

STAND. COM. REP. NO. 2662

Honolulu, Hawaii

FEB 16 2024

RE: S.B. No. 2607
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirty-Second State Legislature
Regular Session of 2024
State of Hawaii

Sir:

Your Committee on Commerce and Consumer Protection, to which was referred S.B. No. 2607 entitled:

"A BILL FOR AN ACT RELATING TO CONSTRUCTION,"

begs leave to report as follows:

The purpose and intent of this measure is to revise the construction defect claims resolution process under the Contractor Repair Act, chapter 672E, Hawaii Revised Statutes.

Your Committee received testimony in support of this measure from the Pacific Resource Partnership; Case Lombardi, A Law Corporation; D.R. Horton Hawaii LLC; Holomua Collaborative; Hawaii Credit Union League; Building Industry Association of Hawaii; Ali'i Glass & Metal, Inc.; Tru-Door Hawaii; Z Contractors, Inc.; Royal Contracting Co., Ltd.; Jayar Construction, Inc.; Stanford Carr Development; Foundation Building Materials, LLC; Paradigm Construction LLC; Gray, Hong, Nojima & Associates, Inc.; Cultured Marble; Hawaiian Landscape Co., Inc.; R.M. Towill Corporation; Vinyl Tech & Masonry, Inc.; M2K Construction LLC; Hawaiiana Management Company, Ltd.; REEF Development of Hawaii, Inc.; Gentry Homes, Ltd.; Jade Painting, Inc.; Ashford & Wriston A Limited Law Partnership LLP; Hawai'i Association of REALTORS; General Contractors Association of Hawaii; Fred Lau Hawaiian Landscape Co. Inc.; Foundations Hawaii, Inc.; KY International, Inc.; HPM Building Supply; Hawaii Regional Council of Carpenters; and twelve individuals.



Your Committee received testimony in opposition to this measure from Lipp Smith LLP, Kasdan Turner Thomson Booth LLC, and twenty-three individuals.

Your Committee received comments on this measure from the Contractors License Board.

Your Committee finds that the high volume of litigation related to construction defects in the State has contributed, in part, to rising insurance rates, housing costs, and the growing number of condominiums ineligible for government-backed loans because they are currently under litigation. Your Committee further finds that, under the claims resolution process for construction defects under chapter 672E, Hawaii Revised Statutes, in many cases, after filing a notice of claim of a construction defect, some homeowners reject, without good cause, a contractor's offer of repairs or monetary payments, leading to abuse and delays in the claims resolution process. Therefore, this measure will improve the claims resolution process by limiting a claimant's recovery to the total value of the contractor's offer if the claimant rejects a proposal to inspect or a monetary offer from the contractor under certain circumstances.

Your Committee notes that under this measure, a claimant that "unreasonably" rejects a proposal to inspect the premises of the alleged construction defect, or an offer to settle from a contractor, will be limited in recovery to the total value of the contractor's offer. Your Committee is concerned that this legal term of art is ambiguous and could lead to increased litigation, a result that this measure specifically seeks to address. Your Committee finds that this issue merits further consideration and respectfully requests that subsequent committees to which this measure is referred examine this issue.

Your Committee has amended this measure by:

- (1) Deleting language that would have required a claimant to accept a contractor's proposal for inspection within fourteen days, and restoring the thirty-day period under existing law;



- (2) Inserting language that allows, rather than requires, a claimant to accept certain offers made by a contractor under section 672E-4, Hawaii Revised Statutes;
- (3) Inserting an effective date of July 1, 2040, to encourage further discussion; and
- (4) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

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. 2607, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2607, S.D. 1, and be referred to your Committee on Judiciary.

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



JARRETT KEOHOKALOLE, Chair



