

Testimony of the Contractors License Board

**Before the
Senate Committee on Commerce and Consumer Protection
Wednesday, February 14, 2024
9:30 a.m.
Conference Room 229 and Videoconference**

**On the following measure:
S.B. 2606, RELATING TO CONSTRUCTION**

Chair Keohokalole and Members of the Committee:

My name is Neal Arita, Chairperson of the Contractors License Board (Board).
The Board offers comments on this bill.

The purpose of this bill is to establish additional requirements for notices of claims of construction defects.

The Board will review this bill at its next publicly noticed meeting on February 23, 2024. The Board has testified in opposition to similar measures that amend the Contractor Repair Act.

The Board has concerns that the average homeowner may not have enough adequate construction knowledge or resources to be able to describe the claim with sufficient particularity and specificity and to provide the evidence required to accompany the notice of claim. This measure requires that the claimant submit evidence depicting the nature and cause of the construction defect, and the nature and extent of the repairs necessary to correct the defect, including expert-generated reports, photographs, videos, and the results of any testing performed.

While these amendments are proposed to address construction defect litigation, homeowners building a single-family home on their property, who will not have members to join a class action suit, must also abide by the additional requirements this measure will impose.

Thank you for the opportunity to testify on this bill.

Testimony of
Pacific Resource Partnership

Senate Committee On Commerce And Consumer Protection
Senator Jarrett Keohokalole,, Chair
Senator Carol Fukunaga, Vice Chair

SB 2606 and SB 2607—Relating To Construction
Wednesday, February 14, 2024
9:30 A.M.

Aloha Chair Keohokalole, Vice Chair Fukunaga, and Members of the Committee:

Pacific Resource Partnership (PRP) is a nonprofit organization that represents the Hawai'i Regional Council of Carpenters, the largest construction union in the state with approximately 6,000 members, in addition to more than 250 diverse contractors ranging from mom-and-pop owned businesses to national companies.

PRP writes in **strong support** of SB 2606 and SB 2607, which protects housing options and affordability for our local residents by requiring that reasonable parameters exist around class-action lawsuits.

The loss of Hawai'i's population is due in large part to the severe shortage of affordable housing units, with many people, including young adults, essential workers such as teachers, doctors, nurses, and a disproportionate number of Native Hawaiians, migrating out of the State for mainland cities with adequate affordable housing and a lower cost of living.¹ We will continue to lose our Kama'āina and the valuable services they provide, unless we adopt reasonable policies that temper the escalating cost of housing, which includes lawsuits that primarily benefit a niche-class of attorneys.

It is our understanding that certain attorneys encourage homeowners to file claims against homebuilders in class action lawsuits that cast a wide net to include not just homes/condo units that are owned, but also homes/condo units that are currently under construction and are awaiting permit approvals from the counties. The only people benefitting from such lawsuits are the attorneys, leaving the homeowner without sufficient funds to remedy damages and first-time homebuyers without access to Federal Housing Administration, Fannie Mae, Department of Veterans Affairs, or other federally guaranteed loans that would have allowed them to qualify for low- and no-down-payment mortgages. Instead, these first-time homebuyers whose potential purchases fall under a class-action lawsuit, are required to pay the full 20% deposit, rendering them unable to qualify for a home.

SB 2606 and SB 2607 will help to reduce the unrestricted filing of unsupported construction defect claims against homebuilders that are pursued by claimants seeking damages without first providing an opportunity to resolve the claim and remedy potential defects.

¹ <https://www.dwell.com/article/hawaii-affordable-housing-crisis-86c0db3e>



(Continued From Page 1)

This bill will help to prevent frivolous lawsuits by increasing the opportunity for homebuilders and homeowners to address any potential construction defects without getting involved in costly litigation where everyone loses except for the attorneys. The legal parameters and processes detailed in SB 2606 and SB 2607 around construction defect claims will help move the state towards policies that will actually make the homeowner whole again, while supporting a mortgage environment where first-time homebuyers have an opportunity to qualify for low- and no-down-payment mortgages.

As such, we respectfully request your favorable decision on these measures. Thank you for this opportunity to submit written testimony.

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February 9, 2024

Senator Jarrett Keohokalole, Chair
Senator Carol Fukunaga, Vice Chair
Members of the Committee on Commerce and Consumer Protection
Thirty-Second Legislature, Regular Session of 2024

RE: **SB 2606 & SB 2607 – RELATING TO CONSTRUCTION**
Hearing Date: Wednesday, February 14, 2024 at 9:30am
Conference Room 229, State Capitol

Aloha Chair Keohokalole, Vice Chair Fukunaga and Members of the Committee,

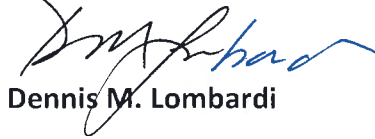
I wholeheartedly **SUPPORT** SB 2606 & SB 2607 – RELATING TO THE CONTRACTOR REPAIR ACT proposing changes to Hawai'i's construction defect legislation, particularly the emphasis on specificity in notice of claims, requiring actual evidence of the construction defect and discouraging the rejection of reasonable offers. Based on models adopted in various mainland states, the amendments promise to bring clarity and efficiency to the claim resolution process. By mandating detailed descriptions of alleged defects and discouraging the rejection of reasonable offers, homeowners and contractors can engage in transparent and productive dialogue, significantly reducing the likelihood of ambiguous or unsubstantiated claims and avoiding potentially significant delays to legitimate needed repairs. This approach aligns with best practices observed in other jurisdictions and is a progressive step toward fostering a constructive and equitable resolution framework in Hawai'i without undue construction litigation.

Unfortunately for Hawai'i, recent construction defect litigation has caused two significant and unprecedented effects on housing in Hawai'i. First, broad claims have halted hundreds of new housing units set to begin construction. Second, and more alarming, broad claims have prohibited the ability of 1st time homebuyers and affordable homebuyers to obtain a needed government backed mortgage. Lack of clarity and lack of actual evidence of construction defects in claims has encumbered new condominiums currently under construction. As a result, FHA, VA, Fannie Mae and Freddie Mac have taken the position to disqualify new condominium projects

with pending litigation. Without low down payment government backed loan programs and without the 20% down payment required by portfolio lending, most 1st time homebuyers, affordable homebuyers, and veterans are unfairly precluded from purchasing. This has only further exacerbated Hawai'i's dire housing crisis. As the Governor indicated in his State of the State address, we should collectively address and improve policies and processes that can impede the development of housing. In doing so, we recognize that housing is a "human right.". These bills take a step forward in improving the processes that impede development of affordable housing for Hawai'i residents.

Hawai'i's contractors stand behind the quality projects they build. These amendments will allow Hawai'i's contractors an opportunity to stand behind their work, correct and repair where appropriate, and at the same time protect Hawai'i's homeowners. I strongly urge the Committee to support these amendments for the benefit of homeowners, contractors, home buyers and the overall efficiency of the construction defect resolution process in our state.

Sincerely,



Dennis M. Lombardi



February 12, 2024

Senator Jarrett Keohokalole, Chair
Senator Carol Fukunaga, Vice Chair
Members of the Committee on Commerce and Consumer Protection
Thirty-Second Legislature, Regular Session of 2024

RE: **SB 2606 & SB 2607 – RELATING TO CONSTRUCTION**
Hearing Date: Wednesday, February 14, 2024 at 9:30am
Conference Room 229, State Capitol

Aloha Chair Keohokalole, Vice Chair Fukunaga and Members of the Committee,

Mahalo for the opportunity to submit testimony on behalf of D.R. Horton Hawaii LLC (“DRHH”) in **STRONG SUPPORT** of SB 2606 & SB 2607 – RELATING TO CONSTRUCTION. DRHH is one of Hawaii’s largest homebuilders and has been providing affordable housing, 1st time buyer and workforce housing for Hawaii’s families throughout the State for fifty years. D.R. Horton Hawaii is a leader in building quality homes and condominiums and is actively developing our Ho`opili master planned community in Ewa Beach-East Kapolei.

It is heartening to see with SB 2606 & SB 2607 that we are all collectively trying to solve the stark disparity between the supply and demand for much needed housing. DRHH continues to be a strong advocate for both our current homeowners and our future homebuyers when it comes to exploring solutions with industry, government, and community to reduce the cost of housing and expedite the production of it. We absolutely stand behind the homes we build and support our homeowners with legitimate and warrantable repairs. It has been our commitment over the last fifty years and will continue to be for the next fifty.

Over the last decade, we have seen the landscape of construction defect litigation change dramatically. Underwriting rising litigation risk has unfortunately become not only necessary but common practice. We have experienced firsthand the resulting negative effects: rising insurance premiums, contractors abstaining from bidding on housing projects and unnecessary additional construction costs. Not only have lawsuits increased exponentially, more disturbingly claims have become purposely overly broad to encompass all aspects of construction without any evidence of a defect or actual damage. This is a **pivotal shift** that has and will continue to further exacerbate Hawaii’s housing crisis.

DRHH has recently experienced unprecedented consequences from overly broad construction defect litigation claims that have detrimentally affected much needed housing:

- **First, overly broad construction defect litigation claims have directly halted 811 housing units set to begin construction.** These are affordable and workforce housing units designed to be building code compliant and are building permit approved.
- **Second, overly broad construction defect litigation claims have directly increased the cost of housing.** Building code compliant designs of new housing units now need to be redesigned to move forward unencumbered by ongoing lawsuits. Recent construction pricing has put this additional cost to housing upwards of \$14,000 per single family home.
- **Third and most egregious, overly broad construction defect litigation claims have directly affected our 1st time homebuyers' ability to obtain a much needed low down payment government backed mortgage.** Lack of clarity with overly broad construction defect claims have encumbered not only completed homes, but for the first time such litigation is now burdening new condominiums currently under construction. These are condominium units that were specifically designed for the 1st time homebuyer market. These units are designed to be building code compliant, are building permit approved and they are currently being constructed. However, FHA, VA, Fannie Mae and Freddie Mac have taken the position to disqualify new condominium projects with pending litigation. Without low down payment government backed loan programs and without the 20% down payment required by portfolio lending, most 1st time homebuyers and veterans are being unfairly precluded from purchasing.

This is why we strongly support SB 2606 & SB 2607. We believe both bills together will:

1. **Protect both consumers and contractors** - SB 2606 & SB 2607 will create a stronger and more equitable framework for warranty claims to be properly identified and documented, appropriately investigated and addressed in a timely manner, all **prior to** long, protracted legal proceedings. This is not occurring today, putting both homeowners and homebuilders in litigation purgatory because once a lawsuit is filed, all communications between the parties must cease. This circumvents the very intent of the Contractor Repair Act, ultimately preventing homeowners from obtaining needed repairs where actual, legitimate and warrantable damage is involved.
2. **Establish a reasonableness to mitigation versus litigation** – SB 2606 & SB 2607 will continue to allow a homeowner the ability to file a lawsuit, which is absolutely their right. However, it clarifies that if a claimant unreasonably rejects a bona fide offer to repair or mitigate, then their potential legal award should be limited to the cost of that repair offer. This change will encourage contractors to present meaningful offers and incentivize homeowners to closely evaluate offers that are received, thereby encouraging both parties to reach a resolution.
3. **Protect 1st time homebuyers** –new homes and condominiums under construction that are designed to comply with building code and have received building permit approval are placed in this same litigation purgatory. They are now being encumbered by purposely overly broad construction defect litigation claims that cause FHA, VA, Fannie Mae and Freddie Mac to disqualify lending. Our 1st time homebuyers deserve better, Hawaii's families deserve better.

February 12, 2024

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Thank you for the opportunity to share. D.R. Horton Hawaii stands behind the homes we build, we stand with our homeowners and we are advocating for Hawaii's 1st time homebuyers. We greatly appreciate the legislature and this committee for their commitment to ensuring we continue to collectively move housing forward in a positive direction for Hawaii's families.

We strongly urge the committee to pass both SB 2606 & SB 2607. Mahalo for your time and consideration, it is much appreciated.

Sincerely,

A handwritten signature in black ink, appearing to read 'Tracy'.

Tracy Tonaki
President
Hawaii Division



holomua

COLLABORATIVE

OUR MISSION

To support and advance public policies that make Hawai'i affordable for all working families.

OUR VISION

Collaborative, sustainable, and evidence-based public policies that create a diverse and sustainable Hawai'i economy, an abundance of quality job opportunities, and a future where all working families living in Hawai'i can thrive.

BOARD MEMBERS

Jason Fujimoto
Meli James, *Board Chair*
Micah Kāne
Brandon Kurisu
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Brad Nicolai
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ADVISORY COMMITTEE

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Page 1 of 2

Committee: Senate Committee on Commerce and Consumer Protection
Bill Number: SB 2606, Relating to Construction
Hearing Date and Time: February 14, 2024 at 9:30am (Room 229)
Re: Testimony of Holomua Collaborative in support

Aloha Chair Keohokalole, Vice Chair Fukunaga, and Committee members:

We write in support of SB 2606, Relating to Construction. This bill expands the required contents of a notice of claim of construction defect served on a contractor. It requires the claimant to provide actual evidence of the nature and cause of the construction defect and extent of necessary repairs along with the notice of claim. It amends the process and timeframe for a claimant to accept a contractor's proposal to inspect and authorize the contractor to proceed with repairs. And it limits the amount a claimant can recover if the claimant unreasonably rejects a contractor's proposal to inspect or an offer to remedy.

As an organization that is devoted to finding ways to keep all local working families in Hawai'i by making sure they can afford to stay, preventing unnecessary increases to the cost of home building is a critical part of the puzzle. This bill does so in a way that is safe, reasonable, and makes common sense.

Recent legal battles—based on overly broad defect litigation claims—have already hindered the ability of first-time homebuyers to secure government-backed mortgages, exacerbating Hawaii's critical housing shortage. The ambiguity and lack of concrete evidence regarding these overly broad defect claims has created obstacles for newly constructed home projects. As a result, entities like the Federal Housing Administration, the Veterans Administration, Fannie Mae, and Freddie Mac have all been disqualifying new housing projects *because* they are stuck in ongoing—and needless—litigation.

With limited access to government-backed loan programs that can reduce the large 20% down payment typically required by commercial lending, many local first-time homebuyers and veterans are being excluded from the housing market as a direct result of this litigation.

This means local families are being stopped from buying homes that could otherwise keep them in Hawai'i. Local families are being prevented from buying homes they *want* to buy.

This is not a hypothetical problem. Construction on over 800 homes and condominiums statewide has now stopped. These legal disputes are skyrocketing construction costs, inflating insurance premiums, necessitating additional expenditure on legal underwriting, and prompting structural redesigns.

We all want our laws to protect home safety. But this is not that. This is simply exploiting loopholes in current law that are preventing homes from being built—homes that have been specifically designed to comply with existing building codes.

This bill will continue to allow any homeowner to file a lawsuit. It simply clarifies that if a claimant unreasonably rejects a true offer to repair or mitigate, then their potential legal award should be limited to the cost of that repair offer. It also creates a stronger and fairer framework for warranty claims to be properly identified and documented, and appropriately investigated and addressed in a timely manner, before legal proceedings being.

Finally, it's important to note that frivolous class action lawsuits increase the cost of insurance that home builders must purchase. This cost is invariably passed on to the consumer. And whether that consumer is the homeowner themselves—or a local resident renting from a homeowner—it increases the cost of housing for local working families. In addition, it forces home builders to modify their building methods, which may not be the best solution either for the ultimate resident of the home, or for the quality of the build.

This is a sensible bill that will help us to continue building safe, affordable homes for local working families in Hawai'i, and we urge you to support it.

Sincerely,



Josh Wisch
President & Executive Director



Testimony to the Senate Committee on Commerce & Consumer Protection
Wednesday, February 14, 2024, at 9:30 AM
Conference Room 229

Testimony in Support of SB 2606 & SB 2607, Relating to Construction

To: The Honorable Jarrett Kaohokalole, Chair
The Honorable Carol Fukunaga, Vice-Chair
Members of the Committee

My name is Stefanie Sakamoto, and I am testifying on behalf of the Hawaii Credit Union League, the local trade association for 47 Hawaii credit unions, representing over 864,000 credit union members across the state.

HCUL is in support of SB 2606 & SB 2607, Relating to Construction. These bills address the construction defect process.

Lawsuits filed against residential developers harm the availability of mortgage loans. Currently, potential homebuyers who are hoping to secure a government loan (Fannie Mae/Freddie Mac, VA) are unable to do so if trying to purchase a unit in a development currently under litigation. As many credit unions offer mortgage loans, we are concerned about the impact on the mortgage and lending industry.

Thank you for the opportunity to provide comments on this issue.

LIPP SMITH LLP

Harbor Court Commercial Tower
55 Merchant St., Suite 1850
Honolulu, HI 96813

February 12, 2024

Subject: OPPOSITION TO SB2606-RELATING TO CONSTRUCTION

Dear Chair Jarrett Keohokalole, Vice Chair Carol Fukunaga, and Members of the Committee on Commerce and Consumer Protection:

We hereby submit this testimony to **OPPOSE SB2606-RELATING TO CONSTRUCTION.**

We are lawyers who have served and continue to serve as Hawai'i State and Federal Court-appointed class action counsel. In this capacity, we have represented and represent tens of thousands of Hawai'i homeowners with construction defects posing serious life and safety risks. To offer a very small sense of the serious construction defects in our class actions, we attached photographs from just one home out of thousands at issue.

It goes without saying that Hawai'i's tropical environment poses known, ever-increasing risks of dangerous winds, hurricanes, and flooding. It also goes without saying that Hawai'i's tropical environment can damage and destroy cheap building products, including structural metal. Putting up more roadblocks to deter and prevent homeowners from pursuing righteous claims for critical life and safety defects is anti-consumer and will endanger Hawai'i homeowners, their families, and their neighboring communities. The Lahaina wildfire tragedy is a horrific reminder that Hawai'i homeowners and residents are extremely vulnerable to powerful natural catastrophes.

SB2606 undermines the core purposes of the Contractor Repair Act and, by deterring and foreclosing construction claims, risks endangering homeowners and residents of Hawai'i.

When enacting the Contractor Repair Act, or SB2358 in the Regular Session of 2004, the Senate Committee on Judiciary and Hawaiian Affairs found that "this measure provides homeowner and others suffering from construction defects in their residences and premises with a speedy and precise resolution to their problems.... This measure enables the resolution of claims for construction defects without incurring the high costs of litigation." Sen. Stand. Com. Rep. 2790 (2004).

SB2606 undermines the Contractor Repair Act's core purposes in at least three ways.

First, SB2606's provision that "each . . . class member" comply with the notice and inspection requirements invites litigation before Contractor Repair Act claims. For any "class member" to exist, a homeowner must first

initiate litigation, a Court must certify a class action under Hawai'i Rules of Civil Procedure ("HRCP") Rule 23, appoint class counsel, and give notice of the class action to the class members. To require litigation **before** claims procedures under the Contractor Repair Act is contrary to the Act's purpose of enabling "the resolution of claims for construction defects without incurring the high costs of litigation."

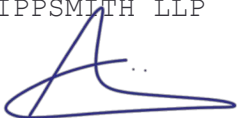
Second, SB2606's provision that "each . . . class member" comply with inspection requirements is contrary to the Contractor Repair Act's purposes of "speedy and precise resolution to [homeowners'] problems" and sparing parties "the high costs of litigation." Construction class actions in Hawai'i often entail dozens, hundreds, and even thousands of homes across the state. Inspections on **each** class member's home would take many years to accomplish at great expense and inconvenience for all parties involved. There would be nothing speedy, precise, or inexpensive about such a process. This would also undermine Hawai'i's class action procedures under HRCP Rule 23 in which Courts allow and supervise representative litigation over common claims. In those kinds of cases, inspecting class representative homes plus a **sampling** of class member homes is far more efficient, effective, and inexpensive for all parties.

Third, SB2606's notice procedures appear to require homeowners to hire expensive consultants to both identify the nature of their defects and to provide the extent of repairs necessary to cure the defects **before** pursuing construction claims. Identifying construction defects and repairs is a complex, scientific, technical, and expensive process that average homeowners cannot do or afford on their own. SB2606's notice provision would require homeowners to incur high costs of litigation **before** they can even make a claim. This is hardly consistent with the Contractor Repair Act's main purposes.

Thank you for considering our opposition to SB2606.

Sincerely,

LIPPSMITH LLP



Graham B. LippSmith

ATTACHMENT 1

HD Strap:



HD Strap:



MAS Strap:



MAS Strap:



Metal Sill Track:



Metal Sill Track:





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February 12, 2024

Senator Jarrett Keohokalole, Chair
Senator Carol Fukunaga, Vice Chair
Members of the Senate Committee on Commerce and Consumer Protection
Thirty-Second Legislature, Regular Session of 2024

Re: SB 2606- RELATING TO CONSTRUCTION: Testimony in Opposition
Hearing – Wednesday, February 14, 2024 in Conference Room 229, State Capitol

Chair Keohokalole, Vice Chair Fukunaga, and Members of Committee,

Our firm OPPOSES HB 2606 – RELATING TO CONSTRUCTION, proposing amendments to the Contractor Repair Act under Hawai'i Revised Statute § 672E, which make it nearly impossible to bring class actions on behalf of homeowners in construction defect cases.

I am a partner in the Honolulu office of the law firm Kasdan Turner Thomson Booth, LLLC. Our firm is a Hawaii registered Limited Liability Law Corporation representing homeowners and associations in construction defect matters.

My firm currently represents over 2,000 unit owners in various high-rise buildings throughout Oahu, including buildings which are over 88% workforce housing, as well as luxury and mixed occupancy buildings. We also presently represent over 4,500 property owners in both single-family detached and townhome developments throughout the state of Hawaii in a certified class action lawsuit regarding corroded foundation systems, and over 1,250 homeowners in a certified class action in Ewa Beach concerning corroded foundation hardware.

My firm also previously represented over 4,000 homeowners in a class action involving homes in the Ewa Beach area concerning corroded foundation hardware, where essentially each and every home has had the entirety of their foundation hardware replaced as a result of hard-fought litigation.

Below are example photos showing corrosion of corroded foundation systems from homes of homeowners we represent or have represented in current and previous class action lawsuits:

Table with 5 columns: HAWAII*, ARIZONA, CALIFORNIA (SOUTHERN), CALIFORNIA (NORTHERN), NEW MEXICO. Each column lists office address, phone, and fax numbers.

*KASDAN TURNER THOMSON BOOTH LLLC PRACTICE IS IN AFFILIATION WITH KASDAN TURNER THOMSON BOOTH LLP



The class action process under Rule 23 of the Hawaii Rules of Civil Procedure and the procedures in Hawaii Revised Statutes §672E (the “Contractor Repair Act”) were a part of the groundwork of these settlements, resulting in over 4,000 families now living in safer homes. Under the proposed amendments of HB 2606, these results would not have been possible.

Class actions provide a cost-effective means to go after the developer and/or contractors for defects that affect multiple homes developed by the same party. Without the ability to bring a class action, it would be extremely costly for homeowners to bring individual lawsuits.

Furthermore, many defects such as the corroded foundation systems in the photos above are hidden within the walls of the home, and the majority of homeowners have no chance of discovering these defects until a hurricane or other event occurs where the foundation system is critical to protect their home. Therefore, class actions are an important mechanism to protect the rights of homeowners who would otherwise be unaware of these defects.

HB 2606 represents the unilateral interests of developers and contractors to make it nearly impossible for homeowners to use the vehicle of class action litigation to recover for construction defects by requiring every class member to go through the Contractor Repair Act process.

The bill creates a chicken or an egg dilemma. The amendments would require any individual to go the Contractor Repair Act process if they want to be a class member. However, there is no way that individual homeowners would know they can be a class member without the class certification process—a procedural step in litigation, at which time notice goes out to all class members notifying them that they are part of the class. On the other hand, a plaintiff would not be able to file a class action lawsuit on behalf of a class until the class members have gone through the Contractor Repair Act—which is a prerequisite to filing a lawsuit.

This would create the conundrum where a homeowner could not file a class action lawsuit without all class members going through the Contractor Repair Act process, but potential class members would be unaware of their rights to be part of the class or go through the Contractor Repair Act without the class action lawsuit being filed—effectively killing the class action procedure for construction defect claims.

Our firm therefore strongly urges this Committee to protect the rights of the homeowners and purchasers of real property and stop this bill from moving forward.

Very Truly Yours,



Christopher K. Hikida
Kasdan Turner Thomson Booth LLLC



**HAWAII STATE SENATE
COMMITTEE ON COMMERCE AND CONSUMER PROTECTION
Conference Room 229 & Videoconference
State Capitol
9:30 AM**

February 14, 2024

Subject: SB 2606 - Relating to Construction

Chair Keohokalole, Vice Chair Fukunaga, and members of the Committee:

My name is Max Lindsey, Government Relations Committee Chair of the Building Industry Association of Hawaii (BIA Hawaii). Chartered in 1955, the Building Industry Association of Hawaii is a professional trade organization affiliated with the National Association of Home Builders, representing the building industry and its associates. BIA-Hawaii takes a leadership role in unifying and promoting the interests of the industry to enhance the quality of life for the people of Hawaii. Our members build the communities we all call home.

BIA Hawaii is in **strong support** of SB 2606, Relating to Construction. This bill expands the required contents of a notice of claim of construction defect served on a contractor, requires the claimant to provide actual evidence of the nature and cause of the construction defect and extent of necessary repairs along with the notice of claim, and makes it clear that each claimant must comply with the Contractor Repair Act.

We have a critical housing shortage in Hawaii. The amount of construction defect litigation in our state has reached a dire tipping point as evidenced by rising insurance costs, increased housing costs and the unavailability of government backed loans (FHA, VA, USDA, Fannie Mae and Freddie Mac) on condos with litigation, all of which preclude countless 1st time homebuyers from purchasing homes.

The proposed amendments in SB 2606 do not limit the consumers' current right to pursue claims against contractors and other industry professionals. The proposed amendments, however, are necessary to foster a fair, transparent and efficient process for homeowners as well as contractors in addressing construction defects. The bill's intent to provide better notice, present evidence of alleged defects, and increase participation in Contractor Repair Act process promotes a more fair and efficient process by promoting a better understanding of the alleged claims and thus an increased opportunity for early resolution.

1. **Specificity in Claim Notices Ensures Clarity:** The emphasis on detailing the construction defect in the notice of claim with particularity and specificity is a crucial improvement. This requirement ensures that both parties have a clear understanding of the issues at hand, facilitating more effective communication, transparency and accuracy and reducing the likelihood of misunderstandings and frivolous or unsubstantiated claims. The amendments seek to clarify and strengthen the prelitigation notice requirements consistent with other states that have adopted similar legislation (California, Colorado, Nevada, Florida) to decrease the number of unsubstantiated claims, encourage early resolution of claims, and reduce the cost of housing and insurance. Clear and detailed

notice helps contractors pinpoint the alleged issues, enabling them to address the concerns more effectively and efficiently.

2. **Evidence Submission Promotes Transparency and Efficient Resolution of Claims:** Requiring claimants to provide actual evidence of the construction defect, such as expert reports, photographs, videotapes, and testing results, promotes transparency and helps validate construction defect claims. This provision ensures that contractors have access to comprehensive information, promoting fairness and informed decision-making during the resolution process and preventing disputes over the validity of claims, leading to more efficient and effective resolution of construction defect issues. With respect to construction defect claims, this process allows for quicker resolutions and a more accurate assessment of the damages. This benefits contractors and homeowners by providing a basis for a more precise and effective remedy. These requirements are similar to and not more burdensome than the requirements of Hawaii's Design Claim Conciliation Panel, HRS Chapter 672E.
3. **Increases Participation In The Contractor Repair Act Increases Opportunity For Early Resolution:** The intent of the contractor repair act is to provide the opportunity for early inspection and resolution of claims. Participation of each claimant and the opportunity to inspect each dwelling or premise subject to the alleged claim is necessary for there to be a fair and transparent evaluation of the claims being alleged and opportunity for resolution.

The amendments will allow contractors to address the specific issue raised by homeowners. The legislation gives both homeowners and contractors an opportunity to reduce claims without costly and lengthy legal action helping to avoid potentially significant delays to much needed repairs.

We would also note that nothing in this bill precludes owners from making warranty claims to their developer and/or contractor and working directly with the developer and/or contractor to address perceived issues outside of the realm of litigation.

In conclusion, the proposed changes to Section 672E-3 the Hawaii Revised Statutes represent a thoughtful and balanced approach to more effectively address construction defects in housing and in turn help address Hawaii's housing crisis. These amendments promote early resolution, clarity in communication, and the submission of actual evidence, ultimately benefiting and protecting both homeowners and contractors. I urge you to support and pass this legislation to enhance the fairness and efficiency of the construction defect resolution process in Hawaii and to curb the unnecessary and protracted construction defect litigation that has deepened Hawaii's housing crisis and made housing unattainable for Hawaii's families.

We urge you to lend your support to these amendments, and appreciate the opportunity to provide our comments on this important matter.



ALI'I GLASS & METAL, INC.

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(808) 671-4571 FAX (808) 671-5173
Contractor's License #C-9182

February 9, 2024

Senator Jarrett Keohokalole, Chair
Senator Carol Fukunaga, Vice Chair
Members of the Committee on Commerce and Consumer Protection
Thirty-Second Legislature, Regular Session of 2024

RE: SB 2606 & SB 2607 – RELATING TO CONSTRUCTION
Hearing Date: Wednesday, February 14, 2024 at 9:30am
Conference Room 229, State Capitol

Aloha Chair Keohokalole, Vice Chair Fukunaga and Members of the Committee,

I wholeheartedly **SUPPORT** SB 2606 & SB 2607 – RELATING TO THE CONTRACTOR REPAIR ACT proposing changes to Hawaii's construction defect legislation, particularly the emphasis on specificity in notice of claims, requiring actual evidence of the construction defect and discouraging the rejection of reasonable offers. Drawing inspiration from successful models in various states, the amendments promise to bring clarity and efficiency to the claim resolution process. By mandating detailed descriptions of alleged defects and discouraging the rejection of reasonable offers, homeowners and contractors can engage in transparent and productive dialogue, significantly reducing the likelihood of ambiguous or unsubstantiated claims and avoiding potentially significant delays to legitimate needed repairs. This approach aligns with best practices observed in other jurisdictions and is a progressive step toward fostering a constructive and equitable resolution framework in Hawaii.

Equally as important, recent construction defect litigation has caused two significant and unprecedented effects on housing in Hawaii. First, broad claims have halted hundreds of new housing units set to begin construction. Second, and more alarming, broad claims have prohibited the ability of 1st time homebuyers to obtain a needed government backed mortgage. Lack of clarity and lack of actual evidence of construction defects in claims has encumbered new condominiums currently under construction. As a result, FHA, VA, Fannie Mae and Freddie Mac have taken the position to disqualify new condominium projects with pending litigation. Without low down payment government backed loan programs and without the 20% down payment required by portfolio lending, most 1st time homebuyers and veterans are unfairly precluded from purchasing. This has only further exacerbated Hawaii's dire housing crisis.



ALI'I GLASS & METAL, INC.

2159 LAUWILIWILI STREET KAPOLEI, HAWAII 96707
(808) 671-4571 FAX (808) 671-5173
Contractor's License #C-9182

Hawaii's contractors stand behind the quality projects they build, which these amendments will allow them to equitably do and at the same time protect Hawaii's homeowners. I strongly urge the Committee to support these amendments for the benefit of homeowners, contractors, homebuyers and the overall efficiency of the construction defect resolution process in our state.

Sincerely,

A handwritten signature in black ink, appearing to read "Damon Ishida", with a long, sweeping flourish extending to the right.

Damon Ishida
President



91-295 Kauhī Street
Kapolei, Hawaii 96707
TEL. (808) 682-0307 FAX (808) 682-0635

Senator Jarrett Keohokalole, Chair
Senator Carol Fukunaga, Vice Chair
Members of the Committee on Commerce and Consumer Protection
Thirty-Second Legislature, Regular Session of 2024

RE: **SB 2606 & SB 2607 – RELATING TO CONSTRUCTION**
Hearing Date: Wednesday, February 14, 2024 at 9:30am
Conference Room 229, State Capitol

Aloha Chair Keohokalole, Vice Chair Fukunaga and Members of the Committee,

I am writing to express my strong **SUPPORT** of SB 2606 & SB 2607 – RELATING TO CONSTRUCTION proposing changes to Section 672E-3 and -4 of the Hawaii Revised Statutes relating to construction defects in housing.

These amendments are crucial for fostering a fair, transparent and efficient process for homeowners as well as contractors in addressing construction defects. These amendments are also critical to curbing unnecessary and protracted lawsuits that have resulted in increased insurance costs on the new construction of much needed housing.

Equally as important, recent construction defect litigation has had an unprecedented effect on 1st time homebuyers' ability to obtain a needed government backed mortgage. This has only further exacerbated Hawaii's housing crisis. Lack of clarity and actual evidence of construction defect claims have encumbered not only completed homes but new condominiums currently under construction as well. As a result, FHA, VA, Fannie Mae and Freddie Mac have taken the position to rescind lending approvals on new condominium projects with pending litigation. Without low down payment government backed loan programs and without the 20% down payment required by portfolio lending, most 1st time homebuyers and veterans are unfairly preempted from purchasing.

1. Specificity in Claim Notices Ensures Clarity: The emphasis on detailing the construction defect in the notice of claim with particularity and specificity is a crucial improvement. This requirement ensures that both parties have a clear understanding of the issues at hand,

facilitating more effective communication, transparency and accuracy and reducing the likelihood of misunderstandings and frivolous or unsubstantiated claims. The amendments seek to clarify and strengthen the prelitigation notice requirements consistent with other states that have adopted similar legislation (California, Colorado, Nevada, Florida) to decrease the number of unsubstantiated claims, encourage early resolution of claims, and reduce the cost of housing and insurance. Clear and detailed notice helps contractors pinpoint the alleged issues, enabling them to address the concerns more effectively and efficiently.

2. Evidence Submission Promotes Transparency and Efficient Resolution of Claims: Requiring claimants to provide actual evidence of the construction defect, such as expert reports, photographs, videotapes, and testing results, promotes transparency and helps validate construction defect claims. This provision ensures that contractors have access to comprehensive information, promoting fairness and informed decision-making during the resolution process and preventing disputes over the validity of claims, leading to more efficient and effective resolution of construction defect issues. With respect to construction defect claims, this process allows for quicker resolutions and a more accurate assessment of the damages. This benefits contractors and homeowners by providing a basis for a more precise and effective remedy.

3. Amending the Process and Timeframe re Inspection and Repairs Provides More Certainty: By amending the process and timeframe for inspection and repairs, both contractors and homeowners will have more certainty. Establishing clear guidelines and timelines for inspections and repairs can help prevent delays and disputes, providing all parties involved with a clear understanding of the steps and timeframe for resolution. This increased certainty can lead to a more efficient and timely resolution of construction defect claims.

4. Limiting Recovery and Foreclosing Attorney's Fees When Offers are Unreasonably Rejected Ensures Fairness and Efficient Resolution of Claims: Limiting recovery and foreclosing attorney's fees when a proposal to inspect or an offer of repair is unreasonably rejected will result in quicker and fairer resolution of construction defect claims. This provision discourages the rejection of reasonable offers and promotes a more efficient resolution process by preventing unnecessary delays and costly disputes. It also helps to prevent the escalation of legal costs, contributing to a more efficient and cost-effective resolution of construction defect issues.

5. The Amendments will Help Resolve Claims Without Costly and Lengthy Legal Action by Allowing Contractors to Address the Specific Issue Being Raised. The amendments will allow contractors to address the specific issue raised by homeowners. The legislation gives both homeowners and contractors an opportunity to reduce claims without costly and lengthy legal action helping to avoid potentially significant delays to much needed repairs. The amount of construction defect litigation in our state has reached a dire tipping point as evidenced by rising insurance costs, increased housing costs and the unavailability of government backed loans (FHA, VA, USDA, Fannie Mae and Freddie Mac) on condos with litigation, all of which preclude countless 1st time homebuyers from purchasing homes.

In conclusion, the proposed changes to Section 672E-3 and -4 of the Hawaii Revised Statutes represent a thoughtful and balanced approach to more effectively address construction defects in housing and in turn help address Hawaii's housing crisis. These amendments promote early resolution, clarity in communication, and the submission of actual evidence, ultimately benefiting and protecting both homeowners and contractors. I urge you to support and pass this legislation to enhance the fairness and efficiency of the construction defect resolution process in Hawaii and to curb the unnecessary and protracted construction defect litigation that has deepened Hawaii's housing crisis and made housing unattainable for Hawaii's families.

I urge you to lend your support to these amendments.

Sincerely,

A handwritten signature in cursive script that reads "Charles Dickey".

Charles Dickey

President

Tru-Door Hawaii, Inc.



New Homes • Renovations • Custom Kitchens & Baths

To the Honorable,
Senator Jarrett Keohokalole, Chair
Senator Carol Fukunaga, Vice Chair
Members of the Committee on Commerce and Consumer Protection

RE: In Regards to SB 2606 & SB 2607 - New Home Construction
Hearing Date: 2-14-2024 at 9:30am
Conference Room 229, State Capitol

Good day Chair Keohokalole, Vice Chair Fukunaga and Members of the Committee,

I want to express my support for House Bill 2213 – In regards to the Contractors Repair Act proposing changes to Hawaii's construction defect legislation, particularly the emphasis on specificity in notice of claims, requiring actual evidence of the construction defect and discouraging the rejection of reasonable offers. Drawing inspiration from successful models in various states, the amendments promise to bring clarity and efficiency to the claim resolution process. By mandating detailed descriptions of alleged defects and discouraging the rejection of reasonable offers, homeowners and contractors can engage in transparent and productive dialogue, significantly reducing the likelihood of ambiguous or unsubstantiated claims and avoiding potentially significant delays to legitimate needed repairs. This approach aligns with best practices observed in other jurisdictions and is a progressive step toward fostering a constructive and equitable resolution framework in Hawaii.

Equally as important, recent construction defect litigation has caused two significant and unprecedented effects on housing in Hawaii. First, broad claims have halted hundreds of new housing units set to begin construction. Second, and more alarming, broad claims have prohibited the ability of **first time homebuyers to obtain a needed government backed mortgage**. Lack of clarity and **lack of actual evidence of construction defects** in claims has encumbered new condominiums currently under construction. As a result, FHA, VA, Fannie Mae and Freddie Mac have taken the position to disqualify new condominium projects with pending litigation. Without low down payment government backed loan programs and without the 20% down payment required by portfolio lending, most 1st time homebuyers and veterans are unfairly precluded from purchasing. This has only further exacerbated Hawaii's dire housing crisis.

Our Company has worked with DR Horton Hawaii, Castle & Cooke Homes as well as many other developers and have never had any major warranty issues. Hawaii's contractors stand behind the quality projects we build with trained Union labor which these amendments will allow us to equitably do and at the same time protect Hawaii's homeowners. I strongly urge the Committee to support these amendments for the benefit of homeowners, contractors, homebuyers and the overall efficiency of the construction defect resolution process in our State.

Sincerely,

Guy Taylor
RME Z Contractors Inc.

February 12, 2024

Senator Jarrett Keohokalole, Chair
Senator Carol Fukunaga, Vice Chair
Members of the Committee on Commerce and Consumer Protection
Thirty-Second Legislature, Regular Session of 2024



RE: **SB 2606 & SB 2607 – RELATING TO CONSTRUCTION**
Hearing Date: Wednesday, February 14, 2024 at 9:30am
Conference Room 229, State Capitol

Aloha Chair Keohokalole, Vice Chair Fukunaga and Members of the Committee,

I wholeheartedly **SUPPORT** SB 2606 & SB 2607 – RELATING TO THE CONTRACTOR REPAIR ACT proposing changes to Hawaii's construction defect legislation, particularly the emphasis on specificity in notice of claims, requiring actual evidence of the construction defect **and discouraging the rejection of reasonable offers**. Drawing inspiration from successful models in various states, the amendments promise to bring clarity and efficiency to the claim resolution process. By mandating detailed descriptions of alleged defects and discouraging the rejection of reasonable offers, homeowners and contractors can engage in transparent and productive dialogue, significantly reducing the likelihood of ambiguous or unsubstantiated claims and avoiding **potentially significant delays to legitimate needed repairs**. This approach aligns with best practices observed in other jurisdictions and is a progressive step toward fostering a constructive and equitable resolution framework in Hawaii.

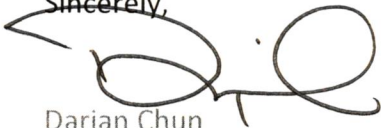
Equally as important, recent construction defect litigation has caused two significant and unprecedented effects on housing in Hawaii. First, broad claims have halted hundreds of new housing units set to begin construction. Second, and more alarming, broad claims have prohibited the ability of 1st time homebuyers to obtain a needed government backed mortgage. Lack of clarity and lack of actual evidence of construction defects in claims has encumbered new condominiums currently under construction. As a result, FHA, VA, Fannie Mae and Freddie Mac have taken the position to disqualify new condominium projects with pending litigation. Without low down payment government backed loan programs and without the 20% down payment required by portfolio lending, most 1st time homebuyers and veterans are unfairly precluded from purchasing. This has only further exacerbated Hawaii's dire housing crisis.

"An Equal Employment Opportunity Employer"

Royal Contracting Co Ltd • 1002 Puuwai Street • Honolulu, Hawaii 96819 • (808) 839-9006 • Fax (808) 839-7571

Hawaii's contractors stand behind the quality projects they build, which these amendments will allow them to equitably do and at the same time protect Hawaii's homeowners. I strongly urge the Committee to support these amendments for the benefit of homeowners, contractors, homebuyers and the overall efficiency of the construction defect resolution process in our state.

Sincerely,

A handwritten signature in black ink, appearing to be 'Darian Chun', written over a white background.

Darian Chun
Project Manager



February 14, 2024

Committee: Senate Committee on Commerce and Consumer Protection
Bill Number: SB 2606 Relating to Construction
Hearing Date and Time: February 14, 2024, 9:30am
Re: Testimony of HPM Building Supply in Support

Aloha Chair Keohokalole, Vice Chair Fukunaga and members of the Committee,

We write in strong support of SB 2606. This bill is an important step towards creating a fair, transparent, and efficient process for homeowners as well as contractors in addressing construction defects. These amendments are also critical to curbing unnecessary and protracted lawsuits that have resulted in increased insurance costs on the new construction of much needed housing.

HPM Building Supply is a 100% employee-owned company serving Hawaii's home improvement market and building industry for over 100 years since 1921. With 18 locations across Hawaii and Washington State, HPM offers various services and products, including retail stores, building supply and lumber yards, home design centers, drafting and design services, and manufacturing facilities. HPM is dedicated to enhancing homes, improving lives, and transforming communities one home at a time.

As a building material and home plan supplier to both homeowners and contractors alike, this bill has direct impact on the communities we serve. Recent construction defect litigation has now impacted 1st time homebuyers' ability to obtain government backed mortgages, furthering Hawaii's already urgent housing crisis. Lack of clarity and actual evidence of construction defect claims have encumbered new condominiums currently under construction. As a result, FHA, VA, Fannie Mae and Freddie Mac have taken the position to disqualify new condominium projects with pending litigation. This situation is also being applied to production home builders who are building turn-key communities. Without low down payment government backed loan programs and without the 20% down payment required by portfolio lending, most 1st time homebuyers and veterans are unfairly foreclosed from purchasing.

Home production has already halted with 800 homes/condos in litigation across the State. The lawsuits are also **increasing the cost of construction** with increased insurance costs, required underwriting of legal costs and award/settlement risk, and redesigns of structures. Estimates on costs are as follows:

- Increase in insurance, \$1,500/unit
- Increase in design/construction
 - Significant increase in cost to construct home
 - Additional \$93-\$133/mo in mortgage payment at a 7% interest rate
 - Additional \$282 to \$403/mo in household income required.

Hawaii's contractors stand behind the quality projects they build, which these amendments will allow them to equitably do and at the same time protect Hawaii's homeowners. We need housing to continue in Hawaii and not to be further stymied by court cases or unnecessary legal claims.

Mahalo for the opportunity to submit testimony in support of SB 2606. I strongly urge the Committee to support these amendments for the benefit of homeowners, contractors, homebuyers and the overall efficiency of the construction defect resolution process in our state.

Sincerely,

Dennis Lin
Community Relations Administrator





JAYAR CONSTRUCTION, INC.

1176 Sand Island Parkway ▼ Honolulu, Hawaii 96819
Tel (808) 843-0500 ▼ Fax (808) 843-0067
Contractor's License ABC-14156

Senator Jarrett Keohokalole, Chair
Senator Carol Fukunaga, Vice Chair
Members of the Committee on Commerce and Consumer Protection
Thirty-Second Legislature, Regular Session of 2024

RE: **SB 2606 & SB 2607 – RELATING TO CONSTRUCTION**
Hearing Date: Wednesday, February 14, 2024 at 9:30am
Conference Room 229, State Capitol

Aloha Chair Keohokalole, Vice Chair Fukunaga and Members of the Committee,

I am writing to express my strong **SUPPORT** of SB 2606 & SB 2607 – RELATING TO CONSTRUCTION proposing changes to Section 672E-3 and -4 of the Hawaii Revised Statutes relating to construction defects in housing.

These amendments are crucial for fostering a fair, transparent and efficient process for homeowners as well as contractors in addressing construction defects. These amendments are also critical to curbing unnecessary and protracted lawsuits that have resulted in increased insurance costs on the new construction of much needed housing.

Equally as important, recent construction defect litigation has had an unprecedented effect on 1st time homebuyers' ability to obtain a needed government backed mortgage. This has only further exacerbated Hawaii's housing crisis. Lack of clarity and actual evidence of construction defect claims have encumbered not only completed homes but new condominiums currently under construction as well. As a result, FHA, VA, Fannie Mae and Freddie Mac have taken the position to rescind lending approvals on new condominium projects with pending litigation. Without low down payment government backed loan programs and without the 20% down payment required by portfolio lending, most 1st time homebuyers and veterans are unfairly preempted from purchasing.

1. Specificity in Claim Notices Ensures Clarity: The emphasis on detailing the construction defect in the notice of claim with particularity and specificity is a crucial improvement. This requirement ensures that both parties have a clear understanding of the issues at hand, facilitating more effective communication, transparency and accuracy and reducing the likelihood of misunderstandings and frivolous or unsubstantiated claims. The amendments seek to clarify and strengthen the prelitigation notice requirements consistent with other states that have adopted similar legislation (California, Colorado, Nevada, Florida) to decrease the number of unsubstantiated claims, encourage early resolution of claims, and reduce the cost of housing and insurance. Clear and detailed notice helps contractors pinpoint the alleged issues, enabling them to address the concerns more effectively and efficiently.

2. Evidence Submission Promotes Transparency and Efficient Resolution of Claims: Requiring claimants to provide actual evidence of the construction defect, such as expert reports, photographs, videotapes, and testing results, promotes transparency and helps validate construction defect claims. This provision ensures that contractors have access to comprehensive information, promoting fairness and informed decision-making during the resolution process and preventing disputes over the validity of claims, leading to more efficient and effective resolution of construction defect issues. With respect to construction defect claims, this process allows for quicker resolutions and a more accurate assessment of the damages. This benefits contractors and homeowners by providing a basis for a more precise and effective remedy.

3. Amending the Process and Timeframe re Inspection and Repairs Provides More Certainty: By amending the process and timeframe for inspection and repairs, both contractors and homeowners will have more certainty. Establishing clear guidelines and timelines for inspections and repairs can help prevent delays and disputes, providing all parties involved with a clear understanding of the steps and timeframe for resolution. This increased certainty can lead to a more efficient and timely resolution of construction defect claims.

4. Limiting Recovery and Foreclosing Attorney's Fees When Offers are Unreasonably Rejected Ensures Fairness and Efficient Resolution of Claims: Limiting recovery and foreclosing attorney's fees when a proposal to inspect or an offer of repair is unreasonably rejected will result in quicker and fairer resolution of construction defect claims. This provision discourages the rejection of reasonable offers and promotes a more efficient resolution process by preventing unnecessary delays and costly disputes. It also helps to prevent the escalation of legal costs, contributing to a more efficient and cost-effective resolution of construction defect issues.

5. The Amendments will Help Resolve Claims Without Costly and Lengthy Legal Action by Allowing Contractors to Address the Specific Issue Being Raised. The amendments will allow contractors to address the specific issue raised by homeowners. The legislation gives both homeowners and contractors an opportunity to reduce claims without costly and lengthy legal action helping to avoid potentially significant delays to much needed repairs. The amount of construction defect litigation in our state has reached a dire tipping point as evidenced by rising insurance costs, increased housing costs and the unavailability of government backed loans (FHA, VA, USDA, Fannie Mae and Freddie Mac) on condos with litigation, all of which preclude countless 1st time homebuyers from purchasing homes.

In conclusion, the proposed changes to Section 672E-3 and -4 of the Hawaii Revised Statutes represent a thoughtful and balanced approach to more effectively address construction defects in housing and in turn help address Hawaii's housing crisis. These amendments promote early resolution, clarity in communication, and the submission of actual evidence, ultimately benefiting and protecting both homeowners and contractors. I urge you to support and pass this legislation to enhance the fairness and efficiency of the construction defect resolution

process in Hawaii and to curb the unnecessary and protracted construction defect litigation that has deepened Hawaii's housing crisis and made housing unattainable for Hawaii's families.

I urge you to lend your support to these amendments.

Sincerely,

A handwritten signature in black ink, appearing to read 'Aaron M. Yahiku', written in a cursive style.

Aaron M. Yahiku, P.E.
President

▪ February 12, 2024

The Honorable Jarrett Keohokalole, Chair
The Honorable Carol Fukunaga, Vice Chair
and Members of the Senate Committee on Commerce and Consumer Protection

Re: Testimony - SB 2606, Relating to Construction
SB 2607 Relating to Construction
Hearing: February 14, 2024 at 9:30 AM
Conference Room 229

Dear Chair Keohokalole, Vice Chair Fukunaga and Committee Members:

Stanford Carr Development (SCD) is writing to collectively **support** SB 2606 and SB 2607 that propose to establish additional requirements for notices of claims of construction defects and further revises the defect claims process.

The existing Contractor Repair Act §672E-3 requires 90-day advance notice prior to filing a legal complaint and for the claim to be described in detail. However, claims are often broad and vague. We support the proposed amendments that require additional specificity to the details of the alleged defect prior to the filing a legal complaint for the recovery of damages. We also support the proposed changes to HRS §672E-4 requiring the claimant and the contractor to cooperate in the timely facilitation of an inspection and the potential to repair without engaging in litigation.

While Bills 2606 and 2607 appear to burden consumers with added requirements when seeking relief from defective workmanship, in fact the bill protects consumers from costly litigation advised by legal counsels who purport to protect their clients' interest, but serve only their own.

Time and time again, our firm has witnessed arbitrary and capricious complaints of vaguely described construction defects authored by perennial "legal" firms seeking to deplete entire insurance policies under the guise of protecting their client – often capturing most settlements as attorney fees for themselves, leaving their clients to fund the repairs, if any, via special assessments, e.g., Kehalani Gardens.

The myth of the greedy developer providing shotty workmanship or otherwise unworthy products has captured the fears of home-buyers and law-makers alike, transforming the process of contractor repair into a cacophony of multi-million-dollar legal battles that largely ignore whether the alleged complaint itself is relieved.

In addition to the legal armaments developers and contractors must now employ when inspecting complaints of alleged defects, and the fact that alleged defects are often not repaired after such a settlement, the insurance markets have taken notice. Over the course of the last two decades, insurance premiums for General Liability policies - those which protect a contractor or developer from legal action such as described above – have grown exorbitantly relative to the cost of construction if providers are willing to insure at all.

Over time, barring a change to this trend, eventually it will be financially impossible to insure, and therefore build, medium density for-sale housing such as duplexes, townhouses, or low-rise multi-family. An entire generation of malfeasance on the part of over-zealous attorneys reaping the benefits of uninformed homeowner's associations coupled with a de minimis, albeit legitimate, volume of material construction defects is leading to an era in which the most affordable type of housing one could build or buy, is too risky.

Large scale multi-family projects have greatly decreased in the last 20 years, leading to the lion's share of new housing entrenched in single-family or high-rise development. The abuse of the Contractor Repair Act in its current state is a powerful influence in that trend, and will continue to be absent of legislation such as this. As a developer for over 30 years, who always warrants our workmanship, and on behalf of others like myself or young men and women born in the state looking to stay in the state provided they can afford to do so, we simply request an opportunity to remedy in good faith rather than waste precious time and money enriching attorneys.

Thank you for the opportunity to offer comments on this measure.

Respectfully,

A handwritten signature in black ink, appearing to read 'Stanford S. Carr', with a long horizontal flourish extending to the right.

Stanford S. Carr



Foundation Building Materials

Senator Jarrett Keohokalole, Chair
Senator Carol Fukunaga, Vice Chair
Members of the Committee on Commerce and Consumer Protection
Thirty-Second Legislature, Regular Session of 2024

RE: **SB 2606 & SB 2607 – RELATING TO CONSTRUCTION**
Hearing Date: Wednesday, February 14, 2024 at 9:30am
Conference Room 229, State Capitol

Aloha Chair Keohokalole, Vice Chair Fukunaga and Members of the Committee,

I am writing to express my strong **SUPPORT** of SB 2606 & SB 2607 – RELATING TO CONSTRUCTION proposing changes to Section 672E-3 and -4 of the Hawaii Revised Statutes relating to construction defects in housing.

These amendments are crucial for fostering a fair, transparent and efficient process for homeowners as well as contractors in addressing construction defects. These amendments are also critical to curbing unnecessary and protracted lawsuits that have resulted in increased insurance costs on the new construction of much needed housing.

Equally as important, recent construction defect litigation has had an unprecedented effect on 1st time homebuyers' ability to obtain a needed government backed mortgage. This has only further exacerbated Hawaii's housing crisis. Lack of clarity and actual evidence of construction defect claims have encumbered not only completed homes but new condominiums currently under construction as well. As a result, FHA, VA, Fannie Mae and Freddie Mac have taken the position to rescind lending approvals on new condominium projects with pending litigation. Without low down payment government backed loan programs and without the 20% down payment required by portfolio lending, most 1st time homebuyers and veterans are unfairly preempted from purchasing.

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that have adopted similar legislation (California, Colorado, Nevada, Florida) to decrease the number of unsubstantiated claims, encourage early resolution of claims, and reduce the cost of housing and insurance. Clear and detailed notice helps contractors pinpoint the alleged issues, enabling them to address the concerns more effectively and efficiently.

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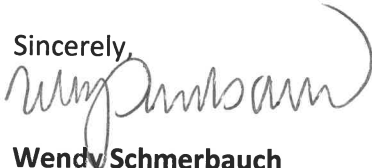
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In conclusion, the proposed changes to Section 672E-3 and -4 of the Hawaii Revised Statutes represent a thoughtful and balanced approach to more effectively address construction defects in housing and in turn help address Hawaii's housing crisis. These amendments promote early resolution, clarity in communication, and the submission of actual evidence, ultimately benefiting and protecting both homeowners and contractors. I urge you to support and pass this legislation to enhance the fairness and efficiency of the construction defect resolution process in Hawaii and to curb the unnecessary and protracted construction defect litigation that has deepened Hawaii's housing crisis and made housing unattainable for Hawaii's families.

I urge you to lend your support to these amendments.

Sincerely,

A handwritten signature in cursive script, appearing to read "Wendy Schmerbauch".

Wendy Schmerbauch
Branch Manager
Foundation Building Materials, LLC



HAWAII LABORERS-EMPLOYERS COOPERATION AND EDUCATION TRUST

650 Iwilei Road, Suite 285 · Honolulu, HI 96817 · Phone: 808-845-3238 · Fax: 808-845-8300

THE SENATE
THE THIRTY-SECOND LEGISLATURE
REGULAR SESSION OF 2024

COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

Senator Jarrett Keohokalole, Chair
Senator Carol Fukunaga, Vice Chair

NOTICE OF HEARING

DATE: Wednesday, February 14, 2024
TIME: 9:30 a.m.
PLACE: Conference Room 229
State Capitol
415 South Beretania Street

TESTIMONY ON SB2606

TO THE HONORABLE CHAIR JARRETT KEOHOKALOLE, VICE CHAIR CAROL FUKUNAGA AND MEMBERS OF THE SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION:

Hawaii LECET is a labor-management partnership between the Hawaii Laborers' International Union of North America, Local 368, its 5000+ members and its 250+ unionized contractors. The Laborers' International Union of North America is the largest international construction trade union in the United States and Canada.

Mahalo for the opportunity to testify in support of SB2606, Relating to Construction, which establishes requirements for notices of claims of construction defects. This bill sets forth clear, specific steps and affirms the process of submitting a claim against a contractor for construction, design, or remodeling defects. These requirements will ensure that the process is clear, uniform and fair for both parties. Thank you for your consideration.

With Respect,

Hawaii Laborers-Employers Cooperation and Education Trust



Paradigm
CONSTRUCTION LLC

February 3, 2024

Senator Jarrett Keohokalole, Chair
Senator Carol Fukunaga, Vice Chair
Members of the Committee on Commerce and Consumer Protection
Thirty-Second Legislature, Regular Session of 2024

RE: **SB 2606 & SB 2607 – RELATING TO CONSTRUCTION**
Hearing Date: Wednesday, February 14, 2024 at 9:30am
Conference Room 229, State Capitol

Aloha Chair Keohokalole, Vice Chair Fukunaga and Members of the Committee,

I wholeheartedly **SUPPORT** SB 2606 & SB 2607 – RELATING TO THE CONTRACTOR REPAIR ACT proposing changes to Hawaii's construction defect legislation, particularly the emphasis on specificity in notice of claims, requiring actual evidence of the construction defect and discouraging the rejection of reasonable offers. Drawing inspiration from successful models in various states, the amendments promise to bring clarity and efficiency to the claim resolution process. By mandating detailed descriptions of alleged defects and discouraging the rejection of reasonable offers, homeowners and contractors can engage in transparent and productive dialogue, significantly reducing the likelihood of ambiguous or unsubstantiated claims and avoiding potentially significant delays to legitimate needed repairs. This approach aligns with best practices observed in other jurisdictions and is a progressive step toward fostering a constructive and equitable resolution framework in Hawaii.

Equally as important, recent construction defect litigation has caused two significant and unprecedented effects on housing in Hawaii. First, broad claims have halted hundreds of new housing units set to begin construction. Second, and more alarming, broad claims have prohibited the ability of 1st time homebuyers to obtain a needed government backed mortgage. Lack of clarity and lack of actual evidence of construction defects in claims has encumbered new condominiums currently under construction. As a result, FHA, VA, Fannie Mae and Freddie Mac have taken the position to disqualify new condominium projects with pending litigation. Without low down payment government backed loan programs and without the 20% down payment required by portfolio lending, most 1st time homebuyers and veterans are unfairly precluded from purchasing. This has only further exacerbated Hawaii's dire housing crisis.

Hawaii's contractors stand behind the quality projects they build, which these amendments will allow them to equitably do and at the same time protect Hawaii's homeowners. I strongly urge the Committee



Paradigm
CONSTRUCTION LLC

to support these amendments for the benefit of homeowners, contractors, homebuyers and the overall efficiency of the construction defect resolution process in our state.

Sincerely,

Alex M Kwon
President

Gray • Hong • Nojima & Associates, Inc.

CONSULTING ENGINEERS

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Honolulu, Hawaii 96813-2926
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February 9, 2024

TESTIMONY SUBMITTED ONLINE

Senator Jarrett Keohokalole, Chair
Senator Carol Fukunaga, Vice Chair
Members of the Committee on Commerce and Consumer Protection
Thirty-Second Legislature, Regular Session of 2024

RE: SB 2606 & SB 2607 – RELATING TO CONSTRUCTION
Hearing Date: Wednesday, February 14, 2024 at 9:30am
Conference Room 229, State Capitol

Aloha Chair Keohokalole, Vice Chair Fukunaga and Members of the Committee,

I am writing to express my strong **SUPPORT** of SB 2606 & SB 2607 – RELATING TO THE CONTRACTOR REPAIR ACT proposing changes to Section 672E-3 and -4 of the Hawaii Revised Statutes relating to construction defects in housing. The primary reason for my support is the emphasis on protecting both contractors, homeowners and now 1st time homebuyers by requiring specificity in the notice of claim, establishing clear guidelines and timelines for inspections and repairs and discouraging the rejection of reasonable offers. These protections are pivotal to streamline the claim resolution process and mitigate the unnecessary legal disputes that have aggravated Hawaii's housing crisis and made housing unattainable for Hawaii's families.

Recent construction defect litigation has now impacted 1st time homebuyers' ability to obtain a needed government backed mortgage, further deepening Hawaii's housing crisis. Lack of clarity and actual evidence of construction defect claims have encumbered new condominiums currently under construction. As a result, FHA, VA, Fannie Mae and Freddie Mac have taken the position to disqualify new condominium projects with pending litigation. Without low down payment government backed loan programs and without the 20% down payment required by portfolio lending, most 1st time homebuyers and veterans are unfairly foreclosed from purchasing.

The legislation's emphasis on detailing the construction defect in the notice of claim with particularity and specificity is a crucial improvement. This requirement ensures that both parties have a clear understanding of the actual issue at hand supporting the core intent of HRS Section 672E. The proposed amendments will also facilitate more effective communication, transparency and accuracy in the process, thus reducing the likelihood of misunderstandings and frivolous or unsubstantiated claims that have now affected access to critically important FHA, VA, Fannie Mae and Freddie Mac loan programs. Requiring claimants to provide actual evidence of the construction defect promotes transparency and helps validate construction defect claims. This benefits both contractors and homeowners by providing a basis for a more precise, timely and effective remedy, without litigation. It will also provide a basis upon which mortgage lending on new housing under construction, without legitimate evidence of a construction defect, could continue offering much needed government backed loans.

Senator Jarrett Keohokalole, Chair
Senator Carol Fukunaga, Vice Chair
Members of the Committee on Commerce and Consumer Protection
February 9, 2024
Page 2

In conclusion, the proposed changes align with the principles of proactive conflict resolution, promoting a collaborative approach to addressing construction defects in Hawaii. The proposed changes are pivotal to streamline the resolution process and mitigate the deluge of unnecessary legal disputes that have directly affected 1st time homebuyers' and veterans' ability to obtain a low down payment FHA, VA, Fannie Mae or Freddie Mac loan and that have only deepened Hawaii's housing crisis and made housing further beyond reach for Hawaii's families.

I urge you to lend your support to these amendments.

Sincerely,

GRAY, HONG, NOJIMA & ASSOCIATES, INC.

A handwritten signature in blue ink, appearing to read "Michael H. Nojima", with a stylized flourish at the end.

Michael H. Nojima, PE, LEED AP
Vice President

CM Cultured Marble

1726 Republican Street Honolulu, HI 96819
Phone# (808) 832-2535 Fax# (808) 832-2537
Email: culturedmarble@culmar.org

Senator Jarrett Keohokalole, Chair
Senator Carol Fukunaga, Vice Chair
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RE: **SB 2606 & SB 2607 – RELATING TO CONSTRUCTION**
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These amendments are crucial for fostering a fair, transparent and efficient process for homeowners as well as contractors in addressing construction defects. These amendments are also critical to curbing unnecessary and protracted lawsuits that have resulted in increased insurance costs on the new construction of much needed housing.

Equally as important, recent construction defect litigation has had an unprecedented effect on 1st time homebuyers' ability to obtain a needed government backed mortgage. This has only further exacerbated Hawaii's housing crisis. Lack of clarity and actual evidence of construction defect claims have encumbered not only completed homes but new condominiums currently under construction as well. As a result, FHA, VA, Fannie Mae and Freddie Mac have taken the position to rescind lending approvals on new condominium projects with pending litigation. Without low down payment government backed loan programs and without the 20% down payment required by portfolio lending, most 1st time homebuyers and veterans are unfairly preempted from purchasing.

1. Specificity in Claim Notices Ensures Clarity: The emphasis on detailing the construction defect in the notice of claim with particularity and specificity is a crucial improvement. This requirement ensures that both parties have a clear understanding of the issues at hand, facilitating more effective communication, transparency and accuracy and reducing the

likelihood of misunderstandings and frivolous or unsubstantiated claims. The amendments seek to clarify and strengthen the prelitigation notice requirements consistent with other states that have adopted similar legislation (California, Colorado, Nevada, Florida) to decrease the number of unsubstantiated claims, encourage early resolution of claims, and reduce the cost of housing and insurance. Clear and detailed notice helps contractors pinpoint the alleged issues, enabling them to address the concerns more effectively and efficiently.

2. Evidence Submission Promotes Transparency and Efficient Resolution of Claims: Requiring claimants to provide actual evidence of the construction defect, such as expert reports, photographs, videotapes, and testing results, promotes transparency and helps validate construction defect claims. This provision ensures that contractors have access to comprehensive information, promoting fairness and informed decision-making during the resolution process and preventing disputes over the validity of claims, leading to more efficient and effective resolution of construction defect issues. With respect to construction defect claims, this process allows for quicker resolutions and a more accurate assessment of the damages. This benefits contractors and homeowners by providing a basis for a more precise and effective remedy.

3. Amending the Process and Timeframe re Inspection and Repairs Provides More Certainty: By amending the process and timeframe for inspection and repairs, both contractors and homeowners will have more certainty. Establishing clear guidelines and timelines for inspections and repairs can help prevent delays and disputes, providing all parties involved with a clear understanding of the steps and timeframe for resolution. This increased certainty can lead to a more efficient and timely resolution of construction defect claims.

4. Limiting Recovery and Foreclosing Attorney's Fees When Offers are Unreasonably Rejected Ensures Fairness and Efficient Resolution of Claims: Limiting recovery and foreclosing attorney's fees when a proposal to inspect or an offer of repair is unreasonably rejected will result in quicker and fairer resolution of construction defect claims. This provision discourages the rejection of reasonable offers and promotes a more efficient resolution process by preventing unnecessary delays and costly disputes. It also helps to prevent the escalation of legal costs, contributing to a more efficient and cost-effective resolution of construction defect issues.

5. The Amendments will Help Resolve Claims Without Costly and Lengthy Legal Action by Allowing Contractors to Address the Specific Issue Being Raised. The amendments will allow contractors to address the specific issue raised by homeowners. The legislation gives both homeowners and contractors an opportunity to reduce claims without costly and lengthy legal action helping to avoid potentially significant delays to much needed repairs. The amount of construction defect litigation in our state has reached a dire tipping point as evidenced by rising insurance costs, increased housing costs and the unavailability of government backed loans (FHA, VA, USDA, Fannie Mae and Freddie Mac) on condos with litigation, all of which preclude countless 1st time homebuyers from purchasing homes.

In conclusion, the proposed changes to Section 672E-3 and -4 of the Hawaii Revised Statutes represent a thoughtful and balanced approach to more effectively address construction defects in housing and in turn help address Hawaii's housing crisis. These amendments promote early resolution, clarity in communication, and the submission of actual evidence, ultimately benefiting and protecting both homeowners and contractors. I urge you to support and pass this legislation to enhance the fairness and efficiency of the construction defect resolution process in Hawaii and to curb the unnecessary and protracted construction defect litigation that has deepened Hawaii's housing crisis and made housing unattainable for Hawaii's families.

I urge you to lend your support to these amendments.

Sincerely,

A handwritten signature in black ink, appearing to read 'John Mendonca', written over a light blue horizontal line.

John Mendonca
President

FRED LAU
HAWAIIAN LANDSCAPE CO., INC.
171 WAOKANKA PLACE
HONOLULU, HI 96817
PH. 595-5148 FAX. 595-8148
LIC.# C-20156

Senator Jarrett Keohokalole, Chair
Senator Carol Fukunaga, Vice Chair
Members of the Committee on Commerce and Consumer Protection
Thirty-Second Legislature, Regular Session of 2024

RE: **SB 2606 & SB 2607 – RELATING TO CONSTRUCTION**
Hearing Date: Wednesday, February 14, 2024 at 9:30am
Conference Room 229, State Capitol

Aloha Chair Keohokalole, Vice Chair Fukunaga and Members of the Committee,

I am writing to express my strong **SUPPORT** of HB 2213 – RELATING TO THE CONTRACTOR REPAIR ACT proposing changes to Section 672E-3 and -4 of the Hawaii Revised Statutes relating to construction defects in housing.

These amendments are crucial for fostering a fair, transparent and efficient process for homeowners as well as contractors in addressing construction defects. These amendments are also critical to curbing unnecessary and protracted lawsuits that have resulted in increased insurance costs on the new construction of much needed housing. These increases in insurance cost eventually get passed on to buyers which leads to increased home prices in Hawaii, making it more and more difficult for residents to buy homes.

Most importunately, recent construction defect litigation has had an unprecedented effect on 1st time homebuyers' ability to obtain a needed government backed mortgage. This has only further exacerbated Hawaii's housing crisis. Lack of clarity and actual evidence of construction defect claims have encumbered not only completed homes but new condominiums currently under construction as well. As a result, FHA, VA, Fannie Mae and Freddie Mac have taken the position to rescind lending approvals on new condominium projects with pending litigation. Without low down payment government backed loan programs and without the 20% down payment required by portfolio lending, most 1st time homebuyers and veterans are unfairly preempted from purchasing.

1. Specificity in Claim Notices Ensures Clarity: The emphasis on detailing the construction defect in the notice of claim with particularity and specificity is a crucial improvement. This requirement ensures that both parties have a clear understanding of the issues at hand,

facilitating more effective communication, transparency and accuracy and reducing the likelihood of misunderstandings and frivolous or unsubstantiated claims. The amendments seek to clarify and strengthen the prelitigation notice requirements consistent with other states that have adopted similar legislation (California, Colorado, Nevada, Florida) to decrease the number of unsubstantiated claims, encourage early resolution of claims, and reduce the cost of housing and insurance. Clear and detailed notice helps contractors pinpoint the alleged issues, enabling them to address the concerns more effectively and efficiently.

2. Evidence Submission Promotes Transparency and Efficient Resolution of Claims: Requiring claimants to provide actual evidence of the construction defect, such as expert reports, photographs, videotapes, and testing results, promotes transparency and helps validate construction defect claims. This provision ensures that contractors have access to comprehensive information, promoting fairness and informed decision-making during the resolution process and preventing disputes over the validity of claims, leading to more efficient and effective resolution of construction defect issues. With respect to construction defect claims, this process allows for quicker resolutions and a more accurate assessment of the damages. This benefits contractors and homeowners by providing a basis for a more precise and effective remedy.

3. Amending the Process and Timeframe re Inspection and Repairs Provides More Certainty: By amending the process and timeframe for inspection and repairs, both contractors and homeowners will have more certainty. Establishing clear guidelines and timelines for inspections and repairs can help prevent delays and disputes, providing all parties involved with a clear understanding of the steps and timeframe for resolution. This increased certainty can lead to a more efficient and timely resolution of construction defect claims.

4. Limiting Recovery and Foreclosing Attorney's Fees When Offers are Unreasonably Rejected Ensures Fairness and Efficient Resolution of Claims: Limiting recovery and foreclosing attorney's fees when a proposal to inspect or an offer of repair is unreasonably rejected will result in quicker and fairer resolution of construction defect claims. This provision discourages the rejection of reasonable offers and promotes a more efficient resolution process by preventing unnecessary delays and costly disputes. It also helps to prevent the escalation of legal costs, contributing to a more efficient and cost-effective resolution of construction defect issues.

5. The Amendments will Help Resolve Claims Without Costly and Lengthy Legal Action by Allowing Contractors to Address the Specific Issue Being Raised. The amendments will allow contractors to address the specific issue raised by homeowners. The legislation gives both homeowners and contractors an opportunity to reduce claims without costly and lengthy legal action helping to avoid potentially significant delays to much needed repairs. The amount of construction defect litigation in our state has reached a dire tipping point as evidenced by rising insurance costs, increased housing costs and the unavailability of government backed loans (FHA, VA, USDA, Fannie Mae and Freddie Mac) on condos with litigation, all of which preclude countless 1st time homebuyers from purchasing homes.

In conclusion, the proposed changes to Section 672E-3 and -4 of the Hawaii Revised Statutes represent a thoughtful and balanced approach to more effectively address construction defects in housing and in turn help address Hawaii's housing crisis. These amendments promote early resolution, clarity in communication, and the submission of actual evidence, ultimately benefiting and protecting both homeowners and contractors. I urge you to support and pass this legislation to enhance the fairness and efficiency of the construction defect resolution process in Hawaii and to curb the unnecessary and protracted construction defect litigation that has deepened Hawaii's housing crisis and made housing unattainable for Hawaii's families.

I urge you to lend your support to these amendments.

Sincerely,

X *Tyler Lau*

Tyler Lau
Manager

Frederick Lau
Fred Lau Hawaiian Landscape Co. Inc.
171 Waokanaka Place
Honolulu, Hi. 96817
Feb. 9, 2024

Senator Jarrett Keohokalole, Chair
Senator Carol Fukunaga, Vice Chair
Members of the Committee on Commerce and Consumer Protection
Thirty-Second Legislature, Regular Session of 2024

RE: **SB 2606 & SB 2607 – RELATING TO CONSTRUCTION**
Hearing Date: Wednesday, February 14, 2024 at 9:30am
Conference Room 229, State Capitol

Aloha Chair Keohokalole, Vice Chair Fukunaga and Members of the Committee,

I am writing to express my strong **SUPPORT** of SB 2606 & SB 2607 – RELATING TO CONSTRUCTION proposing changes to Section 672E-3 and -4 of the Hawaii Revised Statutes relating to construction defects in housing.

These amendments are crucial for fostering a fair, transparent and efficient process for homeowners as well as contractors in addressing construction defects. These amendments are also critical to curbing unnecessary and protracted lawsuits that have resulted in increased insurance costs on the new construction of much needed housing.

Even more important to Hawaii's working families, recent construction defect litigation has had an unprecedented effect on 1st time homebuyers' ability to obtain a needed government backed mortgage. This has only further exacerbated Hawaii's housing crisis. Lack of clarity and actual evidence of construction defect claims have encumbered not only completed homes but new condominiums currently under construction as well. As a result, FHA, VA, Fannie Mae and Freddie Mac have taken the position to rescind lending approvals on new condominium projects with pending litigation. Without low down payment government backed loan programs and without the 20% down payment required by portfolio lending, most 1st time homebuyers and veterans are unfairly preempted from purchasing a home.

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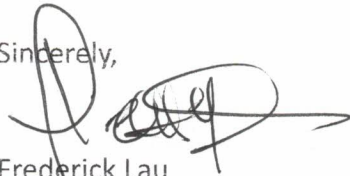
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In conclusion, the proposed changes to Section 672E-3 and -4 of the Hawaii Revised Statutes represent a thoughtful and balanced approach to more effectively address construction defects in housing and in turn help address Hawaii's housing crisis. These amendments promote early resolution, clarity in communication, and the submission of actual evidence, ultimately benefiting and protecting both homeowners and contractors. I urge you to support and pass this legislation to enhance the fairness and efficiency of the construction defect resolution process in Hawaii and to curb the unnecessary and protracted construction defect litigation that has deepened Hawaii's housing crisis and made housing unattainable for Hawaii's families.

I urge you to lend your support to these amendments.

Sincerely,

A handwritten signature in black ink, appearing to read 'Frederick Lau', with a long horizontal flourish extending to the right.

Frederick Lau
President - Fred Lau Hawaiian Landscape Co. Inc.

2024 North King Street
Suite 200
Honolulu, Hawaii 96819-3494
Telephone 808 842 1133
Fax 808 842 1937
eMail rmtowill@rmtowill.com



R. M. TOWILL CORPORATION
SINCE 1930

Planning
Engineering
Environmental Services
Photogrammetry
Surveying
Project and Construction Management

February 9, 2024

Senator Jarrett Keohokalole, Chair
Senator Carol Fukunaga, Vice Chair
Members of the Committee on Commerce and Consumer Protection
Thirty-Second Legislature, Regular Session of 2024

Aloha Chair Keohokalole, Vice Chair Fukunaga and Members of the Committee,

SB 2606 & SB 2607 – RELATING TO CONSTRUCTION
Hearing Date: Wednesday, February 14, 2024 at 9:30am
Conference Room 229, State Capitol

I am writing to express my strong **SUPPORT** of SB 2606 & SB 2607 — RELATING TO THE CONTRACTOR REPAIR ACT proposing changes to Section 672E-3 and -4 of the Hawaii Revised Statutes relating to construction defects in housing.

R. M. Towill Corporation (RMTC) is one of the state's largest and most experienced locally owned engineering companies. RMTC has 120 employees with 40 licensed engineers, 12 LEED Accredited Professionals, three Envision Sustainability Professionals, three licensed surveyors, and nine full-time planning professionals. RMTC has completed over 20,000 projects in Hawaii and throughout the Pacific Basin. This includes the infrastructure planning and design the major residential developments on Oahu within the past 25 years, over 300 miles of roadway in Hawaii and the Pacific, \$500 million in harbor infrastructure, and the upgrade and expansion of the largest wastewater treatment facility in the State.

RMTC has provided its engineering cost to various housing developers, and we are aware of all the offsite infrastructure and permitting difficulties that they already need to overcome to provide affordable housing. Recently, there has been defect litigations that have forced developers to put a stop to the further development of housing. This is alarming and simply devastating to those homeowners that are waiting for a home. The halting of housing development has a direct impact on the engineering and construction industry. Our industry has committed manpower and incurred expenses to continue helping developers to keep building the much-needed infrastructure needed to stop the housing shortage. We are concerned that the ripple effect of halting housing will have on other industries that depend on housing development.

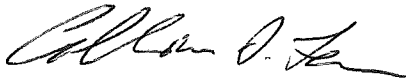
In addition, we understand that first time homebuyers who need government backed mortgage are unable to get these loans and are denied the opportunity to own a home because of ongoing lawsuits.

Senator Jarrett Keohokalole, Chair
Senator Carol Fukunaga, Vice Chair
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February 9, 2024
Page 2

The amendment to the Contractor Repair Act will be vital for homeowners to deal with construction defects in a fair and transparent manner. Homeowners need to spend less time worrying about potential construction defects and spend more time taking care of their families.

As a well-established local Company, RMTC strongly supports the proposed changes to Section 672E-3 and -4 of the Hawaii Revised Statutes. We believe that the amendment will allow developers to address construction defects expeditions and will eventually deter unfounded litigations and allow Hawaii to keep chipping away at our housing crisis. We humbly ask for your support to these amendments.

Sincerely,



Collins Lam
Vice President



KY International, Inc.
Architects & Planners

Senator Jarrett Keohokalole, Chair
Senator Carol Fukunaga, Vice Chair
Members of the Committee on Commerce and Consumer Protection
Thirty-Second Legislature, Regular Session of 2024

RE: **SB 2606 – RELATING TO CONSTRUCTION**
Hearing Date: Wednesday, February 14, 2024 at 9:30am
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These amendments are crucial for fostering a fair, transparent and efficient process for homeowners as well as contractors in addressing construction defects. These amendments are also critical to curbing unnecessary and protracted lawsuits that have resulted in increased insurance costs on the new construction of much needed housing.

Equally as important, recent construction defect litigation has had an unprecedented effect on 1st time homebuyers' ability to obtain a needed government backed mortgage. This has only further exacerbated Hawaii's housing crisis. Lack of clarity and actual evidence of construction defect claims have encumbered not only completed homes but new condominiums currently under construction as well. As a result, FHA, VA, Fannie Mae and Freddie Mac have taken the position to rescind lending approvals on new condominium projects with pending litigation. Without low down payment government backed loan programs and without the 20% down payment required by portfolio lending, most 1st time homebuyers and veterans are unfairly preempted from purchasing.

1. Specificity in Claim Notices Ensures Clarity: The emphasis on detailing the construction defect in the notice of claim with particularity and specificity is a crucial improvement. This requirement ensures that both parties have a clear understanding of the issues at hand, facilitating more effective communication, transparency and accuracy and reducing the likelihood of misunderstandings and frivolous or unsubstantiated claims. The amendments seek to clarify and strengthen the prelitigation notice requirements consistent with other states that have adopted similar legislation (California, Colorado, Nevada, Florida) to decrease the number of unsubstantiated claims, encourage early resolution of claims, and reduce the cost of housing and insurance. Clear and detailed notice helps contractors pinpoint the alleged issues, enabling them to address the concerns more effectively and efficiently.

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In conclusion, the proposed changes to Section 672E-3 and -4 of the Hawaii Revised Statutes represent a thoughtful and balanced approach to more effectively address construction defects in housing and in turn help address Hawaii's housing crisis. These amendments promote early resolution, clarity in communication, and the submission of actual evidence, ultimately benefiting and protecting both homeowners and contractors. I urge you to support and pass this legislation to enhance the fairness and efficiency of the construction defect resolution process in Hawaii and to curb the unnecessary and protracted construction defect litigation that has deepened Hawaii's housing crisis and made housing unattainable for Hawaii's families.

I urge you to lend your support to these amendments.

Sincerely,



Henry T Y Kwok, AIA
President
KY International, Inc.
Architects & Planners
1100 Alakea Street, Suite 1988
Alakea Corporate Tower
Honolulu, Hawaii 96813
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Website: www.kyinternational.com
Tel: 808-524-1268 ext. 111
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94-009 Waipahu Depot Street • Waipahu, Hawaii 96797 • Phone: (808) 456-5152 • Fax: (808) 456-5153

Email: vinyltechandmasonry@gmail.com • Website: vtmhawaii.com • License #C-20049 / #C-12293

February 09, 2024

Senator Jarrett Keohokalole,
Chair Senator Carol Fukunaga,
Vice Chair Members of the Committee on Commerce and Consumer Protection
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Recent construction defect litigation has now impacted 1st time homebuyers' ability to obtain a needed government backed mortgage, further deepening Hawaii's housing crisis. Lack of clarity and actual evidence of construction defect claims have encumbered new condominiums currently under construction. As a result, FHA, VA, Fannie Mae, and Freddie Mac have taken the position to disqualify new condominium projects with pending litigation. Without low down payment government backed loan programs and without the 20% down payment required by portfolio lending, most 1st time homebuyers and veterans are unfairly foreclosed from purchasing.

The legislation's emphasis on detailing the construction defect in the notice of claim with particularity and specificity is a crucial improvement. This requirement ensures that both parties have a clear understanding of the actual issue at hand supporting the core intent of HRS Section 672E. The proposed amendments will also facilitate more effective communication, transparency, and accuracy in the process, thus reducing the likelihood of misunderstandings and frivolous or unsubstantiated claims that have now affected access to critically important FHA, VA, Fannie Mae, and Freddie Mac loan programs. Requiring claimants to provide actual evidence of the construction defect promotes transparency and helps validate construction defect claims. This benefits both contractors and homeowners by providing a basis for a more precise, timely and effective remedy, without litigation. It will also provide a basis upon which mortgage lending on new housing under construction, without legitimate evidence of a construction defect, could continue offering much needed government backed loans.

In conclusion, the proposed changes align with the principles of proactive conflict resolution, promoting a collaborative approach to addressing construction defects in Hawaii. The proposed changes are pivotal to streamline the resolution process and mitigate the deluge of unnecessary legal disputes that have directly affected 1st time homebuyers' and veterans' ability to obtain a low-down payment FHA, VA, Fannie Mae, or Freddie Mac loan and that have only deepened Hawaii's housing crisis and made housing further beyond reach for Hawaii's families.

I urge you to lend your support to these amendments.

Sincerely,



Chris Sokugawa
Vice-President



February 9, 2024

Senator Jarrett Keohokalole, Chair
Senator Carol Fukunaga, Vice Chair
Members of the Committee on Commerce and Consumer Protection
Thirty-Second Legislature, Regular Session of 2024

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Aloha Chair Keohokalole, Vice Chair Fukunaga and Members of the Committee,

I wholeheartedly **SUPPORT** SB 2606 & SB 2607 – RELATING TO THE CONTRACTOR REPAIR ACT proposing changes to Hawaii's construction defect legislation, particularly the emphasis on specificity in notice of claims, requiring actual evidence of the construction defect and discouraging the rejection of reasonable offers. Drawing inspiration from successful models in various states, the amendments promise to bring clarity and efficiency to the claim resolution process. By mandating detailed descriptions of alleged defects and discouraging the rejection of reasonable offers, homeowners and contractors can engage in transparent and productive dialogue, significantly reducing the likelihood of ambiguous or unsubstantiated claims and avoiding potentially significant delays to legitimate needed repairs. This approach aligns with best practices observed in other jurisdictions and is a progressive step toward fostering a constructive and equitable resolution framework in Hawaii.

Equally as important, recent construction defect litigation has caused two significant and unprecedented effects on housing in Hawaii. First, broad claims have halted hundreds of new housing units set to begin construction. Second, and more alarming, broad claims have prohibited the ability of 1st time homebuyers to obtain a needed government backed mortgage. Lack of clarity and lack of actual evidence of construction defects in claims has encumbered new condominiums currently under construction. As a result, FHA, VA, Fannie Mae and Freddie Mac have taken the position to disqualify new condominium projects with pending litigation. Without low down payment government backed loan programs and without the 20% down payment required by portfolio lending, most 1st time homebuyers and veterans are unfairly precluded from purchasing. This has only further exacerbated Hawaii's dire housing crisis.



Hawaii's contractors stand behind the quality projects they build, which these amendments will allow them to equitably do and at the same time protect Hawaii's homeowners. I strongly urge the Committee to support these amendments for the benefit of homeowners, contractors, homebuyers and the overall efficiency of the construction defect resolution process in our state.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark Kong".

Mark Kong
Maryl Group Construction, Inc. and M2K Construction, LLC

SB-2606

Submitted on: 2/10/2024 7:32:50 AM

Testimony for CPN on 2/14/2024 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Tim Takaezu	Testifying for Foundation Building Materials	Support	Written Testimony Only

Comments:

Dear Seanate Committee,

I humbly ask for your support on bill SB2606/2607.

We have to continue to provide our residents of Hawaii the ability to stay in Hawaii by offering low interest rates, to be able to realize their life long dreams of owning their own homes.

They're too many examples of non residents dictating the livelihoods of our local communities.

We have too many examples of, priced out of paradise.

Thank you for your support,

Tim Takaezu



KY International, Inc.
Architects & Planners

Senator Jarrett Keohokalole, Chair
Senator Carol Fukunaga, Vice Chair
Members of the Committee on Commerce and Consumer Protection
Thirty-Second Legislature, Regular Session of 2024

RE: **SB 2606 – RELATING TO CONSTRUCTION**
Hearing Date: Wednesday, February 14, 2024 at 9:30am
Conference Room 229, State Capitol

Aloha Chair Keohokalole, Vice Chair Fukunaga and Members of the Committee,

I am writing to express my strong **SUPPORT** of SB 2606 -- RELATING TO CONSTRUCTION proposing changes to Section 672E-3 and -4 of the Hawaii Revised Statutes relating to construction defects in housing.

These amendments are crucial for fostering a fair, transparent and efficient process for homeowners as well as contractors in addressing construction defects. These amendments are also critical to curbing unnecessary and protracted lawsuits that have resulted in increased insurance costs on the new construction of much needed housing.

Equally as important, recent construction defect litigation has had an unprecedented effect on 1st time homebuyers' ability to obtain a needed government backed mortgage. This has only further exacerbated Hawaii's housing crisis. Lack of clarity and actual evidence of construction defect claims have encumbered not only completed homes but new condominiums currently under construction as well. As a result, FHA, VA, Fannie Mae and Freddie Mac have taken the position to rescind lending approvals on new condominium projects with pending litigation. Without low down payment government backed loan programs and without the 20% down payment required by portfolio lending, most 1st time homebuyers and veterans are unfairly preempted from purchasing.

1. Specificity in Claim Notices Ensures Clarity: The emphasis on detailing the construction defect in the notice of claim with particularity and specificity is a crucial improvement. This requirement ensures that both parties have a clear understanding of the issues at hand, facilitating more effective communication, transparency and accuracy and reducing the likelihood of misunderstandings and frivolous or unsubstantiated claims. The amendments seek to clarify and strengthen the prelitigation notice requirements consistent with other states that have adopted similar legislation (California, Colorado, Nevada, Florida) to decrease the number of unsubstantiated claims, encourage early resolution of claims, and reduce the cost of housing and insurance. Clear and detailed notice helps contractors pinpoint the alleged issues, enabling them to address the concerns more effectively and efficiently.

2. Evidence Submission Promotes Transparency and Efficient Resolution of Claims: Requiring claimants to provide actual evidence of the construction defect, such as expert reports, photographs, videotapes, and testing results, promotes transparency and helps validate construction defect claims. This provision ensures that contractors have access to comprehensive information, promoting fairness and informed decision-making during the resolution process and preventing disputes over the validity of claims, leading to more efficient and effective resolution of construction defect issues. With respect to construction defect claims, this process allows for quicker resolutions and a more accurate assessment of the damages. This benefits contractors and homeowners by providing a basis for a more precise and effective remedy.

3. Amending the Process and Timeframe re Inspection and Repairs Provides More Certainty: By amending the process and timeframe for inspection and repairs, both contractors and homeowners will have more certainty. Establishing clear guidelines and timelines for inspections and repairs can help prevent delays and disputes, providing all parties involved with a clear understanding of the steps and timeframe for resolution. This increased certainty can lead to a more efficient and timely resolution of construction defect claims.

4. Limiting Recovery and Foreclosing Attorney's Fees When Offers are Unreasonably Rejected Ensures Fairness and Efficient Resolution of Claims: Limiting recovery and foreclosing attorney's fees when a proposal to inspect or an offer of repair is unreasonably rejected will result in quicker and fairer resolution of construction defect claims. This provision discourages the rejection of reasonable offers and promotes a more efficient resolution process by preventing unnecessary delays and costly disputes. It also helps to prevent the escalation of legal costs, contributing to a more efficient and cost-effective resolution of construction defect issues.

5. The Amendments will Help Resolve Claims Without Costly and Lengthy Legal Action by Allowing Contractors to Address the Specific Issue Being Raised. The amendments will allow contractors to address the specific issue raised by homeowners. The legislation gives both homeowners and contractors an opportunity to reduce claims without costly and lengthy legal action helping to avoid potentially significant delays to much needed repairs. The amount of construction defect litigation in our state has reached a dire tipping point as evidenced by rising insurance costs, increased housing costs and the unavailability of government backed loans (FHA, VA, USDA, Fannie Mae and Freddie Mac) on condos with litigation, all of which preclude countless 1st time homebuyers from purchasing homes.

In conclusion, the proposed changes to Section 672E-3 and -4 of the Hawaii Revised Statutes represent a thoughtful and balanced approach to more effectively address construction defects in housing and in turn help address Hawaii's housing crisis. These amendments promote early resolution, clarity in communication, and the submission of actual evidence, ultimately benefiting and protecting both homeowners and contractors. I urge you to support and pass this legislation to enhance the fairness and efficiency of the construction defect resolution process in Hawaii and to curb the unnecessary and protracted construction defect litigation that has deepened Hawaii's housing crisis and made housing unattainable for Hawaii's families.

I urge you to lend your support to these amendments.

Sincerely,



Vivyan H. Lin, AIA
Senior Vice President
KY International, Inc.
Architects & Planners
1100 Alakea Street, Suite 1988
Alakea Corporate Tower
Honolulu, Hawaii 96813
Email: vivyan@kyinternational.com
Website: www.kyinternational.com
Tel: 808-524-1268 ext. 115
Fax: 808-599-8881



KY International, Inc.
Architects & Planners

Senator Jarrett Keohokalole, Chair
Senator Carol Fukunaga, Vice Chair
Members of the Committee on Commerce and Consumer Protection
Thirty-Second Legislature, Regular Session of 2024

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In conclusion, the proposed changes to Section 672E-3 and -4 of the Hawaii Revised Statutes represent a thoughtful and balanced approach to more effectively address construction defects in housing and in turn help address Hawaii's housing crisis. These amendments promote early resolution, clarity in communication, and the submission of actual evidence, ultimately benefiting and protecting both homeowners and contractors. I urge you to support and pass this legislation to enhance the fairness and efficiency of the construction defect resolution process in Hawaii and to curb the unnecessary and protracted construction defect litigation that has deepened Hawaii's housing crisis and made housing unattainable for Hawaii's families.

I urge you to lend your support to these amendments.

Sincerely,



Robert Yoneoka, AIA
Principal
KY International, Inc.
Architects & Planners
1100 Alakea Street, Suite 1988
Alakea Corporate Tower
Honolulu, Hawaii 96813
Email: mail@kyinternational.com
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Tel: 808-524-1268 ext. 112
Fax: 808-599-8881

SB-2606

Submitted on: 2/11/2024 12:58:43 AM

Testimony for CPN on 2/14/2024 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Nathan Kabei	Testifying for Foundation Building Materials	Support	Written Testimony Only

Comments:

Foundation Building Materials

180 Sand Island Access Road

Honolulu, HI 96819

From: Nathan Kabei

Senator Jarrett Keohokalole, Chair

Senator Carol Fukunaga, Vice Chair

Members of the Committee on Commerce and Consumer Protection

Thirty-Second Legislature, Regular Session of 2024

RE: SB 2606 & SB 2607 – RELATING TO CONSTRUCTION

Hearing Date: Wednesday, February 14, 2024 at 9:30am

Conference Room 229, State Capitol

Aloha Chair Keohokalole, Vice Chair Fukunaga and Members of the Committee,

I am writing to express my strong **SUPPORT** of SB 2606 & SB 2607 – RELATING TO CONSTRUCTION proposing changes to Section 672E-3 and -4 of the Hawaii Revised Statutes relating to construction defects in housing.

These amendments are crucial for fostering a fair, transparent and efficient process for homeowners as well as contractors in addressing construction defects. These amendments are also critical to curbing unnecessary and protracted lawsuits that have resulted in increased insurance costs on the new construction of much needed housing.

Equally as important, recent construction defect litigation has had an unprecedented effect on 1st time homebuyers' ability to obtain a needed government backed mortgage. This has only further exacerbated Hawaii's housing crisis. Lack of clarity and actual evidence of construction defect claims have encumbered not only completed homes but new condominiums currently under construction as well. As a result, FHA, VA, Fannie Mae and Freddie Mac have taken the position to rescind lending approvals on new condominium projects with pending litigation. Without low down payment government backed loan programs and without the 20% down payment required by portfolio lending, most 1st time homebuyers and veterans are unfairly preempted from purchasing.

1. Specificity in Claim Notices Ensures Clarity: The emphasis on detailing the construction defect in the notice of claim with particularity and specificity is a crucial improvement. This requirement ensures that both parties have a clear understanding of the issues at hand, facilitating more effective communication, transparency and accuracy and reducing the likelihood of misunderstandings and frivolous or unsubstantiated claims. The amendments seek to clarify and strengthen the prelitigation notice requirements consistent with other states that have adopted similar legislation (California, Colorado, Nevada, Florida) to decrease the number of unsubstantiated claims, encourage early resolution of claims, and reduce the cost of housing and insurance. Clear and detailed notice helps contractors pinpoint the alleged issues, enabling them to address the concerns more effectively and efficiently.

2. Evidence Submission Promotes Transparency and Efficient Resolution of Claims: Requiring claimants to provide actual evidence of the construction defect, such as expert reports, photographs, videotapes, and testing results, promotes transparency and helps validate construction defect claims. This provision ensures that contractors have access to comprehensive information, promoting fairness and informed decision-making during the resolution process and preventing disputes over the validity of claims, leading to more efficient and effective resolution of construction defect issues. With respect to construction defect claims, this process allows for quicker resolutions and a more accurate assessment of the damages. This

benefits contractors and homeowners by providing a basis for a more precise and effective remedy.

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5. The Amendments will Help Resolve Claims Without Costly and Lengthy Legal Action by Allowing Contractors to Address the Specific Issue Being Raised. The amendments will allow contractors to address the specific issue raised by homeowners. The legislation gives both homeowners and contractors an opportunity to reduce claims without costly and lengthy legal action helping to avoid potentially significant delays to much needed repairs. The amount of construction defect litigation in our state has reached a dire tipping point as evidenced by rising insurance costs, increased housing costs and the unavailability of government backed loans (FHA, VA, USDA, Fannie Mae and Freddie Mac) on condos with litigation, all of which preclude countless 1st time homebuyers from purchasing homes.

In conclusion, the proposed changes to Section 672E-3 and -4 of the Hawaii Revised Statutes represent a thoughtful and balanced approach to more effectively address construction defects in housing and in turn help address Hawaii's housing crisis. These amendments promote early resolution, clarity in communication, and the submission of actual evidence, ultimately benefiting and protecting both homeowners and contractors. I urge you to support and pass this legislation to enhance the fairness and efficiency of the construction defect resolution process in

Hawaii and to curb the unnecessary and protracted construction defect litigation that has deepened Hawaii's housing crisis and made housing unattainable for Hawaii's families.

I urge you to lend your support to these amendments.

Sincerely,

Nathan Kabei

Outside Sales Representative

February 14, 2024

The Honorable Jarrett Keohokalole, Chair

Senate Committee on Commerce and Consumer Protection
State Capitol, Conference Room 229 & Videoconference

RE: Senate Bill 2606, Relating to Construction

HEARING: Wednesday, February 14, 2024, at 9:30 a.m.

Aloha Chair Keohokalole, Vice Chair Fukunaga, and Members of the Committee:

My name is Lyndsey Garcia, Director of Advocacy, testifying on behalf of the Hawai'i Association of REALTORS® ("HAR"), the voice of real estate in Hawaii and its over 11,000 members. HAR **supports** Senate Bill 2606, which establishes additional requirements for notices of claims of construction defects.

Recent litigation over construction defects have posed significant challenges for housing in Hawaii. These lawsuits, which can be frivolous, have stalled housing developments. First-time homebuyers are particularly affected, as these claims hinder their access to government-backed mortgages. The lack of clear evidence in these claims has also burdened new condominium projects. Consequently, FHA, VA, Fannie Mae, and Freddie Mac have disqualified condominium projects facing litigation. Without access to low down payment programs and lacking the 20% down payment required by portfolio lending, many first-time homebuyers and veterans are unable to purchase homes.

Providing specific details and evidence of a possible defect in the claim notice will help both sides understand the problem better. This will make it easier to solve and reduce the chance for misunderstandings or unfounded claims. Also, asking for detailed evidence makes construction claims more credible. This will lead to fair evaluations, informed decisions, quicker resolutions, and more accurate damage assessments.

Mahalo for the opportunity to testify on this measure.

REEF Development of Hawaii, Inc.

February 9, 2024

Senator Jarrett Keohokalole, Chair
Senator Carol Fukunaga, Vice Chair
Members of the Committee on Commerce and Consumer Protection
Thirty-Second Legislature, Regular Session of 2024

P.O. BOX 1055
AIEA, HAWAII 96701
99-930 IWAENA STREET #107B
TELEPHONE: (808) 488-1228
LIC# ABC-4791

RE: **SB 2606 & SB 2607 – RELATING TO CONSTRUCTION**
Hearing Date: Wednesday, February 14, 2024 at 9:30am
Conference Room 229, State Capitol

Aloha Chair Keohokalole, Vice Chair Fukunaga and Members of the Committee,

I am writing to express my strong **SUPPORT** of SB 2606 & SB 2607 – RELATING TO THE CONTRACTOR REPAIR ACT proposing changes to Section 672E-3 and -4 of the Hawaii Revised Statutes relating to construction defects in housing. The primary reason for my support is the emphasis on protecting both contractors, homeowners and now 1st time homebuyers by requiring specificity in the notice of claim, establishing clear guidelines and timelines for inspections and repairs and discouraging the rejection of reasonable offers. These protections are pivotal to streamline the claim resolution process and mitigate the unnecessary legal disputes that have aggravated Hawaii's housing crisis and made housing unattainable for Hawaii's families.

Recent construction defect litigation has now impacted 1st time homebuyers' ability to obtain a needed government backed mortgage, further deepening Hawaii's housing crisis. Lack of clarity and actual evidence of construction defect claims have encumbered new condominiums currently under construction. As a result, FHA, VA, Fannie Mae and Freddie Mac have taken the position to disqualify new condominium projects with pending litigation. Without low down payment government backed loan programs and without the 20% down payment required by portfolio lending, most 1st time homebuyers and veterans are unfairly foreclosed from purchasing.

The legislation's emphasis on detailing the construction defect in the notice of claim with particularity and specificity is a crucial improvement. This requirement ensures that both parties have a clear understanding of the actual issue at hand supporting the core intent of HRS Section 672E. The proposed amendments will also facilitate more effective communication, transparency and accuracy in the process, thus reducing the likelihood of misunderstandings and frivolous or unsubstantiated claims that have now affected access to critically important FHA, VA, Fannie Mae and Freddie Mac loan programs. Requiring claimants to provide actual evidence of the construction defect promotes transparency and helps validate construction defect claims. This benefits both contractors and homeowners by providing a basis for a more precise, timely and effective remedy, without litigation. It will also provide a basis upon which

REEF Development of Hawaii, Inc.

P.O. BOX 1055
AIEA, HAWAII 96701
99-930 IWAENA STREET #107B
TELEPHONE: (808) 488-1228
LIC# ABC-4791

mortgage lending on new housing under construction, without legitimate evidence of a construction defect, could continue offering much needed government backed loans.

In conclusion, the proposed changes align with the principles of proactive conflict resolution, promoting a collaborative approach to addressing construction defects in Hawaii. The proposed changes are pivotal to streamline the resolution process and mitigate the deluge of unnecessary legal disputes that have directly affected 1st time homebuyers' and veterans' ability to obtain a low down payment FHA, VA, Fannie Mae or Freddie Mac loan and that have only deepened Hawaii's housing crisis and made housing further beyond reach for Hawaii's families.

I urge you to lend your support to these amendments.

Sincerely,



SAMUEL S. AGUIRRE
PRESIDENT

THE GENTRY COMPANIES



February 12, 2024

The Honorable Jarrett Keohokaiole, Chair
The Honorable Carol Fukunaga, Vice Chair
Members of the Senate Committee on Commerce and Consumer Protection
State House of Representatives
State Capitol
Honolulu, HI 96813

Subject: **S.B. 2606 RELATING TO CONSTRUCTION**
S.B. 2607 RELATING TO CONSTRUCTION
Hearing: Wednesday, February 14, 2024; 9:00 am
Conference Room 229, State Capitol

Dear Chair Keohokaiole, Vice Chair Fukunaga, and Members of the Committee,

My name is Debbie Luning and I am testifying on behalf of Gentry Homes, Ltd. in strong **SUPPORT** of the subject bills which propose much-needed changes to sections 672E-3 and 672E-4, HRS, relating to repairs of construction defects in housing. More specifically, they require more precise details of a construction defect claim; establish clearer guidelines and timelines for inspections and repairs; and discourage the rejection of reasonable offers to correct the defects. We believe that these protections are necessary to streamline the claim resolution process and to help avoid unnecessary legal disputes involving often purported, but unsubstantiated, construction defect claims. Unless these legal disputes are effectively thwarted, Hawaii's housing crisis will only worsen because of the detrimental impacts of such lawsuits on not only potential homebuyers, but the construction industry as a whole.

Steps must be taken to clarify laws relating to construction defect claims; otherwise, the problem will continue to worsen. As mentioned in DR Horton's testimony, FHA, VA, Fannie Mae and Freddie Mac have taken the position to disqualify new condominium projects with pending litigation. Without low down payment, government-backed loan programs, most local first-time homebuyers and veterans will be unable to purchase a home of their own in Hawaii. As a developer of workforce housing for local families, we find this to be both undesirable and unacceptable.

We urge you to support these measures and to pass them out of your Committee. Mahalo for your consideration.

Sincerely,

GENTRY HOMES, LTD.

A handwritten signature in black ink that reads "Debra Luning". The signature is fluid and cursive, with the first name "Debra" being larger and more prominent than the last name "Luning".

Debra M. A. Luning
Director of Governmental Affairs and
Community Relations



Since 1974

Senator Jarrett Keohokalole, Chair
Senator Carol Fukunaga, Vice Chair
Members of the Committee on Commerce and Consumer Protection
Thirty-Second Legislature, Regular Session of 2024

RE: **SB 2606 & SB 2607 – RELATING TO CONSTRUCTION**
Hearing Date: Wednesday, February 14, 2024 at 9:30am
Conference Room 229, State Capitol

Aloha Chair Keohokalole, Vice Chair Fukunaga and Members of the Committee,

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Equally as important, recent construction defect litigation has had an unprecedented effect on 1st time homebuyers' ability to obtain a needed government backed mortgage. This has only further exacerbated Hawaii's housing crisis. Lack of clarity and actual evidence of construction defect claims have encumbered not only completed homes but new condominiums currently under construction as well. As a result, FHA, VA, Fannie Mae and Freddie Mac have taken the position to rescind lending approvals on new condominium projects with pending litigation. Without low down payment government backed loan programs and without the 20% down payment required by portfolio lending, most 1st time homebuyers and veterans are unfairly preempted from purchasing.

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Since 1974

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In conclusion, the proposed changes to Section 672E-3 and -4 of the Hawaii Revised Statutes represent a thoughtful and balanced approach to more effectively address construction defects in housing and in turn help address Hawaii's housing crisis. These amendments promote early resolution, clarity in communication, and the submission of actual evidence, ultimately benefiting and protecting both homeowners and contractors. I urge you to support and pass this legislation to enhance the fairness and efficiency of the construction defect resolution process in Hawaii and to curb the unnecessary and protracted construction defect litigation that has deepened Hawaii's housing crisis and made housing unattainable for Hawaii's families.



Since 1974

I urge you to lend your support to these amendments.

Sincerely,

Victor Wyman
Jade Painting, Inc.





Senator Jarrett Keohokalole, Chair
Senator Carol Fukunaga, Vice Chair
Members of the Committee on Commerce and Consumer Protection
Thirty-Second Legislature, Regular Session of 2024

RE: **SB 2606 & SB 2607 – RELATING TO CONSTRUCTION**
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Conference Room 229, State Capitol

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housing and insurance. Clear and detailed notice helps contractors pinpoint the alleged issues, enabling them to address the concerns more effectively and efficiently.

2. Evidence Submission Promotes Transparency and Efficient Resolution of Claims: Requiring claimants to provide actual evidence of the construction defect, such as expert reports, photographs, videotapes, and testing results, promotes transparency and helps validate construction defect claims. This provision ensures that contractors have access to comprehensive information, promoting fairness and informed decision-making during the resolution process and preventing disputes over the validity of claims, leading to more efficient and effective resolution of construction defect issues. With respect to construction defect claims, this process allows for quicker resolutions and a more accurate assessment of the damages. This benefits contractors and homeowners by providing a basis for a more precise and effective remedy.

3. Amending the Process and Timeframe re Inspection and Repairs Provides More Certainty: By amending the process and timeframe for inspection and repairs, both contractors and homeowners will have more certainty. Establishing clear guidelines and timelines for inspections and repairs can help prevent delays and disputes, providing all parties involved with a clear understanding of the steps and timeframe for resolution. This increased certainty can lead to a more efficient and timely resolution of construction defect claims.

4. Limiting Recovery and Foreclosing Attorney's Fees When Offers are Unreasonably Rejected Ensures Fairness and Efficient Resolution of Claims: Limiting recovery and foreclosing attorney's fees when a proposal to inspect or an offer of repair is unreasonably rejected will result in quicker and fairer resolution of construction defect claims. This provision discourages the rejection of reasonable offers and promotes a more efficient resolution process by preventing unnecessary delays and costly disputes. It also helps to prevent the escalation of legal costs, contributing to a more efficient and cost-effective resolution of construction defect issues.

5. The Amendments will Help Resolve Claims Without Costly and Lengthy Legal Action by Allowing Contractors to Address the Specific Issue Being Raised. The amendments will allow contractors to address the specific issue raised by homeowners. The legislation gives both homeowners and contractors an opportunity to reduce claims without costly and lengthy legal action helping to avoid potentially significant delays to much needed repairs. The amount of construction defect litigation in our state has reached a dire tipping point as evidenced by rising insurance costs, increased housing costs and the unavailability of government backed loans (FHA, VA, USDA, Fannie Mae and Freddie Mac) on condos with litigation, all of which preclude countless 1st time homebuyers from purchasing homes.

In conclusion, the proposed changes to Section 672E-3 and -4 of the Hawaii Revised Statutes represent a thoughtful and balanced approach to more effectively address construction defects in housing and in turn help address Hawaii's housing crisis. These amendments promote early

resolution, clarity in communication, and the submission of actual evidence, ultimately benefiting and protecting both homeowners and contractors. I urge you to support and pass this legislation to enhance the fairness and efficiency of the construction defect resolution process in Hawaii and to curb the unnecessary and protracted construction defect litigation that has deepened Hawaii's housing crisis and made housing unattainable for Hawaii's families.

I urge you to lend your support to these amendments.

Sincerely,
Scott Tajima
FBM
Outside Sales Representative



February 14, 2024

TO: HONORABLE JARRETT KEOHOKALOLE, CHAIR, HONORABLE CAROL FUKUNAGA, VICE CHAIR, COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

SUBJECT: **SUPPORT OF S.B. 2606, RELATING TO CONSTRUCTION.** Establishes additional requirements for notices of claims of construction defects.

HEARING

DATE: Wednesday, February 14, 2024
TIME: 9:30 a.m.
PLACE: Capitol Room 229

Dear Chair Keohokalole, Vice Chair Fukunaga and Members of the Committee,

The General Contractors Association of Hawaii (GCA) is an organization comprised of approximately five hundred (500) general contractors, subcontractors, and construction related firms. The GCA was established in 1932 and is the largest construction association in the State of Hawaii. Our mission is to elevate Hawaii's construction industry and strengthen the foundation of our community.

GCA **supports** S.B. 2606, which establishes additional requirements for notices of claims of construction defects.

We have a critical housing shortage in Hawaii. Yet new developments being built with first time homebuyers in mind are being put on hold because these lawsuits can restrict financing options for homebuyers. The cost of the home and insurance goes up because of these lawsuits, making it even more expensive for developers to build homes and therefore, more expensive for people to buy homes.

As a result of these frivolous lawsuits many first-time homebuyers are unable to obtain financing through FHA, Fannie Mae, VA or other federally guaranteed loans and are unable to purchase. In fact, 3 in 4 homebuyers could not afford the initial downpayment for a unit without government-backed financing options, and owner-occupant buyers in some projects have plummeted to only 38% of homebuyers because of their inability to afford the higher downpayments required for traditional loans. What's more is that many builders are choosing not to go forward with construction due to concerns of frivolous litigation, including at least one affordable housing project.

In addition, eliminating or making financing options more difficult, the litigation has cause construction costs to increase due to the increased insurance premiums and other indirect costs that result from having to defend such lawsuits.



**GENERAL
CONTRACTORS
ASSOCIATION
OF HAWAII**

SB 2606 and 2607 would help to prevent frivolous lawsuits by increasing the opportunity for homebuilders and homeowners to address any potential construction defects without costly litigation. Specifically, the bill would (1) provide better notice or detail of alleged defect and (2) require evidence of any alleged defect.

Providing greater detail and evidence of a potential defect in the notice of claim with particularity is a crucial improvement to ensure that both parties have a clear understanding of the issues at hand, facilitating an opportunity to work through mitigation or settlement of the issue and reducing the likelihood of misunderstandings or frivolous claims. In addition, requiring claimants to provide detailed evidence, as opposed to just generalized claims, strengthens the validity of construction claims, promotes fair assessments and informed decision-making during the resolution process and typically lead to quicker resolutions and more accurate assessments of damages.

The proposed changes align with the principles of proactive conflict resolution, promoting a collaborative approach to addressing construction defects in Hawaii. The emphasis on early notification is a strategic and pragmatic step that can significantly contribute to the expeditious resolution of issues, benefiting all stakeholders involved.

Thank you for the opportunity to provide testimony on this measure.

QUALITY PEOPLE. QUALITY PROJECTS

LATE

LATE

SB-2606

Submitted on: 2/13/2024 8:23:56 PM
Testimony for CPN on 2/14/2024 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Nathaniel Kinney	Testifying for Hawaii Regional Council of Carpenters	Support	In Person

Comments:

HRCC is in support of this measure as it will help bring clarity and stability to the housing market. Overly broad construction defect claims are constraining the production of housing and we believe that this bill would continue to protect consumers while allowing for contractors to repair any defective construction that may have occurred.



February 12, 2024

The Honorable Jarrett Keohokalole, Chair
The Honorable Carol Fukunaga, Vice Chair
Members of the Senate Committee on Commerce and Consumer Protection
Thirty-Second Legislature, Regular Session of 2024

RE: **SB 2606 & SB 2607 – RELATING TO CONSTRUCTION**
Hearing Date: Wednesday, February 14, 2024 at 9:30am
Conference Room 229, State Capitol

Aloha Chair Keohokalole, Vice Chair Fukunaga and Members of the Committee,

I strongly **SUPPORT** SB 2606 & SB 2607 – RELATING TO THE CONTRACTOR REPAIR ACT proposing changes to Section 672E-3 and -4 of the Hawaii Revised Statutes relating to construction defects in design and materials used to build residential product.

The law as it exists today is inadequate and unfair. The existing law does not require adequate specificity in terms of describing the particular defect being alleged. Developers, contractors, and material providers are left to guess what the nature of an alleged defect is and its impact. If a party is charged by a homeowner or their attorney with vague or broad claims how can the developer, contractor or material supplier offer a remedy, replacement or repair work. The inherent unfairness resulting can be fixed by requiring a minimum threshold amount of explanation of an alleged problem at a level of specificity that can be determinative of whether a problem exists or not, and if present, what steps should be taken to address the problem.

The recent wave of construction defect litigation affecting several developments in our State has taken advantage of this lack of specificity to intentionally broaden the scope of alleged impact to increase the number of parties involved in class action lawsuits. The legitimate merits of an alleged defect to be cured by a developer or contractor is now being supplanted by the legal leverage engendered by a class action lawsuit over a project. This is particularly true for condominium projects where buyers need government backed financing. Recently, FHA, VA, Fannie Mae and Freddie Mac have taken the position to disqualify new condominium projects with such pending litigation. Without low down payment government backed loan programs and without the 20% down payment required by portfolio lending, our veterans and other first time buyers are being used as hostages in this economically motivated legal environment.

MAILING ADDRESS

Post Office Box 131 / Honolulu, HI 96810

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The Honorable Jarrett Keohokalole, Chair
The Honorable Carol Fukunaga, Vice Chair
Members of the Senate Committee on Commerce and Consumer Protection
February 12, 2024
Page 2

In conclusion, the proposed changes as set forth in S.B. 2606 and S.B. 2607 are designed to avoid unnecessary litigation and, more importantly, to remedy legitimate complaints filed by homebuyers. Developers and contractors in Hawaii realize that providing effective and timely service and a reasonable offer under Chapter 672E HRS to buyers is important as it generates good will and potential referrals from friends and family members. Those in the housing industry stand by their product and should not be penalized for wanting to service their buyers in a positive and timely way.

Therefore, I respectfully ask that you and your committee support the above-mentioned bills.

Very truly yours,

ASHFORD & WRISTON



Benjamin A. Kudo

BAK:st



HAWAIIANA

Hawaiiana Management Company, Ltd.
Pacific Park Plaza, Suite 700
711 Kapiolani Boulevard
Honolulu, Hawaii 96813
Tel: (808) 593-9100
Fax: (808) 593-6333

February 12, 2024

Senator Jarrett Keohokalole, Chair
Senator Carol Fukunaga, Vice Chair
Members of the Committee on Commerce and Consumer Protection
Thirty-Second Legislature, Regular Session of 2024

RE: **SB 2606 & SB 2607 – RELATING TO CONSTRUCTION**
Hearing Date: Wednesday, February 14, 2024 at 9:30am
Conference Room 229, State Capitol

Aloha Chair Keohokalole, Vice Chair Fukunaga and Members of the Committee,

I am writing to express my strong **SUPPORT** of SB 2606 & SB 2607 – RELATING TO THE CONTRACTOR REPAIR ACT proposing changes to Section 672E-3 and -4 of the Hawaii Revised Statutes relating to construction defects in housing. The primary reason for my support is the emphasis on protecting both contractors, homeowners and now 1st time homebuyers by requiring specificity in the notice of claim, establishing clear guidelines and timelines for inspections and repairs and discouraging the rejection of reasonable offers. These protections are pivotal to streamline the claim resolution process and mitigate the unnecessary legal disputes that have aggravated Hawaii's housing crisis and made housing unattainable for Hawaii's families.

Recent construction defect litigation has now impacted 1st time homebuyers' ability to obtain a needed government backed mortgage, further deepening Hawaii's housing crisis. Lack of clarity and actual evidence of construction defect claims have encumbered new condominiums currently under construction. As a result, FHA, VA, Fannie Mae and Freddie Mac have taken the position to disqualify new condominium projects with pending litigation. Without low down payment government backed loan programs and without the 20% down payment required by portfolio lending, most 1st time homebuyers and veterans are unfairly foreclosed from purchasing.

The legislation's emphasis on detailing the construction defect in the notice of claim with particularity and specificity is a crucial improvement. This requirement ensures that both parties have a clear understanding of the actual issue at hand supporting the core intent of HRS Section 672E. The proposed amendments will also facilitate more effective communication, transparency and accuracy in the process, thus reducing the likelihood of misunderstandings and frivolous or unsubstantiated claims that have now affected access to critically important FHA, VA, Fannie Mae and Freddie Mac loan programs. Requiring claimants to provide actual evidence of the

construction defect promotes transparency and helps validate construction defect claims. This benefits both contractors and homeowners by providing a basis for a more precise, timely and effective remedy, without litigation. It will also provide a basis upon which mortgage lending on new housing under construction, without legitimate evidence of a construction defect, could continue offering much needed government backed loans.

In conclusion, the proposed changes align with the principles of proactive conflict resolution, promoting a collaborative approach to addressing construction defects in Hawaii. The proposed changes are pivotal to streamline the resolution process and mitigate the deluge of unnecessary legal disputes that have directly affected 1st time homebuyers' and veterans' ability to obtain a low down payment FHA, VA, Fannie Mae or Freddie Mac loan and that have only deepened Hawaii's housing crisis and made housing further beyond reach for Hawaii's families.

I urge you to lend your support to these amendments.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jon McKenna". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Jon McKenna
President



Hawaiiana Management Company, Ltd.
Pacific Park Plaza, Suite 700
711 Kapiolani Boulevard
Honolulu, Hawaii 96813
Tel: (808) 593-6835
Fax: (808) 447-5195
Email: jfic@hmcmgt.com
Internet: www.hmcmgt.com

February 9, 2024

Senator Jarrett Keohokalole, Chair
Senator Carol Fukunaga, Vice Chair
Members of the Committee on Commerce and Consumer Protection
Thirty-Second Legislature, Regular Session of 2024

RE: SB 2606 & SB 2607 – RELATING TO CONSTRUCTION
Hearing Date: Wednesday, February 14, 2024 at 9:30am
Conference Room 229, State Capitol

Aloha Chair Keohokalole, Vice Chair Fukunaga and Members of the Committee,

I am writing to express my strong SUPPORT of SB 2606 & SB 2607 – RELATING TO THE CONTRACTOR REPAIR ACT proposing changes to Section 672E-3 and -4 of the Hawaii Revised Statutes relating to construction defects in housing. The primary reason for my support is the emphasis on protecting both contractors, homeowners and now 1st time homebuyers by requiring specificity in the notice of claim, establishing clear guidelines and timelines for inspections and repairs and discouraging the rejection of reasonable offers. These protections are pivotal to streamline the claim resolution process and mitigate the unnecessary legal disputes that have aggravated Hawaii's housing crisis and made housing unattainable for Hawaii's families.

Recent construction defect litigation has now impacted 1st time homebuyers' ability to obtain a needed government backed mortgage, further deepening Hawaii's housing crisis. Lack of clarity and actual evidence of construction defect claims have encumbered new condominiums currently under construction. As a result, FHA, VA, Fannie Mae and Freddie Mac have taken the position to disqualify new condominium projects with pending litigation. Without low down payment government backed loan programs and without the 20% down payment required by portfolio lending, most 1st time homebuyers and veterans are unfairly foreclosed from purchasing.

The legislation's emphasis on detailing the construction defect in the notice of claim with particularity and specificity is a crucial improvement. This requirement ensures that both parties have a clear understanding of the actual issue at hand supporting the core intent of HRS Section 672E. The proposed

amendments will also facilitate more effective communication, transparency and accuracy in the process, thus reducing the likelihood of misunderstandings and frivolous or unsubstantiated claims that have now affected access to critically important FHA, VA, Fannie Mae and Freddie Mac loan programs. Requiring claimants to provide actual evidence of the construction defect promotes transparency and helps validate construction defect claims. This benefits both contractors and homeowners by providing a basis for a more precise, timely and effective remedy, without litigation. It will also provide a basis upon which mortgage lending on new housing under construction, without legitimate evidence of a construction defect, could continue offering much needed government backed loans.

In conclusion, the proposed changes align with the principles of proactive conflict resolution, promoting a collaborative approach to addressing construction defects in Hawaii. The proposed changes are pivotal to streamline the resolution process and mitigate the deluge of unnecessary legal disputes that have directly affected 1st time homebuyers' and veterans' ability to obtain a low down payment FHA, VA, Fannie Mae or Freddie Mac loan and that have only deepened Hawaii's housing crisis and made housing further beyond reach for Hawaii's families.

I urge you to lend your support to these amendments.

Sincerely,



Justyna Fic
Director of New Development Activities

SB 2606

OPPOSE

Senate Committee on Commerce and Consumer Protection

Aloha Chairman Keohokalole and senators

My name is Nadine Nagano. My husband Keith and I live in a subdivision in Kapolei. I oppose this bill.

I am currently involved in a construction defects lawsuit because I want my home to be fixed. When I learned how severe the defects in my home are, I was shocked. It started off with my husband worrying about some spalling. But later when we were able to see what caused the spalling on our foundations, we were stunned. This bill would add a level of despair to our feelings of shock and dismay.

SB 2606 makes it impossible for an ordinary homeowner to challenge the big developers or contractors to have his or her home fixed.

1) This bill adds to the requirements that a homeowner has to fulfill in order to bring construction defects claim. We don't have the money or even the know how to hire the experts, conduct the investigations, and produce the reports that would be required. We are retirees and when we bought this home it was our biggest financial investment.

2) This bill will effectively do away with class action representation. I chose to be a class claimant because I'm became aware of the defects that are not visible on the surface and I want my neighbors and others in my subdivision to have the same opportunity to have their homes fixed. And vice versa, for my home to be safe, I need all of the homes around me to be safe. Otherwise in the next hurricane, even though my walls are securely fastened to my home's foundations, my neighbor's walls may not be and they could turn into missiles damaging properties around it.

When I purchased my home, I did not expect the integrity of my home to be compromised before its 10th "birthday". Please do not make it harder for me and my family to make sure we live in a safe and secure home. Please kill this bill.



Corroding sill track



Rusted sill tracks



Rusted sill track and anchor screw



Rusted anchor screw that snapped off

Our AOA was approached by a law firm some years ago. Their pitch was we have a model that can put some money in your pockets...

Your project has a 10 year tail on construction defects. We are going to hire a forensic team to look for problems with your project and submit a construction defects report. We are then going to tie up the developer in litigation. We will pull you on stage, you can shed a few tears say how you can't live under these conditions. We won't collect our fees till the end. The developer is covered by insurance. The insurance company will want to settle. You don't have to do any maintenance during the litigation. We want the property to look as dilapidated as possible. If all goes well, the judge will award you a fee. We will take our cut. You will get a fat check. You can use the same team who did the discovery to do the repairs. You can use money for any capital improvements you want. The board will look like heroes for not raising maintenance fees. You don't need to do the repairs we are suing on.

13 years later we did receive an award for 20% of what we were promised. Deferred maintenance to common area now had an exponential cost to repair. Litigation affected prospective buyers ability to finance and homeowners to refi. And give an \$20 million check to a group of volunteer board members with no oversight and watch the corruption begin.

As a homeowner and General contractor in the state of Hawaii for the last 26 years, I read the construction defect report. I could tell it was a witch hunt. There is about 600 windows in our project, one of them is going to be leaking. Thousands of yards of concrete were poured, there's going to be a few cracks. Of course there will be moisture infiltration if overgrown vegetation is diverting water towards the building. Using a torpedo level to determine improper slope over a large area? These issues were maintenance issues in my book and litigation could have been avoided. As you could imagine, this was not something the board wanted to hear.

I have since heard that is a similar model the other associations have also been approached with across the nation and this state with the same cast of characters following the same script. In our case, the developer offered to fix the defects but we were told by our attorneys, " you don't want it fixed do you? You want the money". The business judgement rule should apply to all professional relationships and not just contractor's multiple bids when determining issues with high dollar amounts. Since, there is a circular reference when a board is hiring a professional to tell them what they want to hear. There are no winners in litigation-only losers.

Tiffanie L. Gardner

1767 Glen Avenue Wahiawa, HI 96786
808.824.0027

Senator Jarrett Keohokalole, Chair
Senator Carol Fukunaga, Vice Chair
Members of the Committee on Commerce and Consumer Protection
Thirty-Second Legislature, Regular Session of 2024

RE: **SB 2606 & SB 2607 – RELATING TO CONSTRUCTION**
Hearing Date: Wednesday, February 14, 2024 at 9:30am
Conference Room 229, State Capitol

Aloha Chair Keohokalole, Vice Chair Fukunaga and Members of the Committee,

I am writing to express my strong **SUPPORT** of SB 2606 & SB 2607 – RELATING TO CONSTRUCTION proposing changes to Section 672E-3 and -4 of the Hawaii Revised Statutes relating to construction defects in housing.

These amendments are crucial for fostering a fair, transparent and efficient process for homeowners as well as contractors in addressing construction defects. These amendments are also critical to curbing unnecessary and protracted lawsuits that have resulted in increased insurance costs on the new construction of much needed housing.

Equally as important, recent construction defect litigation has had an unprecedented effect on 1st time homebuyers' ability to obtain a needed government backed mortgage. This has only further exacerbated Hawaii's housing crisis. Lack of clarity and actual evidence of construction defect claims have encumbered not only completed homes but new condominiums currently under construction as well. As a result, FHA, VA, Fannie Mae and Freddie Mac have taken the position to rescind lending approvals on new condominium projects with pending litigation. Without low down payment government backed loan programs and without the 20% down payment required by portfolio lending, most 1st time homebuyers and veterans are unfairly preempted from purchasing.

1. Specificity in Claim Notices Ensures Clarity: The emphasis on detailing the construction defect in the notice of claim with particularity and specificity is a crucial improvement. This requirement ensures that both parties have a clear understanding of the issues at hand, facilitating more effective communication, transparency and accuracy and reducing the likelihood of misunderstandings and frivolous or unsubstantiated claims. The amendments seek to clarify and strengthen the prelitigation notice requirements consistent with other states that have adopted similar legislation (California, Colorado, Nevada, Florida) to decrease the number of unsubstantiated claims, encourage early resolution of claims, and reduce the cost of housing and insurance. Clear and detailed notice helps contractors pinpoint the alleged issues, enabling them to address the concerns more effectively and efficiently.

2. Evidence Submission Promotes Transparency and Efficient Resolution of Claims: Requiring claimants to provide actual evidence of the construction defect, such as expert reports, photographs, videotapes, and testing results, promotes transparency and helps validate construction defect claims. This provision ensures that contractors have access to comprehensive information, promoting fairness and informed decision-making during the resolution process and preventing disputes over the validity of claims, leading to more efficient and effective resolution of construction defect issues. With respect to construction defect claims, this process allows for quicker resolutions and a more accurate assessment of the damages. This benefits contractors and homeowners by providing a basis for a more precise and effective remedy.

3. Amending the Process and Timeframe re Inspection and Repairs Provides More Certainty: By amending the process and timeframe for inspection and repairs, both contractors and homeowners will have more certainty. Establishing clear guidelines and timelines for inspections and repairs can help prevent delays and disputes, providing all parties involved with a clear understanding of the steps and timeframe for resolution. This increased certainty can lead to a more efficient and timely resolution of construction defect claims.

4. Limiting Recovery and Foreclosing Attorney's Fees When Offers are Unreasonably Rejected Ensures Fairness and Efficient Resolution of Claims: Limiting recovery and foreclosing attorney's fees when a proposal to inspect or an offer of repair is unreasonably rejected will result in quicker and fairer resolution of construction defect claims. This provision discourages the rejection of reasonable offers and promotes a more efficient resolution process by preventing unnecessary delays and costly disputes. It also helps to prevent the escalation of legal costs, contributing to a more efficient and cost-effective resolution of construction defect issues.

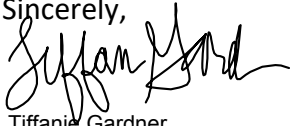
5. The Amendments will Help Resolve Claims Without Costly and Lengthy Legal Action by Allowing Contractors to Address the Specific Issue Being Raised. The amendments will allow contractors to address the specific issue raised by homeowners. The legislation gives both homeowners and contractors an opportunity to reduce claims without costly and lengthy legal action helping to avoid potentially significant delays to much needed repairs. The amount of construction defect litigation in our state has reached a dire tipping point as evidenced by rising insurance costs, increased housing costs and the unavailability of government backed loans (FHA, VA, USDA, Fannie Mae and Freddie Mac) on condos with litigation, all of which preclude countless 1st time homebuyers from purchasing homes.

In conclusion, the proposed changes to Section 672E-3 and -4 of the Hawaii Revised Statutes represent a thoughtful and balanced approach to more effectively address construction defects in housing and in turn help address Hawaii's housing crisis. These amendments promote early resolution, clarity in communication, and the submission of actual evidence, ultimately benefiting and protecting both homeowners and contractors. I urge you to support and pass

this legislation to enhance the fairness and efficiency of the construction defect resolution process in Hawaii and to curb the unnecessary and protracted construction defect litigation that has deepened Hawaii's housing crisis and made housing unattainable for Hawaii's families.

I urge you to lend your support to these amendments.

Sincerely,

A handwritten signature in black ink, appearing to read "Tiffanie Gardner". The signature is fluid and cursive, with the first name being more prominent.

Tiffanie Gardner
tiffanie@toppriorityhawaii.com
808.824.0027

2/9/2024

Senator Jarrett Keohokalole, Chair
Senator Carol Fukunaga, Vice Chair
Members of the Committee on Commerce and Consumer Protection
Thirty-Second Legislature, Regular Session of 2024

RE: SB 2606 & SB 2607 – RELATING TO CONSTRUCTION
Hearing Date: Wednesday, February 14, 2024 at 9:30am
Conference Room 229, State Capitol

Aloha Chair Keohokalole, Vice Chair Fukunaga and Members of the Committee,

I wholeheartedly **SUPPORT** SB 2606 & SB 2607 – RELATING TO THE CONTRACTOR REPAIR ACT proposing changes to Hawaii's construction defect legislation, particularly the emphasis on specificity in notice of claims, requiring actual evidence of the construction defect and discouraging the rejection of reasonable offers. Drawing inspiration from successful models in various states, the amendments promise to bring clarity and efficiency to the claim resolution process. By mandating detailed descriptions of alleged defects and discouraging the rejection of reasonable offers, homeowners and contractors can engage in transparent and productive dialogue, significantly reducing the likelihood of ambiguous or unsubstantiated claims and avoiding potentially significant delays to legitimate needed repairs. This approach aligns with best practices observed in other jurisdictions and is a progressive step toward fostering a constructive and equitable resolution framework in Hawaii.

Equally as important, recent construction defect litigation has caused two significant and unprecedented effects on housing in Hawaii. First, broad claims have halted hundreds of new housing units set to begin construction. Second, and more alarming, broad claims have prohibited the ability of 1st time homebuyers to obtain a needed government backed mortgage. Lack of clarity and lack of actual evidence of construction defects in claims has encumbered new condominiums currently under construction. As a result, FHA, VA, Fannie Mae and Freddie Mac have taken the position to disqualify new condominium projects with pending litigation. Without low down payment government backed loan programs and without the 20% down payment required by portfolio lending, most 1st time homebuyers and veterans are unfairly precluded from purchasing. This has only further exacerbated Hawaii's dire housing crisis.

Hawaii's contractors stand behind the quality projects they build, which these amendments will allow them to equitably do and at the same time protect Hawaii's homeowners. I strongly urge

the Committee to support these amendments for the benefit of homeowners, contractors, homebuyers and the overall efficiency of the construction defect resolution process in our state.

Sincerely,

Thomas Chernin

Working for homeowners

Manuel Johann Shelley – Homeowner in Haloa, Ho’opili

Dear Chair Keohokalole, Vice Chair Fukunaga and Members of the Committee,

I am writing to express my strong SUPPORT of SB 2606 and SB 2607 – RELATING TO THE CONTRACTOR REPAIR ACT proposing changes to Section 672E-3 and -4 of the Hawaii Revised Statutes relating to construction defects in housing. The primary reason for my support is the emphasis on protecting both contractors, homeowners and now 1st time homebuyers by requiring specificity in the notice of claim, establishing clear guidelines and timelines for inspections and repairs and discouraging the rejection of reasonable offers. These protections are pivotal to streamline the claim resolution process and mitigate the unnecessary legal disputes that have aggravated Hawaii’s housing crisis and made housing unattainable for Hawaii’s families.

Recent construction defect litigation has now impacted 1st time homebuyers’ ability to obtain a needed government backed mortgage, further deepening Hawaii’s housing crisis. Lack of clarity and actual evidence of construction defect claims have encumbered new condominiums currently under construction. As a result, FHA, VA, Fannie Mae and Freddie Mac have taken the position to disqualify new condominium projects with pending litigation. Without low down payment government backed loan programs and without the 20% down payment required by portfolio lending, most 1st time homebuyers and veterans are unfairly foreclosed from purchasing. The legislation’s emphasis on detailing the construction defect in the notice of claim with particularity and specificity is a crucial improvement. This requirement ensures that both parties have a clear understanding of the actual issue at hand supporting the core intent of HRS Section 672E. The proposed amendments will also facilitate more effective communication, transparency and accuracy in the process, thus reducing the likelihood of misunderstandings, and frivolous or unsubstantiated claims that have now affected access to critically important FHA, VA, Fannie Mae and Freddie Mac loan programs. Requiring claimants to provide actual evidence of the construction defect promotes transparency and helps validate construction defect claims. This benefits both contractors and homeowners by providing a basis for a more precise, timely and effective remedy, without litigation. It will also provide a basis upon which mortgage lending on new housing under construction, without legitimate evidence of a construction defect, could continue offering much needed government backed loans. In conclusion, the proposed changes align with the principles of proactive conflict resolution, promoting a collaborative approach to addressing construction defects in Hawaii. The proposed changes are pivotal to streamline the resolution process and mitigate the deluge of unnecessary legal disputes that have directly affected 1st time homebuyers’ and veterans’ ability to obtain a low down payment FHA, VA, Fannie Mae or Freddie Mac loan and that have only deepened Hawaii’s housing crisis and made housing further beyond reach for Hawaii’s families.

I urge you to lend your support to these amendments.

Sincerely,

Manuel Johann Shelley
Homeowner of an “Affordable Home” in Haloa, Ho’opili

Senator Jarrett Keohokalole, Chair
Senator Carol Fukunaga, Vice Chair
Members of the Committee on Commerce and Consumer Protection
Thirty-Second Legislature, Regular Session of 2024

RE: **SB 2606 & SB 2607 – RELATING TO CONSTRUCTION**
Hearing Date: Wednesday, February 14, 2024 at 9:30am
Conference Room 229, State Capitol

Aloha Chair Keohokalole, Vice Chair Fukunaga and Members of the Committee,

I am writing to express my strong **SUPPORT** of SB 2606 & SB 2607 – RELATING TO CONSTRUCTION proposing changes to Section 672E-3 and -4 of the Hawaii Revised Statutes relating to construction defects in housing.

These amendments are crucial for fostering a fair, transparent and efficient process for homeowners as well as contractors in addressing construction defects. These amendments are also critical to curbing unnecessary and protracted lawsuits that have resulted in increased insurance costs on the new construction of much needed housing.

Equally as important, recent construction defect litigation has had an unprecedented effect on 1st time homebuyers' ability to obtain a needed government backed mortgage. This has only further exacerbated Hawaii's housing crisis. Lack of clarity and actual evidence of construction defect claims have encumbered not only completed homes but new condominiums currently under construction as well. As a result, FHA, VA, Fannie Mae and Freddie Mac have taken the position to rescind lending approvals on new condominium projects with pending litigation. Without low down payment government backed loan programs and without the 20% down payment required by portfolio lending, most 1st time homebuyers and veterans are unfairly preempted from purchasing.

1. Specificity in Claim Notices Ensures Clarity: The emphasis on detailing the construction defect in the notice of claim with particularity and specificity is a crucial improvement. This requirement ensures that both parties have a clear understanding of the issues at hand, facilitating more effective communication, transparency and accuracy and reducing the likelihood of misunderstandings and frivolous or unsubstantiated claims. The amendments seek to clarify and strengthen the prelitigation notice requirements consistent with other states that have adopted similar legislation (California, Colorado, Nevada, Florida) to decrease the number of unsubstantiated claims, encourage early resolution of claims, and reduce the cost of housing and insurance. Clear and detailed notice helps contractors pinpoint the alleged issues, enabling them to address the concerns more effectively and efficiently.

2. Evidence Submission Promotes Transparency and Efficient Resolution of Claims: Requiring claimants to provide actual evidence of the construction defect, such as expert reports,

photographs, videotapes, and testing results, promotes transparency and helps validate construction defect claims. This provision ensures that contractors have access to comprehensive information, promoting fairness and informed decision-making during the resolution process and preventing disputes over the validity of claims, leading to more efficient and effective resolution of construction defect issues. With respect to construction defect claims, this process allows for quicker resolutions and a more accurate assessment of the damages. This benefits contractors and homeowners by providing a basis for a more precise and effective remedy.

3. Amending the Process and Timeframe re Inspection and Repairs Provides More Certainty:

By amending the process and timeframe for inspection and repairs, both contractors and homeowners will have more certainty. Establishing clear guidelines and timelines for inspections and repairs can help prevent delays and disputes, providing all parties involved with a clear understanding of the steps and timeframe for resolution. This increased certainty can lead to a more efficient and timely resolution of construction defect claims.

4. Limiting Recovery and Foreclosing Attorney's Fees When Offers are Unreasonably Rejected Ensures Fairness and Efficient Resolution of Claims:

Limiting recovery and foreclosing attorney's fees when a proposal to inspect or an offer of repair is unreasonably rejected will result in quicker and fairer resolution of construction defect claims. This provision discourages the rejection of reasonable offers and promotes a more efficient resolution process by preventing unnecessary delays and costly disputes. It also helps to prevent the escalation of legal costs, contributing to a more efficient and cost-effective resolution of construction defect issues.

5. The Amendments will Help Resolve Claims Without Costly and Lengthy Legal Action by Allowing Contractors to Address the Specific Issue Being Raised. The amendments will allow contractors to address the specific issue raised by homeowners. The legislation gives both homeowners and contractors an opportunity to reduce claims without costly and lengthy legal action helping to avoid potentially significant delays to much needed repairs. The amount of construction defect litigation in our state has reached a dire tipping point as evidenced by rising insurance costs, increased housing costs and the unavailability of government backed loans (FHA, VA, USDA, Fannie Mae and Freddie Mac) on condos with litigation, all of which preclude countless 1st time homebuyers from purchasing homes.

In conclusion, the proposed changes to Section 672E-3 and -4 of the Hawaii Revised Statutes represent a thoughtful and balanced approach to more effectively address construction defects in housing and in turn help address Hawaii's housing crisis. These amendments promote early resolution, clarity in communication, and the submission of actual evidence, ultimately benefiting and protecting both homeowners and contractors. I urge you to support and pass this legislation to enhance the fairness and efficiency of the construction defect resolution process in Hawaii and to curb the unnecessary and protracted construction defect litigation that has deepened Hawaii's housing crisis and made housing unattainable for Hawaii's families.

I urge you to lend your support to these amendments.

Sincerely,

Yule Park

Owner – Moana Kai

February 9, 2024

Senator Jarrett Keohokalole, Chair
Senator Carol Fukunaga, Vice Chair
Members of the Committee on Commerce and Consumer Protection
Thirty-Second Legislature, Regular Session of 2024

RE: SB 2606 & SB 2607 – RELATING TO CONSTRUCTION
Hearing Date: Wednesday, February 14, 2024 at 9:30am
Conference Room 229, State Capitol

Aloha Chair Keohokalole, Vice Chair Fukunaga and Members of the Committee,

I am writing to express my strong **SUPPORT** of SB 2606 & SB 2607 – RELATING TO THE CONTRACTOR REPAIR ACT proposing changes to Section 672E-3 and -4 of the Hawaii Revised Statutes relating to construction defects in housing. The primary reason for my support is the emphasis on protecting both contractors, homeowners and now 1st time homebuyers by requiring specificity in the notice of claim, establishing clear guidelines and timelines for inspections and repairs and discouraging the rejection of reasonable offers. These protections are pivotal to streamline the claim resolution process and mitigate the unnecessary legal disputes that have aggravated Hawaii's housing crisis and made housing unattainable for Hawaii's families.

Recent construction defect litigation has now impacted 1st time homebuyers' ability to obtain a needed government backed mortgage, further deepening Hawaii's housing crisis. Lack of clarity and actual evidence of construction defect claims have encumbered new condominiums currently under construction. As a result, FHA, VA, Fannie Mae and Freddie Mac have taken the position to disqualify new condominium projects with pending litigation. Without low down payment government backed loan programs and without the 20% down payment required by portfolio lending, most 1st time homebuyers and veterans are unfairly foreclosed from purchasing.

The legislation's emphasis on detailing the construction defect in the notice of claim with particularity and specificity is a crucial improvement. This requirement ensures that both parties have a clear understanding of the actual issue at hand supporting the core intent of HRS Section 672E. The proposed amendments will also facilitate more effective communication, transparency and accuracy in the process, thus reducing the likelihood of misunderstandings and frivolous or unsubstantiated claims that have now affected access to critically important FHA, VA, Fannie Mae and Freddie Mac loan programs. Requiring claimants to provide actual evidence of the construction defect promotes transparency and helps validate construction defect claims. This benefits both contractors and homeowners by providing a basis for a more precise, timely and effective remedy, without litigation. It will also provide a basis upon which

mortgage lending on new housing under construction, without legitimate evidence of a construction defect, could continue offering much needed government backed loans.

In conclusion, the proposed changes align with the principles of proactive conflict resolution, promoting a collaborative approach to addressing construction defects in Hawaii. The proposed changes are pivotal to streamline the resolution process and mitigate the deluge of unnecessary legal disputes that have directly affected 1st time homebuyers' and veterans' ability to obtain a low down payment FHA, VA, Fannie Mae or Freddie Mac loan and that have only deepened Hawaii's housing crisis and made housing further beyond reach for Hawaii's families.

I urge you to lend your support to these amendments.

Sincerely,

Mrs. Jane A. Ross

SB-2606

Submitted on: 2/9/2024 3:48:43 PM

Testimony for CPN on 2/14/2024 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Fumie Shelley	Individual	Support	Written Testimony Only

Comments:

Fumie Shelley – Resident of a “Affordable Home” in Ho’opili

To Chair Keohokalole, Vice Chair Fukunaga and Members of the Committee,

I want to express my full endorsement for SB 2606 and SB 2607. Recently, I learned that my community is involved in a lawsuit regarding construction deficiencies in our homes. While I firmly believe these allegations lack merit, it highlights how easy it has become to level accusations without considering the impact on those affected. These legal disputes are entirely unnecessary and only serve to escalate the cost of homeownership in Hawaii.

My family and I feel incredibly fortunate to own a home in Hawaii. However, without the support for SB 2606 and SB 2607, the prospect of homeownership may slip out of reach, particularly for young families. Furthermore, my parents-in-law have been making a diligent effort to meet the requirements for a VA loan, aiming to relocate closer to us so that they can spend more time with our daughter. Regrettably, due to ongoing defect litigations, the VA cannot provide them with a mortgage for a property involved in legal disputes. Affording a conventional loan, which demands a 20% down payment, is beyond their means. This situation is deeply frustrating for my husband and me, and we believe our veterans deserve better.

The proposed amendments in SB 2606 and SB 2607 represent a positive stride towards safeguarding first-time homebuyers in Hawaii, granting them access to lending they desperately require. My family stands as living proof that when affordable housing is offered at a fair price with fair conditions, and the community's interests are safeguarded, families like ours can thrive. It underscores the importance of legislation and business working collaboratively to serve the greater good of our community.

Please support the amendments in SB 2606 and SB 2607.

Thank you.

Fumie Shelley

Homeowner of an “Affordable Home” in Ho’opili



KY International, Inc.
Architects & Planners

Senator Jarrett Keohokalole, Chair
Senator Carol Fukunaga, Vice Chair
Members of the Committee on Commerce and Consumer Protection
Thirty-Second Legislature, Regular Session of 2024

RE: **SB 2606 – RELATING TO CONSTRUCTION**
Hearing Date: Wednesday, February 14, 2024 at 9:30am
Conference Room 229, State Capitol

Aloha Chair Keohokalole, Vice Chair Fukunaga and Members of the Committee,

I am writing to express my strong **SUPPORT** of SB 2606 -- RELATING TO CONSTRUCTION proposing changes to Section 672E-3 and -4 of the Hawaii Revised Statutes relating to construction defects in housing.

These amendments are crucial for fostering a fair, transparent and efficient process for homeowners as well as contractors in addressing construction defects. These amendments are also critical to curbing unnecessary and protracted lawsuits that have resulted in increased insurance costs on the new construction of much needed housing.

Equally as important, recent construction defect litigation has had an unprecedented effect on 1st time homebuyers' ability to obtain a needed government backed mortgage. This has only further exacerbated Hawaii's housing crisis. Lack of clarity and actual evidence of construction defect claims have encumbered not only completed homes but new condominiums currently under construction as well. As a result, FHA, VA, Fannie Mae and Freddie Mac have taken the position to rescind lending approvals on new condominium projects with pending litigation. Without low down payment government backed loan programs and without the 20% down payment required by portfolio lending, most 1st time homebuyers and veterans are unfairly preempted from purchasing.

1. Specificity in Claim Notices Ensures Clarity: The emphasis on detailing the construction defect in the notice of claim with particularity and specificity is a crucial improvement. This requirement ensures that both parties have a clear understanding of the issues at hand, facilitating more effective communication, transparency and accuracy and reducing the likelihood of misunderstandings and frivolous or unsubstantiated claims. The amendments seek to clarify and strengthen the prelitigation notice requirements consistent with other states that have adopted similar legislation (California, Colorado, Nevada, Florida) to decrease the number of unsubstantiated claims, encourage early resolution of claims, and reduce the cost of housing and insurance. Clear and detailed notice helps contractors pinpoint the alleged issues, enabling them to address the concerns more effectively and efficiently.

2. Evidence Submission Promotes Transparency and Efficient Resolution of Claims: Requiring claimants to provide actual evidence of the construction defect, such as expert reports, photographs, videotapes, and testing results, promotes transparency and helps validate construction defect claims. This provision ensures that contractors have access to comprehensive information, promoting fairness and informed decision-making during the resolution process and preventing disputes over the validity of claims, leading to more efficient and effective resolution of construction defect issues. With respect to construction defect claims, this process allows for quicker resolutions and a more accurate assessment of the damages. This benefits contractors and homeowners by providing a basis for a more precise and effective remedy.

3. Amending the Process and Timeframe re Inspection and Repairs Provides More Certainty: By amending the process and timeframe for inspection and repairs, both contractors and homeowners will have more certainty. Establishing clear guidelines and timelines for inspections and repairs can help prevent delays and disputes, providing all parties involved with a clear understanding of the steps and timeframe for resolution. This increased certainty can lead to a more efficient and timely resolution of construction defect claims.

4. Limiting Recovery and Foreclosing Attorney's Fees When Offers are Unreasonably Rejected Ensures Fairness and Efficient Resolution of Claims: Limiting recovery and foreclosing attorney's fees when a proposal to inspect or an offer of repair is unreasonably rejected will result in quicker and fairer resolution of construction defect claims. This provision discourages the rejection of reasonable offers and promotes a more efficient resolution process by preventing unnecessary delays and costly disputes. It also helps to prevent the escalation of legal costs, contributing to a more efficient and cost-effective resolution of construction defect issues.

5. The Amendments will Help Resolve Claims Without Costly and Lengthy Legal Action by Allowing Contractors to Address the Specific Issue Being Raised. The amendments will allow contractors to address the specific issue raised by homeowners. The legislation gives both homeowners and contractors an opportunity to reduce claims without costly and lengthy legal action helping to avoid potentially significant delays to much needed repairs. The amount of construction defect litigation in our state has reached a dire tipping point as evidenced by rising insurance costs, increased housing costs and the unavailability of government backed loans (FHA, VA, USDA, Fannie Mae and Freddie Mac) on condos with litigation, all of which preclude countless 1st time homebuyers from purchasing homes.

In conclusion, the proposed changes to Section 672E-3 and -4 of the Hawaii Revised Statutes represent a thoughtful and balanced approach to more effectively address construction defects in housing and in turn help address Hawaii's housing crisis. These amendments promote early resolution, clarity in communication, and the submission of actual evidence, ultimately benefiting and protecting both homeowners and contractors. I urge you to support and pass this legislation to enhance the fairness and efficiency of the construction defect resolution process in Hawaii and to curb the unnecessary and protracted construction defect litigation that has deepened Hawaii's housing crisis and made housing unattainable for Hawaii's families.

I urge you to lend your support to these amendments.

Sincerely,



Carole M. Ueki
Vice President

KY International, Inc.

1100 Alakea St., Suite 1988
Honolulu, Hawaii 96813
808.524.1268 Ext.113
carole@kyinternational.com

Regarding SB 2607
OPPOSED

February 12, 2024

TO: Senate Committee on Commerce and Consumer Protection

HONOLULU, HI

Aloha Chairman Keohokalole and members of the committee,

My name is Diane L. Cook and I am a homeowner in Kunia. I am concerned about issues occurring with my neighbors in Kapolei who are currently involved in a construction defects lawsuit and the implications it would have on any homeowner. When I learned about the defects in their homes, I was shocked and dismayed.

I am opposed to this bill SB 2607.

Here's why -

SB 2607 forces homeowners to literally pay for the construction mistakes made by the contractor or developer.

This bill places a heavy burden on the backs of ordinary homeowners who are trying to protect their family's right to live in a safe and secure home. This bill is about fear, intimidation and favoritism for corporations/businesses who are the giants or Goliaths in the building industry as opposed to the homeowners.

It forces a homeowner to accept the initial offer the builder or contractor makes. It says I "shall" accept.

And if I refuse the offer, I'm penalized. It says I cannot recover a dollar amount that exceeds the contractor's offer that I rejected.

And yet, even if I win my case in court, I am not entitled to get fees to pay my attorneys.

Moreover, I will have to pay the attorney's fees and costs for the developer or contractor who lost the case. This is just a naked attempt to stop or discourage homeowners from having their homes fixed by having them pay for everything.

When I purchase my home, I do not expect the integrity of my home to be compromised before its 10th "birthday". This was the biggest investment most consumers make, even more so here in Hawaii. Please do not make it impossible for me or any family to make sure we live in a safe and secure home.

Please kill this bill.

SINCERELY,
DIANE L. COOK

SB-2606

Submitted on: 2/11/2024 9:50:41 AM

Testimony for CPN on 2/14/2024 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Christy D Marco	Individual	Oppose	Written Testimony Only

Comments:

TO: Senate Committee on Commerce and
Consumer Protection
Regarding SB 2606

OPPOSE

Aloha Chairman Keohokalole and members of the committee.

My name is Christy Marco and I am a homeowner in Kapolei.

I oppose SB 2606. I am currently involved in a construction defects lawsuit because I want my home to be fixed. When I learned about the defects in my home, I was shocked and dismayed.

This bill would add a level of despair to my response.

Here's why -

SB 2606 makes it impossible for an ordinary homeowner to challenge the big developers or contractors to have his or her home fixed.

This bill adds to the requirements that a homeowner has to fulfill in order to bring a construction defects claim. I don't have the money or even know how to hire the experts, conduct the investigations, or produce the reports that would be required by this bill. To the naked or untrained eye, the defects may not look like much but I know that the serious and most worrisome parts are hidden from sight.

This bill will effectively do away with class action representation. Some of us chose to be class claimants because we want our neighbors and others in my subdivision to have the same opportunity to have their homes fixed. Vice versa for my home to be safe, I need all of the homes around me to be safe. Otherwise in the next hurricane, even though my walls are securely fastened to my home's foundations, my neighbor's walls may not be and those walls or windows could turn into missiles damaging properties around it.

When I purchased my home, I did not expect the integrity of my home to be compromised before its 10th "birthday". Please do not make it harder for me to make sure that I live in a safe and secure home. Please kill this bill.

TO: Senate Committee on Commerce and Consumer Protection

Regarding SB 2606

OPPOSE

Aloha Chairman Keohokalole and members of the committee.

My name is Ryan Hill and I am a homeowner in Kapolei.

I oppose SB 2607. I am currently involved in a construction defects lawsuit because I want my home (or condo unit) to be fixed.

SB 2606 forces homeowners or condo owners to literally pay for the construction mistakes made by the contractor or developer.

This bill places a heavy burden on the backs of ordinary homeowners or condo owners who are trying to protect their family's right to live in a safe and secure home. This bill is about fear, intimidation and favoritism for corporations/businesses who are the giants or Goliaths in the building industry.

- 1) It forces a homeowner to accept the initial offer the builder or contractor makes. It says I "shall" accept.
- 2) And if I refuse the offer, I'm penalized. It says I cannot recover a dollar amount that exceeds the contractor's offer that I rejected.
- 3) And yet, even if I win my case in court, I am not entitled to get fees to pay my attorneys. Moreover, I will have to pay the attorney's fees and costs for the developer or contractor who lost the case. This is just a naked attempt to stop or discourage homeowners from having their homes fixed by having them pay for everything.

When I purchased my home, I did not expect the integrity of my home to be compromised before its 10th "birthday". Please do not make it harder for me and my family to make sure we live in a safe and secure home. Please kill this bill.

TO: Senate Committee on Commerce and Consumer Protection

Regarding SB 2606

OPPOSE

Aloha Chairman Keohokalole and members of the committee.

My name is Brenda Hill and I am a homeowner in Kapolei.

I oppose SB 2606. I am currently involved in a construction defects lawsuit because I want my home (or condo unit) to be fixed.

SB 2607 forces homeowners or condo owners to literally pay for the construction mistakes made by the contractor or developer.

This bill places a heavy burden on the backs of ordinary homeowners or condo owners who are trying to protect their family's right to live in a safe and secure home. This bill is about fear, intimidation and favoritism for corporations/businesses who are the giants or Goliaths in the building industry.

- 1) It forces a homeowner to accept the initial offer the builder or contractor makes. It says I "shall" accept.
- 2) And if I refuse the offer, I'm penalized. It says I cannot recover a dollar amount that exceeds the contractor's offer that I rejected.
- 3) And yet, even if I win my case in court, I am not entitled to get fees to pay my attorneys. Moreover, I will have to pay the attorney's fees and costs for the developer or contractor who lost the case. This is just a naked attempt to stop or discourage homeowners from having their homes fixed by having them pay for everything.

When I purchased my home, I did not expect the integrity of my home to be compromised before its 10th "birthday". Please do not make it harder for me and my family to make sure we live in a safe and secure home. Please kill this bill.

SB-2606

Submitted on: 2/11/2024 9:13:16 PM

Testimony for CPN on 2/14/2024 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Charles K Mattson Jr	Individual	Oppose	Written Testimony Only

Comments:

To : Senate Committee on Commerce and Consumer Protection.

Regarding SB 2606

OPPOSE

Aloha Chairman Keohokalole and members of the committee,

My name is Charlie Mattson and I am a homeowner in the Mehana community in Kapolei. I oppose SB 2606. When I heard of the defects in homes in my community I was appalled. This bill would add a level of despair to my response.

Here's why-

SB 2606 makes it impossible for an ordinary homeowner to challenge the big developers or contractors to have his or her home fixed.

This bill adds to the requirements that a homeowner has to fulfill in order to bring a construction defects claim. I don't have the money or even the know how to hire the experts, conduct the investigations and produce the reports that would be required by this bill. To the naked or untrained eye the defects may not look like much but I know that the most serious and worrisome parts are hidden from sight. This bill will effectively do away with class action representation. Some of us chose to be class action claimants because we want our neighbors and others in our subdivision to have the same opportunity to have their home fixed. Vise versa, for my home to be safe, I need all the homes around me to be safe. Otherwise, in the next hurricane even though my walls are securely fastened to my home's foundation, my neighbors' walls may not be and those walls and windows could turn in to projectiles that could damage properties around if.

When I purchased my home, I did not expect the integrity of my home to be compromised by contractors using improper materials/sub standard materials that affect the safety of their products to make a profit. Please do not make it harder for me and my family to make sure we live in a safe and secure home. Please kill SB 2606.

Respectfully,

Charles K. Mattson Jr

Kapolei Homeowner

SB-2606

Submitted on: 2/11/2024 3:03:13 PM

Testimony for CPN on 2/14/2024 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Rocco Morano	Individual	Oppose	Written Testimony Only

Comments:

TO: Senate Committee on Commerce and Consumer Protection

Regarding SB 2606

OPPOSE

Aloha Chairman Keohokalole and members of the committee

My name is Rocco Morano and I am a homeowner in Kapolei.

I vehemently oppose SB 2606. I am currently involved in a construction defects lawsuit because I want my home to be fixed. When I learned about the defects in my home, I was shocked and dismayed. This bill would add a level of despair to my response.

Here's why -

SB 2606 makes it impossible for an ordinary homeowner to challenge the big developers or contractors to have his or her home fixed.

This bill adds to the requirements that a homeowner has to fulfill in order to bring a construction defects claim. I don't have the money or even the know how to hire the experts, conduct the investigations, and produce the reports that would be required by this bill. To the naked or untrained eye, the defects may not look like much but I know that the serious and most worrisome parts are hidden from sight. [L] [SEP]

This bill will effectively do away with class action representation. Some of us chose to be class claimants because we want our neighbors and others in my subdivision to have the same opportunity to have their homes fixed. Vice versa for my home to be safe, I need all of the homes around me to be safe. Otherwise in the next hurricane, even though my walls are securely fastened to my home's foundations, my neighbor's walls may not be and those walls or windows could turn into missiles damaging properties around it.

When I purchased my home, I did not expect the integrity of my home to be compromised before its 10th "birthday". Please do not make it harder for me and my family to make sure we live in a safe and secure home. Please kill this bill.

Very truly yours,

Rocco Morano, Kapolei, HI

SB-2606

Submitted on: 2/11/2024 3:37:39 PM

Testimony for CPN on 2/14/2024 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Cheryl Heu	Individual	Oppose	Written Testimony Only

Comments:

TO: Senate Committee on Commerce and Consumer Protection

Regarding SB 2606

OPPOSE

Aloha Chairman Keohokalole and members of the committee

My name is Cheryl Heu and I am a homeowner in Kapolei.

I oppose SB 2606. I am currently involved in a construction defects lawsuit because I want my home to be fixed. When I learned about the defects in my home, I was shocked and dismayed. This bill would add a level of despair to my response.

Here's why -

SB 2606 makes it impossible for an ordinary homeowner to challenge the big developers or contractors to have his or her home fixed.

1. This bill adds to the requirements that a homeowner has to fulfill in order to bring a construction defects claim. I don't have the money or even the know how to hire the experts, conduct the investigations, and produce the reports that would be required by this bill. To the naked or untrained eye, the defects may not look like much but I know that the serious and most worrisome parts are hidden from sight. On a personal note during the first two years of moving into our "NEW" home we noticed rust on our foundation. I contacted our developer's representative DS and he went out of his way to assure me that it was nothing to worry about. I questioned him and said that we live in the driest area on Oahu so when on earth would that moisture have come from. We got a lame answer that we proved to be a lie!
2. This bill will effectively do away with class action representation. Some of us chose to be class claimants because we want our neighbors and others in my subdivision to have the same opportunity to have their homes fixed. Vice versa for my home to be safe, I need all of the homes around me to be safe. My neighbor's walls may not be and those walls or windows could turn into missiles damaging properties around it.

When I purchased my home, I did not expect the integrity of my home to be compromised before its 10th “birthday”. There have been many issues in our home that have proven the substandard workmanship displayed by the developer. We’ve had to deal with these issues and use our own resources to correct THEIR mistakes! When you spend hundreds of thousands of dollars to purchase a BRAND NEW home you do NOT expect below par work! It should be flawless! Please do not make it harder for me and my family to make sure we live in a safe and secure home. Please KILL this bill.

I have one more thing to bring to the attention of this committee that I feel is beyond important and shows all of us who's calling the shots. I find it very suspicious that we are finding out about the ability to submit testimony to this committee a mere 4-5 days before the deadline and less than a week before the actual session. It seems that your committee is trying to keep everything on the down low so that you can pass this BILL under the consumers nose. NOT good! KILL THIS BILL!

Concerned homeowner,

Cheryl Heu



SB-2606

Submitted on: 2/11/2024 4:04:45 PM

Testimony for CPN on 2/14/2024 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Eric Heu	Individual	Oppose	Written Testimony Only

Comments:

TO: Senate Committee on Commerce and Consumer Protection

Regarding SB 2606

OPPOSE

Aloha Chairman Keohokalole and members of the committee

My name is Eric Heu and I am a homeowner in Kapolei.

I oppose SB 2606. I am currently involved in a construction defects lawsuit because I want my home to be fixed. When I learned about the defects in my home, I was shocked and dismayed. This bill would add a level of despair to my response.

Here's why -

SB 2606 makes it impossible for an ordinary homeowner to challenge the big developers or contractors to have his or her home fixed.

1. This bill adds to the requirements that a homeowner has to fulfill in order to bring a construction defects claim. I don't have the money or even the know how to hire the experts, conduct the investigations, and produce the reports that would be required by this bill. To the naked or untrained eye, the defects may not look like much but I know that the serious and most worrisome parts are hidden from sight. On a personal note during the first two years of moving into our "NEW" home we noticed rust on our foundation. We contacted the developer and were assured that it was nothing to worry about.
2. This bill will effectively do away with class action representation. Some of us chose to be class claimants because we want our neighbors and others in my subdivision to have the same opportunity to have their homes fixed. Vice versa for my home to be safe, I need all of the homes around me to be safe. My neighbor's walls may not be and those walls or windows could turn into missiles damaging properties around it.

When I purchased my home, I did not expect the integrity of my home to be compromised before its 10th “birthday”. There have been many issues in our home that we’ve had to deal with and use our own resources to correct THEIR mistakes! When you spend hundreds of thousands of dollars to purchase a BRAND NEW home you do NOT expect below par work! It should be flawless! Please do not make it harder for me and my family to make sure we live in a safe and secure home. Please KILL this bill.

One more thing...not very pleased that we are finding out about the ability to submit testimony to this committee so close to the deadline and less than a week before the actual session. It seems that your committee is trying to pass this BILL under the consumers nose.

Thank you,

Eric Heu



SB-2606

Submitted on: 2/11/2024 4:34:29 PM

Testimony for CPN on 2/14/2024 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Martin Ramirez	Individual	Oppose	Written Testimony Only

Comments:

TO: Senate Committee on Commerce and Consumer Protection Regarding SB 2606 OPPOSE
Aloha Chairman Keohokalole and members of the committee My name is Martin Ramirez and I am a homeowner in Kapolei. I oppose SB 2606. I am currently involved in a construction defects lawsuit because I want my home to be fixed. When I learned about the defects in my home, I was shocked and dismayed. This bill would add a level of despair to my response. Here's why - SB 2606 makes it impossible for an ordinary homeowner to challenge the big developers or contractors to have his or her home fixed. This bill adds to the requirements that a homeowner has to fulfill in order to bring a construction defects claim. I don't have the money or even the know how to hire the experts, conduct the investigations, and produce the reports that would be required by this bill. To the naked or untrained eye, the defects may not look like much but I know that the serious and most worrisome parts are hidden from sight. ^[1]_[SEP] This bill will effectively do away with class action representation. Some of us chose to be class claimants because we want our neighbors and others in my subdivision to have the same opportunity to have their homes fixed. Vice versa for my home to be safe, I need all of the homes around me to be safe. Otherwise in the next hurricane, even though my walls are securely fastened to my home's foundations, my neighbor's walls may not be and those walls or windows could turn into missiles damaging properties around it. When I purchased my home, I did not expect the integrity of my home to be compromised before its 10th "birthday". Please do not make it harder for me and my family to make sure we live in a safe and secure home. Please kill this bill.

SB-2606

Submitted on: 2/11/2024 4:55:48 PM

Testimony for CPN on 2/14/2024 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Contre Gomez	Individual	Oppose	Written Testimony Only

Comments:

TO: Senate Committee on Commerce and Consumer Protection
Regarding SB 2607

OPPOSE

Aloha Chairman Keohokalole and members of the committee.

My name is Melodia Gomez and I am a homeowner in Kapolei.

I oppose SB 2606 and SB 2607. I am currently involved in a construction defects lawsuit because I want my home to be safe and secure.

SB 2606 and SB 2607 forces homeowners to literally pay for the construction mistakes made by the contractor or developer.

This bill places a heavy burden on the backs of ordinary homeowners who are trying to protect their family's right to live in a safe and secure home. This bill is about fear, intimidation and favoritism for corporations/businesses who are the giants or Goliaths in the building industry.

It forces a homeowner to accept the initial offer the builder or contractor makes. It says I "shall" accept. [L] [SEP]

And if I refuse the offer, I'm penalized. It says I cannot recover a dollar amount that exceeds the contractor's offer that I rejected. [L] [SEP]

And yet, even if I win my case in court, I am not entitled to get fees to pay my attorneys. Moreover, I will have to pay the attorney's fees and costs for the developer or contractor who lost the case. This is

just a naked attempt to stop or discourage homeowners from having their homes fixed by having them pay for everything.

When I purchased my home, I did not expect the integrity of my home to be compromised. This was the biggest investment we made. Please do not make it impossible for me and my family to make sure we live in a safe and secure home. Please kill this bill.

A Hawaii state tax payer!

SB-2606

Submitted on: 2/11/2024 4:51:39 PM

Testimony for CPN on 2/14/2024 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Melodia Gomez	Individual	Oppose	Written Testimony Only

Comments:

TO: Senate Committee on Commerce and Consumer Protection
Regarding SB 2607

OPPOSE

Aloha Chairman Keohokalole and members of the committee.

My name is Melodia Gomez and I am a homeowner in Kapolei.

I oppose SB 2606 and SB 2607. I am currently involved in a construction defects lawsuit because I want my home to be safe and secure.

SB 2606 and SB 2607 forces homeowners to literally pay for the construction mistakes made by the contractor or developer.

This bill places a heavy burden on the backs of ordinary homeowners who are trying to protect their family's right to live in a safe and secure home. This bill is about fear, intimidation and favoritism for corporations/businesses who are the giants or Goliaths in the building industry.

It forces a homeowner to accept the initial offer the builder or contractor makes. It says I "shall" accept. [L] [SEP]

And if I refuse the offer, I'm penalized. It says I cannot recover a dollar amount that exceeds the contractor's offer that I rejected. [L] [SEP]

And yet, even if I win my case in court, I am not entitled to get fees to pay my attorneys. Moreover, I will have to pay the attorney's fees and costs for the developer or contractor who lost the case. This is

just a naked attempt to stop or discourage homeowners from having their homes fixed by having them pay for everything.

When I purchased my home, I did not expect the integrity of my home to be compromised. This was the biggest investment we made. Please do not make it impossible for me and my family to make sure we live in a safe and secure home. Please kill this bill.

A Hawaii state tax payer!

SB-2606

Submitted on: 2/11/2024 7:02:06 PM

Testimony for CPN on 2/14/2024 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Paul Orman	Individual	Oppose	Written Testimony Only

Comments:

I am a retired homeowner in Sea Country Waianae. Our houses were built by DR Horton which is currently the defendant in a class action lawsuit concerning rusted tie down bolts to home foundations. This is a serious defect with construction, one that I believe will be required to be disclosed by law at the sale of the home. This is a condition that will seriously affect the value of the home. Placing undue burdens upon individual homeowners to seek restitution for inadequate construction (including material defects) has the potential to seriously affect property values. Anytime our laws are altered their are unintended consequence. And then more laws are created to fix the inequities of the original law. This then becomes a vicious cycle over years with the people in the original group for which the law were affected by the laws being long gone. This is such a bill. I believe there will be very serious unintended consequences to the harm of certain groups of people if this bill were to become law.

If DR Horton does not repair the defects within my home, defects that have clearly been shown through discovery to be caused by either poor workmanship or defects in materials used, then I believe the disclosure language used within real estate agreements will require me to disclose those defects at sale of the home. Given that these defects will be 10's of thousands to repair, my home value could be affect anywhere from \$50 to \$100 thousand USD at sale. As the majority of homes in Sea Country have been shown to have the same defect as mine, all home values would (or should) be affected.

If I were to let the defects slide under the rug at home sale (as a lot of people do) and an issue arises due to an earthquake (we felt tremors in our home during the recent quake - some 196 miles away) or a hurricane, I place myself at risk from a lawsuit from the new owner as well as placing the new owner under an undue burden dealing with the defect on their own, possibly with little or no recourse to go against the builder. This simply shifts the burden down the road to those not in a position to deal with it.

Lastly, as a homeowner who has purchased a home in Sea Country, and is living in that home, I would have had no way of knowing the tie down bolts on the house were rusted and sub standard had it not been for a lawsuit, a law office, and a court judgement that allowed for a study paid for by the builder to discover the defect. And even now that the defect has been discovered, it has not been taken care of. No house inspection would have gone to the level to start taking siding off the house and inspecting the foundation and the house tie downs put into the foundation. It would have gone undiscovered from homeowner to homeowner until such time as it became an issue. And if at the time it is discovered, the builder is not held responsible for damages (I am

still waiting in the current case of my home and it is still not clear to me at all if it will ever be resolved or that repairs will be made) then home values will be affected negatively and the real estate market will be affected.

I am strongly opposed to SB2606. I believe it has the potential to create more litigation, not less, although that litigation will be shifted. To the people that can least afford it. To the homeowners, not the people actually responsible for the defects in the first place. If my understanding in this matter is not correct, I am willing to have my understanding of the bill clarified or corrected.

Thank you for the opportunity to have a voice in this matter.

Paull E Orman retired homeowner in Waianae

SB-2606

Submitted on: 2/11/2024 7:58:17 PM

Testimony for CPN on 2/14/2024 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
alison	Individual	Oppose	Written Testimony Only

Comments:

Aloha Chairman Keohokalole and members of the committee. I am a single mother, business owner, and a homeowner in Kapolei. I oppose SB 2606. I am currently involved in a construction defects lawsuit because I want my home to be fixed. When I learned about the defects in my home, I was shocked and dismayed. This bill would add a level of despair to my response. Here's why - SB 2606 makes it impossible for an ordinary homeowner to challenge the big developers or contractors to have his or her home fixed. This bill adds to the requirements that a homeowner has to fulfill in order to bring a construction defects claim. I don't have the money or even the know how to hire the experts, conduct the investigations, and produce the reports that would be required by this bill. To the naked or untrained eye, the defects may not look like much but I know that the serious and most worrisome parts are hidden from sight. This bill will effectively do away with class action representation. Some of us chose to be class claimants because we want our neighbors and others in my subdivision to have the same opportunity to have their homes fixed. Vice versa for my home to be safe, I need all of the homes around me to be safe. Otherwise in the next hurricane, even though my walls are securely fastened to my home's foundations, my neighbor's walls may not be and those walls or windows could turn into missiles damaging properties around it. When I purchased my home, I did not expect the integrity of my home to be compromised before its 10th "birthday". Please do not make it harder for me and my family to make sure we live in a safe and secure home. Please make life a little easier for us; as it has been enough of a struggle these past few years.

SB-2606

Submitted on: 2/11/2024 8:02:34 PM

Testimony for CPN on 2/14/2024 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
J. Chun	Individual	Oppose	Written Testimony Only

Comments:

I oppose this bill.

SB-2606

Submitted on: 2/11/2024 8:24:18 PM

Testimony for CPN on 2/14/2024 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Mahina Bueno	Individual	Oppose	Written Testimony Only

Comments:

Aloha Chairman Keohokalole and members of the committee

I oppose SB 2606.

SB 2606 makes it impossible for an ordinary homeowner to challenge the big developers or contractors to have his or her home fixed.

This bill adds to the requirements that a homeowner has to fulfill in order to bring a construction defects claim. Most homeowners here might not have the money or even the know how to hire the experts, conduct the investigations, and produce the reports that would be required by this bill. To the naked or untrained eye, the defects may not look like much but I know that the serious and most worrisome parts are hidden from sight.

This bill will effectively do away with class action representation. Some of us chose to be class claimants because we want our neighbors and others in my subdivision to have the same opportunity to have their homes fixed. Vice versa for my home to be safe, I need all of the homes around me to be safe. Otherwise in the next hurricane, even though my walls are securely fastened to my home's foundations, my neighbor's walls may not be and those walls or windows could turn into missiles damaging properties around it.

Please kill this bill.

SB-2606

Submitted on: 2/11/2024 8:50:39 PM

Testimony for CPN on 2/14/2024 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Ihan Lam	Individual	Oppose	Written Testimony Only

Comments:

TO: Senate Committee on Commerce and Consumer Protection

Regarding SB 2606

OPPOSE

Aloha Chairman Keohokalole and members of the committee

My name is Ihan Lam and I am a homeowner in Mehana Kapolei.

I oppose SB 2606. I am currently involved in a construction defects lawsuit because I want my home to be fixed. When I learned about the defects in my home, I was shocked and dismayed. This bill would add a level of despair to my response.

Here's why -

SB 2606 makes it impossible for an ordinary homeowner to challenge the big developers or contractors to have his or her home fixed.

This bill adds to the requirements that a homeowner has to fulfill in order to bring a construction defects claim. I don't have the money or even the know how to hire the experts, conduct the investigations, and produce the reports that would be required by this bill. To the naked or untrained eye, the defects may not look like much but I know that the serious and most worrisome parts are hidden from sight.

This bill will effectively do away with class action representation. Some of us chose to be class claimants because we want our neighbors and others in my subdivision to have the same opportunity to have their homes fixed. Vice versa for my home to be safe, I need all of the homes around me to be safe. Otherwise in the next hurricane, even though my walls are securely fastened to my home's foundations, my neighbor's walls may not be and those walls or windows could turn into missiles damaging properties around it.

When I purchased my home, I did not expect the integrity of my home to be compromised before its 10th "birthday". Please do not make it harder for me and my family to make sure we live in a safe and secure home. Please kill this bill.

Very respectfully,

Ihan Lam

1279 Kukulū Street

Kapolei HI 96707

SB-2606

Submitted on: 2/11/2024 11:00:11 PM

Testimony for CPN on 2/14/2024 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Sheena-Marie Shimose	Individual	Oppose	Written Testimony Only

Comments:

Aloha Chairman Keohokalole and members of the committee

My name is Sheena-Marie Shimose and I am a homeowner in Kapolei.

I oppose SB 2606. I am currently involved in a construction defects lawsuit because I want my home to be fixed. When I learned about the defects in my home, I was shocked and dismayed.

This bill would add a level of despair to my response.

Here's why -

SB 2606 makes it impossible for an ordinary homeowner to challenge the big developers or contractors to have his or her home fixed.

This bill adds to the requirements that a homeowner has to fulfill in order to bring a construction defects claim. I don't have the money or even the know how to hire the experts, conduct the investigations, and produce the reports that would be required by this bill. To the naked or untrained eye, the defects may not look like much but I know that the serious and most worrisome parts are hidden from sight.

This bill will effectively do away with class action representation. Some of us chose to be class claimants because we want our neighbors and others in my subdivision to have the same opportunity to have their homes fixed. Vice versa for my home to be safe, I need all of the homes around me to be safe. Otherwise in the next hurricane, even though my walls are securely fastened to my home's foundations, my neighbor's walls may not be and those walls or windows could turn into missiles damaging properties around it.

When I purchased my home, I did not expect the integrity of my home to be compromised before its 10th "birthday". Please do not make it harder for me and my family to make sure we live in a safe and secure home. Please kill this bill.

SB-2606

Submitted on: 2/12/2024 11:09:39 AM

Testimony for CPN on 2/14/2024 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Tumua Tuinei	Individual	Oppose	Written Testimony Only

Comments:

Strongly oppose SB2606

SB-2606

Submitted on: 2/11/2024 11:06:19 PM

Testimony for CPN on 2/14/2024 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Mahealani Kiyon	Individual	Oppose	Written Testimony Only

Comments:

Aloha Chairman Keohokalole and members of the committee,

My name is Mahealani Kiyon and I am a homeowner in Kapolei. I am a teacher making a modest income who is fighting to keep my house safe with quality materials that developers did not use when initially constructing my home.

I oppose SB 2606. I am currently involved in a construction defects lawsuit because I want my home to be fixed. When I learned about the defects in my home, I was shocked and dismayed. This bill would add a level of despair to my response.

Here's why -

SB 2606 makes it impossible for an ordinary homeowner to challenge the big developers or contractors to have his or her home fixed.

This bill adds to the requirements that a homeowner has to fulfill in order to bring a construction defects claim. I don't have the money or even the know how to hire the experts, conduct the investigations, and produce the reports that would be required by this bill. To the naked or untrained eye, the defects may not look like much but I know that the serious and most worrisome parts are hidden from sight.

This bill will effectively do away with class action representation. Some of us chose to be class claimants because we want our neighbors and others in my subdivision to have the same opportunity to have their homes fixed. Vice versa for my home to be safe, I need all of the homes around me to be safe. Otherwise in the next hurricane, even though my walls are securely fastened to my home's foundations, my neighbor's walls may not be and those walls or windows could turn into missiles damaging properties around it.

When I purchased my home, I did not expect the integrity of my home to be compromised before its 10th "birthday". Please do not make it harder for me and my family to make sure we live in a safe and secure home. Please kill this bill.

SB-2606

Submitted on: 2/12/2024 8:27:26 AM

Testimony for CPN on 2/14/2024 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Joslyn Gibbs	Individual	Oppose	Written Testimony Only

Comments:

TO: Senate Committee on Commerce and Consumer Protection
Regarding SB 2606

OPPOSE

Aloha Chairman Keohokalole and members of the committee

My name is Joslyn Gibbs and I am a homeowner in Kapolei.

I oppose SB 2606. I am currently involved in a construction defects lawsuit because I want my home to be fixed. When I learned about the defects in my home, I was shocked and dismayed. This bill would add a level of despair to my response.

Here's why -

SB 2606 makes it impossible for an ordinary homeowner to challenge the big developers or contractors to have his or her home fixed.

This bill adds to the requirements that a homeowner has to fulfill in order to bring a construction defects claim. I don't have the money or even the know how to hire the experts, conduct the investigations, and produce the reports that would be required by this bill. To the naked or untrained eye, the defects may not look like much but I know that the serious and most worrisome parts are hidden from sight.

This bill will effectively do away with class action representation. Some of us chose to be class claimants because we want our neighbors and others in my subdivision to have the same opportunity to have their homes fixed. Vice versa for my home to be safe, I need all of the homes around me to be safe. Otherwise in the next hurricane, even though my walls are securely fastened to my home's foundations, my neighbor's walls may not be and those walls or windows could turn into missiles damaging properties around it.

When I purchased my home, I did not expect the integrity of my home to be compromised before its 10th "birthday". Please do not make it harder for me and my family to make sure we live in a safe and secure home. Please kill this bill.

SB-2606

Submitted on: 2/12/2024 6:29:45 PM

Testimony for CPN on 2/14/2024 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Brian Coughlin	Individual	Oppose	Written Testimony Only

Comments:

TO: Senate Committee on Commerce and Consumer Protection

Regarding SB 2606

OPPOSE

Aloha Chairman Keohokalole and members of the committee

My name is Brian Coughlin and I am a homeowner in Kapolei.

I oppose SB 2606. I am currently involved in a construction defects lawsuit because I want my home to be fixed. When I learned about the defects in my home, I was shocked and dismayed. This bill would add a level of despair to my response.

Here's why -

SB 2606 makes it impossible for an ordinary homeowner to challenge the big developers or contractors to have his or her home fixed.

1) This bill adds to the requirements that a homeowner has to fulfill in order to bring a construction defects claim. I don't have the money or even the know how to hire the experts, conduct the investigations, and produce the reports that would be required by this bill. To the naked or untrained eye, the defects may not look like much but I know that the serious and most worrisome parts are hidden from sight.

2) This bill will effectively do away with class action representation. Some of us chose to be class claimants because we want our neighbors and others in my subdivision to have the same opportunity to have their homes fixed. Vice versa for my home to be safe, I need all of the homes around me to be safe. Otherwise in the next hurricane, even though my walls are securely fastened to my home's foundations, my neighbor's walls may not be and those walls or windows could turn into missiles damaging properties around it.

When I purchased my home, I did not expect the integrity of my home to be compromised before its 10th "birthday". Please do not make it harder for me and my family to make sure we live in a safe and secure home. Please kill this bill.

