed legislation promotes informed consumer choice** by requiring written disclosures about the scope of repairs and the homeowner's right to rescind the contract;
- **SB 601 is consistent with residential roofing repair consumer protection bills that have been adopted in states throughout the country.** More than half the states in the nation have passed laws to provide consumer protection from storm scammers.
- **Legitimate residential roofing companies support clarity and reasonable consumer protection in the contracting process.** Contractors and consumers benefit from good professional relationships;
- **The consumer right of rescission is consistent with other consumer contract protection laws at the state and federal level;**
- **Storm Scamming is a national problem** – In October 2016, the NC Department of Justice, Attorney General posted a consumer alert “Don't Fall for Storm Repair Scams”. Other states are being equally vigilant in protecting consumers in a similar manner that is fair to roofers . . . so should Hawaii;
- **SB 601 will protect consumers against residential home repair fraud** – Roofing repair contracts that “sound too good to be true, ARE too good to be true.” Deductible waivers, refunds, or rebate promises are a key part of the “Storm Scammer's” sales pitch - which needs to be prohibited. Written disclosure protect consumers against fraudulent inducements; and
- **Storm scammers hurt the local economy** – Fly-by-night “Storm scammers” take tens of millions of dollars of repair work out of local communities and away from legitimate contractors, who are members of the community and care about their long-term professional relationships with consumers.

## **Please VOTE YES on SB 601, and protect citizens of Hawaii from “storm scammer” roof repairs.**

Fact sheet created and disseminated by Christian Rataj of the National Association of Mutual Insurance Companies. NAMIC is the largest property/casualty insurance trade group with a diverse membership of more than 1,400 local, regional, and national member companies, including seven of the top 10 property/casualty insurers in the United States. NAMIC members lead the personal lines sector representing 66 percent of the homeowner's insurance market and 53 percent of the auto market. Through our advocacy programs we promote public policy solutions that benefit NAMIC member companies and the policyholders they serve and foster greater understanding and recognition of the unique alignment of interests between management and policyholders of mutual companies. NAMIC has 84 members who write property/casualty in the State of Hawaii, which represents 28% of the insurance marketplace.



# ROOFING CONTRACTORS ASSOCIATION OF HAWAII

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February 4, 2021

Testimony To: Senate Committee on Commerce and Consumer Protection  
Senator Rosalyn H. Baker, Chair

Presented By: Tim Lyons, Executive Director

Subject: S.B. 601 – RELATING TO ROOFING CONTRACTORS.

Chair Baker and Members of the Committee:

I am Tim Lyons, Executive Director of the Roofing Contractors Association of Hawaii. We oppose this bill.

We oppose this bill not based on any desire to see contractors “rip off” consumers but because we believe that the end result of this bill will be confusion between consumers and contractors and accomplish no real purpose.

First and foremost, we have not heard of any complaints in this area for years and in fact, our last check with RICO resulted in zero complaints.

Section 2 of the bill indicates some activities that a roofing contractor cannot do. By assumption then, we have to conclude that all other contractors can do those very same things. That doesn't seem to make sense.

The bill calls for a five (5) day recession period. A three (3) day recession period is already required for door-to-door sales. Is there some evidence that it needs to be longer?

In Section 2 \_\_\_\_ (b) indicates that the recession notice is effective upon deposit in the United States mail. Not certified mail, not even with proof of mailing. With no disrespect to the USPS, mail delivery lately has certainly not been what it used to be and why a recession notice would be based on the date you drop it in the mailbox as opposed to the date the contracting party received it, we are not quite sure.

This bill proposes to deal with situations where the consumer is going to use proceeds from a property or casualty insurance policy claim. How is the roofing contractor to know how the consumer plans on paying for the job? Frankly, it is none of the roofing contractor's business.

Again, we don't know what this bill really accomplishes. We don't think that roofing contractors should act as public adjustors and last year H.B. 2320 would have provided some additional language in the statutes on public adjustors and a prohibition against acting as a public adjustor. We think that is where this type of public adjustor language and its prohibition should be found.

Based on the above and the fact that we see this bill accomplishing absolutely nothing except for confusion for consumers and roofing contractors who do not do insurance work, we oppose it. We would also like to point out that it only addresses roofing contractors. Structural steel contractors, sheet metal contractors and general contractors can also all do roofing and do insurance work yet this bill fails to address them at all.

In conclusion, we don't think this bill is ready for "prime time" and should be filed.

Thank you.



**SanHi**

GOVERNMENT STRATEGIES

A LIMITED LIABILITY LAW PARTNERSHIP

DATE: February 1, 2021

TO: Senator Rosalyn H. Baker  
Chair, Committee on Commerce and Consumer Protection  
*Submitted Via Capitol Website*

FROM: Matt Tsujimura

RE: **S.B. 601 - Relating to Roofing Contractors**  
**Hearing Date: Thursday, February 4, 2021 at 9:30 a.m.**  
**Conference Room: 229**

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Dear Chair Baker, Vice Chair Chang, and Members of the Committee on Commerce and Consumer Protection:

I am Matt Tsujimura, representing State Farm Mutual Automobile Insurance Company (State Farm). State Farm offers these comments about S.B. 601, Relating to Roofing Contractors.

Although most roofing contractors are professionals that truly have the consumers' interests in mind when they provide repair estimates, State Farm has found that after major storms there are some unscrupulous practitioners that descend upon neighborhoods after a significant weather event trying to "drum up" business and take advantage of consumers. This often involves the contractor telling the consumer that they can get them a "new roof at no cost to them," and promising to "cover" the amount of the deductible when in reality that is built into the cost. The consumer is then pressured to immediately sign a binding contract for the full replacement cost.

When the insurance adjuster inspects the roof after the claim is filed and finds that there is little or no damage, the adjuster is forced to either deny the claim or approve it for the actual repair costs, which are far less than the contract price. This leaves consumers contractually obligated to pay for repairs that they don't need and can't afford. Often Hawaii's more vulnerable citizens are the targets of these schemes. S.B. 601 is a simple solution that 22 states have adopted including Alabama, Arizona, Arkansas, Colorado, Georgia, Illinois, Kentucky, Minnesota, Mississippi, Missouri, Nebraska, New York, North Dakota, South Carolina, South Dakota, Tennessee, Utah, Washington, West Virginia, Wisconsin, and Wyoming.

It prohibits roofers from offering to pay a homeowners insurance deductible as an incentive to hire the contractor, and allows a consumer five business days to rescind a contract after an insurer has inspected the roof and determined that "all or any part of the claim or contract is not a covered loss under the homeowners insurance policy." This is a pro-consumer protection bill that will help prevent Hawaii's citizens from being scammed into entering into deceptive roofing repair contracts.

Thank you for considering this pro-consumer legislation and for the opportunity to present this testimony.



February 3, 2021

Chair Rosalyn H. Baker and Members of the Committee  
Committee on Commerce and Consumer Protection  
Hawaii State Senate

RE: Senate Bill 601 – Contractor Fraud

Dear Chair Baker and Members of the Committee:

The National Insurance Crime Bureau (NICB) is a national, century-old, not-for-profit organization supported by approximately 1,200 property and casualty insurance companies, including many who write business in Hawaii. Working hand-in-hand with our member companies and law enforcement, we investigate organized criminal conspiracies dealing with insurance fraud and vehicle crime.

Contractor fraud, particularly involving roofing and roofing-related services, is a widespread problem, and Hawaii is not an exception. Often, in the aftermath of major storms or catastrophe, unscrupulous, aggressive contractors use the opportunity to prey upon already vulnerable consumers.

Senate Bill 601, among other things, seeks to provide important consumer protections, by:

1. Prohibiting full and partial deductible rebates. Some contractors will attempt to lure homeowners into agreeing to unnecessary or inflated claims by offering to rebate their deductible.
2. Providing for the right to cancel upon an adverse decision from an insurer. This important consumer protection helps ensure that homeowners that are misled by unscrupulous contractors into believing certain damage is covered or covered to a greater extent than it is, are not locked into a contract for extensive, expensive exterior repair work.

Subsequently, we ask for your support of SB 601 which will help provide critical consumer protections and curtail aggressive, storm chasing contractors.

Thank you for your review and consideration; if you have any questions or need additional information, please contact me at [hhandler@nicb.org](mailto:hhandler@nicb.org) or 847-544-7083.

Sincerely,

A handwritten signature in blue ink that reads "Howard Handler".

Howard Handler  
Senior Director, Government Affairs





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Date February 2<sup>nd</sup>, 2021

To: Hon. Rosalyn H. Baker  
and Committee Members of the Commerce, Consumer Protection and Health (CPH)  
Hawaii State Capitol Room no. 229

Hearing Date: 2-4-2021 at 9:30 am

Re: **SUPPORT for SB 601 Testimony w/modifications**

Dear CPH Committee Members,

My name is Robert Hugh Joslin and I am the President of Hawaii Public Adjusters (“HPA”). Our family-owned business is located at 437 Liholiho Street, in Wailuku, Maui, Hawai’i. The firm is the only resident public adjusting firm with continuous Hawaii operations servicing our island communities for almost 20 years. I have been licensed as a Public Adjuster (“PA”) by the State of Hawaii since October of 2002 pursuant to HRS Sections 431:9-201, 431:9-222 and 431:9-226. For most of my adult life, I’ve been involved in insurance and commercial development work. I have been active in Hawaii on commercial development projects dating back to 1984. In 2011, I became the first and still remain the only, Hawaii resident to be designated as a Certified Professional Public Adjuster (“CPPA”) from the Insurance Institute of America (“The Institute”). The Institute remains the sole certifier of distinguished insurance gradations such as the Chartered Property Casualty Underwriter (“CPCU”). I also hold a professional certification from the Wind Network as an Insurance Appraiser. I also hold the designation of Certified Insurance Appraiser from the national Insurance Appraiser and Umpire Association (“IAUA”). I am also the current Officer/Treasurer for the National Association of Public Insurance Adjusters (“NAPIA”) with its main offices located in Potomac Falls, Virginia. NAPIA was founded in 1951 and early on, was recognized as the first policyholder advocacy group with a nationwide impact for many insureds who were suffering through their insured property losses.

As a Hawaii Public Adjuster, I submit to oversight from the State of Hawaii's Insurance Department, the SOHID Commissioner and to his very dedicated staff. I am, by design, a public advocate for your Hawaii policyholders and those out of state owners of property that is located within our great state. I have a firm duty under HRS 431:9-226 to investigate for, report to and adjust on behalf of insureds (only). By legislative act, a PA represents an insured's financial interest in an insurance claim. Lisa Joslin, my wife, and Ryan Joslin, my son, are also Hawaii Public Adjusters. Our family and our additional fellow PAs, along with our supporting staff members, make up the only full-time and fully established PA firm operating within this state. We are well-versed in nearly every facet concerning Hawaii property insurance claims. We exist solely for the use, benefit and supporter for your Hawaii policyholders.

Let me start off by saying this bill has been very well-written. It is clear and concise as to its overall intentions. It is with the upmost respect, however, that I offer up certain minor issues that I have with HB 601 in its present form. It is my hope that the esteemed chair and the committee members will consider my reasoning for adjustments to the language within this bill.

1) As to SB 601 at page 7 at line 2, the following should be ~~deleted~~:

...

2. ~~exterior~~ repair, replacement, construction, or reconstruction

...

**At Issue:**

On many weather-related insured losses, a roof could get damaged to the extent that water enters the dwelling and creates an even greater harm to the policyholder's property beyond its roof. Interior walls, flooring, electrical and personal property (contents) could easily be impacted. I have represented many policyholder's financial interest wherein the interior damages ended up being +85 % of the loss. In this scenario, the state could be leaving an escape hatch for the mainland storm chasers. It is very conceivable that an unscrupulous contractor can bypass the effect of this proposed HRS 444 language. All he or she or they would need to do would be to limit

the work to all the *interior* damages (only). Excluding the word ~~exterior~~ goes to fixing that.

2) As to SB 601 at page 7 line 10 and 11, the following should be **added**:

...

10. "Insured" means any named insured, any additional insured,

11. **any claimant**, any vendor, any lessor ...

...

**At Issue:**

I believe that the intent of this legislation is to protect all of Hawaii's "insured(s)". By adding "any claimant" to the clausal language, the bill casts a bit bigger protection net. Simply put, in the insurance world, "**insured**" is a person or business entity that is covered by their insurer. A "**claimant**," on the other hand, can be any person or organization that suffered a loss and files a request to receive benefits from an **insurer**. I am not giving the legal definition here as I am not an attorney. I am offering this general observation commonly understood within our insurance profession. One is a 1<sup>st</sup> party position while the other is a 3<sup>rd</sup> party with a possible insured position. Both, however, are general seen as consumers. For the purposes of SB 601, the committee might want to consider the inclusion of "**any claimant**" in this description to assist those other possibly insured consumers.

3) As to SB 601 at page 8 line 8 and 9, the following should be ~~deleted~~:

...

8. ~~...nor a person providing roofing services to a~~

9. ~~residential building for more than four units,~~

...

**At Issue:**

I see a lot of older 6 and 8-plex units here in Hawaii. Many of them are in our poorer, older, and less fortunate neighborhoods. Many have been in locals' hands for ages. Countless others have been owned by our Pacific Islanders friends for just as long. Not that this is any

race or gender or any other biased type of issue but why would the legislature want to limit the protections for these other policyholders? Further in the language, SB 601 exempts a new home or any housing developments. So, with *prima facie* looks to this, the bill appears to only be directed at repair work regarding 1 to 4 family units. Mom and pop shops, along with all other small business ownerships, would also seem to be omitted from your protection. I believe that the intent of this bill was meant to also protect these policyholders. I do not believe that the authors intentionally meant to exclude them. By deleting that phrase, they would, argumentatively, be brought back under the protective policyholder tent.

Other than those comments, I wholly support the legislation and acceptance of SB 601.

Respectfully,

*Robert Hugh Joslin*

Robert Hugh Joslin (P) CPPA  
National Officer/Treasurer for the National Association of Public Insurance Adjusters (NAPIA)

M-F/8a-4p Office Line: 808-856-3041