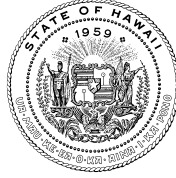


JOSH GREEN, M.D.  
GOVERNOR  
KE KIA'ĀINA



KEITH A. REGAN  
COMPTROLLER  
KA LUNA HO'OMALU HANA LAULĀ

MEOH-LENG SILLIMAN  
DEPUTY COMPTROLLER  
KA HOPE LUNA HO'OMALU HANA LAULĀ

**STATE OF HAWAII | KA MOKU'ĀINA O HAWAII**  
**DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES | KA 'OIHANA LOIHELU A LAWELAWE LAULĀ**  
P.O. BOX 119, HONOLULU, HAWAII 96810-0119

WRITTEN TESTIMONY  
OF  
KEITH A. REGAN, COMPTROLLER  
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES  
TO THE

**COMMITTEE ON GOVERNMENT OPERATIONS**

MARCH 21, 2021, 3:00 PM.  
CONFERENCE ROOM 225 AND VIA VIDEO CONFERENCE

H.B. 167, H.D. 2

RELATING TO WAGES

Chair McKelvey, Vice Chair Gabbard, and members of the Committee, thank you for the opportunity to submit testimony on House Bill (H.B.) 167, House Draft (H.D.) 2 to make general contractors entering into or under contracts in the State for work on buildings, structures, or other private works liable for debt incurred by subcontractors for wages due to claimants for performance of labor in the contract between the general contractor and owner.

The department offers **comments** on this measure, which will apply only to privately contracted work. To clarify that intent, we suggest the language on page 1, lines 4-8, be revised as follows:

“§388- Contractor liability; unpaid wages. (a) A general contractor entering into or under a contract in the State for private work not subject to chapter 104, including but not limited to the erection, construction, alteration, or repair of a building, or structure, ~~or other private work not subject to chapter 104~~ shall assume and is liable for any debt owed to a ...”

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



STATE OF HAWAII  
KA MOKU'ĀINA O HAWAII  
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS  
KA 'OIHANA PONO LIMAHANA

March 21, 2023

To: The Honorable Angus L.K. McKelvey, Chair,  
The Honorable Mike Gabbard, Vice Chair, and  
Members of the Senate Committee on Government Operations

Date: Tuesday, March 21, 2023  
Time: 3:00 p.m.  
Place: Conference Room 225, State Capitol

From: Jade T. Butay, Director  
Department of Labor and Industrial Relations (DLIR)

**Re: H.B. 167 H.D.2 RELATING TO WAGES**

**I. OVERVIEW OF PROPOSED LEGISLATION**

The **DLIR supports** this proposal and **offers clarifying amendments**. HB167 HD2 proposes to amend the Payment of Wages and Other Compensation Law, Chapter 388, Hawaii Revised Statutes (HRS), by adding a new section to make a general contractor, entering into or under a private construction contract, liable for any unpaid wages and interest owed by a subcontractor, at any tier, to the subcontractor's employees for work performed under the contract. The measure also authorizes enforcement actions by the Director or a joint labor-management cooperation committee to recover unpaid wages for the subcontractor's employees and amends the definition of "employer" in section 388-1, HRS, to include a general contractor, for purposes of wages owed to a subcontractor's employees.

**II. CURRENT LAW**

Chapter 388, HRS, requires private employers to pay their employees all wages due at least twice a month and within seven days after the end of each pay period except under certain exceptions. DLIR enforces laws for employees of all private employers in the State. The law does not require an employer to pay for any unpaid wages from another employer.

**III. COMMENTS ON THE HOUSE BILL**

This proposal seeks to hold a general contractor liable for any unpaid wages and interest that a subcontractor at any tier owes to its employees for work performed under a private construction contract.

DLIR suggests inserting “construction” between “private” and “work” on Pg. 1, line 7, Pg. 3, line 2, and Pg. 5 line 6 to clarify the provision applies to construction work.

The department also suggests a clarifying amendment to the definition of employer in §388-1 (Pg. 7, lines 14-17) by inserting “as those terms are defined in section 388-\_\_\_\_” as follows: “general contractor, for purposes of wages owed to a subcontractor's employees, as those terms are defined in section 388- ;”.



March 21, 2023

TO: HONORABLE ANGUS L.K. MCKELVEY, CHAIR, HONORABLE MIKE GABBARD, VICE CHAIR, COMMITTEE ON GOVERNMENT OPERATIONS

SUBJECT: **COMMENTS ON H.B. 167 HD2, RELATING TO WAGES.** Makes general contractors entering into or under contracts in the State for work on buildings, structures, or other private works liable for debt incurred by subcontractors for wages due to claimants for performance of labor in the contract between the general contractor and owner.

HEARING

DATE: Tuesday, March 21, 2023  
TIME: 3:00 p.m.  
PLACE: Capitol Room 225

Dear Chair McKelvey, Vice Chair Gabbard 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 provides comments on H.B. 167 HD2, which makes general contractors entering into or under contracts in the State for work on buildings, structures, or other private works liable for debt incurred by subcontractors for wages due to claimants for performance of labor in the contract between the general contractor and owner.

GCA is currently working with the stakeholders to find an equitable solution. We believe that this draft reflects compromise language between the GCA and some of its labor counterparts.

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

# ***SAH - Subcontractors Association of Hawaii***

***1188 Bishop St., Ste. 1003\*\*Honolulu, Hawaii 96813-2938***

***Phone: (808) 537-5619 ✦ Fax: (808) 533-2739***

March 21, 2023

Testimony To: Senate Committee on Government Operations  
Senator Angus L.K. McKelvey, Chair

Presented By: Tim Lyons, President

Subject: H.B. 167, H.D. 2 – RELATING TO WAGES.

Chair McKelvey and Members of the Committee:

I am Tim Lyons, President of the Subcontractors Association of Hawaii. The Subcontractors Association represents the following nine separate and distinct contracting associations and they are:

ELECTRICAL CONTRACTORS ASSOCIATION OF HAWAII

HAWAII FLOORING ASSOCIATION

HAWAII WALL AND CEILING INDUSTRIES ASSOCIATION

PACIFIC INSULATION CONTRACTORS ASSOCIATION

PAINTING AND DECORATING CONTRACTORS ASSOCIATION

PLUMBING AND MECHANICAL CONTRACTORS ASSOCIATION OF HAWAII

ROOFING CONTRACTORS ASSOCIATION OF HAWAII

SHEETMETAL & AIRCONDITIONING CONTRACTORS' NATIONAL ASSOCIATION OF HAWAII

TILE CONTRACTORS PROMOTIONAL PROGRAM

This bill imposes some very heavy responsibilities upon general and subcontractors and ones that we believe are not entirely fair, especially on private work.

Certainly while we subscribe to the theory that the general contractor must do his due diligence on all of his subcontractors, this bill imposes some liabilities on the general contractor that we believe go far beyond reasonableness. For the general contractor to be able to stay on top of the financial condition of 15 or even 19 different subcontractors during the course of the job with perhaps several different jobs going on at once is a very heavy burden. Additionally, under the bill, the general contractor is also responsible for the financial condition of not only his subcontractors but also the subcontractors at any tier, in other words, the subs of subs. In most cases the general contractor doesn't have much of a choice as to who that subcontractor picked as their subcontractors, so they have no direct link to the financial stability or condition of those subcontractors. We would also foresee prolonged payment issues to all subcontractors until the general contractors are sure their liabilities were free and clear. Payment issues between subs and generals are already a huge issue.

At the very least we can foresee general contractors withholding payment to all subcontractors on a job based on the real, perceived or contrived excuse of missing payroll information. While Section (i) (page 6) requires payment in a "timely manner" it does not specify what that is. Timely to a general contractor who is holding someone else's money could be 90 or 120 days. Timely to a subcontractor who needs to pay bills is 30 days.

We recommend inserting the same prompt payment language that already appears in statutes for prompt payment from a general contractor to a subcontractor on public works projects which could be inserted on page 6, line 18, "in a timely manner as follows:

(a) any money paid to a contractor shall be disbursed to subcontractors within ten days after receipt of the money in accordance with the terms of the subcontract; provided that the subcontractor has met all the terms and conditions of the subcontract and there are no bona fide disputes.

(b) Upon final payment to the contractor, full payment to the subcontractor, including retainage, shall be made within ten days after receipt of the money; provided there are no bona fide disputes over the subcontractor's performance under the subcontract."

(Reference: 103 – 10.5 Prompt Payment)

We would also ask that the Committee to pause just a minute and review all the information a sub has to deliver to a general as prescribed by 387-6 HRS (subsection f, page 5). These are:

- (1) The name, address, and occupation of each employee;
- (2) The amount paid each pay period to each employee;
- (3) The hours worked each day and each workweek by each employee;
- (4) The rate or rates of pay of each employee and basis thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or other basis; gross wages; deductions; allowances, if any, claimed as part of the minimum wage; and net wages; and more specifically,
- (5) The employee's total hours worked;
- (6) The employee's regular and overtime hours;
- (7) The employee's straight-time compensation;



- (8) The employee's overtime compensation;
- (9) Any other compensation, including allowances, if any, claimed as part of the minimum wage;
- (10) The employee's total gross compensation;
- (11) The amount and purpose of each deduction
- (12) The employee's total net compensation;
- (13) The date of payment;
- (14) The pay period covered; and
- (15) The rate or rates of pay and basis thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or other basis, including overtime rate or rates of pay. For employees paid a piece rate, the record shall indicate the applicable piece rate or rates of pay, and the number of pieces completed at each piece rate.

This is for each and every employee of each and every sub and of all subs of subs!

While we can emphasize with the individual employee who might have been left with unpaid wages, we are not sure it is entirely the general contractors fault for those kinds of problems. Bonds and insurance should be able to take care of those kinds of situations without imposing these undue burdens on the contractor.

Based on the above, we think this bill overall is ill advised but with our suggested amendments is favorable.

Thank you.



# OPERATING ENGINEERS LOCAL UNION No. 3

2181 LAUWILIWILI STREET, KAPOLEI, HI 96707 • (808) 845-7871 • FAX (808) 682-0906

Jurisdiction: Northern California, Northern Nevada, Utah, Hawaii, and the Mid-Pacific Islands

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March 20, 2023

The Honorable Angus L.K. McKelvey, Chair  
The Honorable Mike Gabbard, Vice Chair  
House Committee on Government Operations

RE: HB167 HD2- MAKES GENERAL CONTRACTORS ENTERING INTO OR UNDER CONTRACTS IN THE STATE FOR WORK ON BUILDINGS, STRUCTURES, OR OTHER PRIVATE WORKS LIABLE FOR DEBT INCURRED BY SUBCONTRACTORS FOR WAGES DUE TO CLAIMANTS FOR PERFORMANCE OF LABOR IN THE CONTRACT BETWEEN THE GENERAL CONTRACTOR AND OWNER. EFFECTIVE 6/30/3000. (HD2)

Dear Chair McKelvey, Vice Chair Gabbard, and Members of the Committee:

My name is Ana Tuiasosopo. I am the District Representative and Trustee for Operating Engineers Local 3. We are the largest construction union in the United States, covering California, Nevada, Utah, and Hawaii. I and the members of Operating Engineers Local 3 STRONGLY SUPPORT HB167 HD2- Wages; Timely Payment; General Contractors; Subcontractors; Liability.

This bill provides a needed remedy to ensure that general contractors don't turn a blind eye to the shady activities of their subcontractors. The bill seeks to make general contractors liable for unpaid wages of their subcontractors and provides a tool to general contractors to be able to require their subcontractors to furnish payroll records and other relevant documents upon request, so that a general contractor can ensure all subcontractors' workers are being paid properly in compliance with the law.

Thank you for the opportunity to testify.

Sincerely,

Ana Tuiasosopo  
District Representative  
Operating Engineers Local 3 - Hawaii

**HB-167-HD-2**

Submitted on: 3/18/2023 3:05:47 PM

Testimony for GVO on 3/21/2023 3:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Cheryl Cudiamat	Testifying for Structural Builders Hawaii, Inc.	Oppose	Written Testimony Only

Comments:

Dear Honorable State Legislators,

Aloha! Just the very premise of this bill is based upon unfairness. We are a small general contracting company and I cannot even fathom how we should be responsible for our subcontractor's wages. We already ensure that they hold proper licenses, insurances, and do the work they are contracted to do. Where would this bill end? Would we be liable that they pay their taxes, too? The responsibility should solely be on them. Have the Contractor's Licensing Board have authority to suspend or revoke licenses for their wrongdoing, whatever it may be. But why pretell, involve the General Contractor, another business? We do not have authority to reprimand them.... Please have common sense. It's really the State and other government agencies who should be taking action. If a subcontractor or any contractor violates the rules and regulations, then suspend them from future work. Doesn't that make sense? And it's not costing everyone's time and money, even discussing it at the legislative level? That's why more people whom are business-minded, need to be in government. Let's work together to reach common sense, and cost efficient solutions. We (businesses) don't run on an open piggy bank.

Mahalo for your time and consideration,

Cheryl Cudiamat, CEO

Structural Builders Hawai'i, Inc.



# HAWAII REGIONAL COUNCIL OF CARPENTERS

Senate Committee on Government Operations  
Senator Angus L.K. McKelvey, Chair  
Senator Mike Gabbard, Vice Chair

## Statement of the Hawaii Regional Council of Carpenters SUPPORT for HB 167 HD2

Aloha Chair McKelvey, Vice Chair Gabbard, and Members of the Committee:

The Hawaii Regional Council of Carpenters (HRCC) strongly supports HB 167 HD2, which would make general contractors entering into or under contracts in Hawaii for work on building or structures liable for debt incurred by subcontractors for wages due to claimants for performance of labor in the contract between the general contractor and owner.

HRCC has identified numerous projects where unscrupulous employers engage in payroll and tax fraud by hiring shady subcontractors.

One such scheme was revealed at the Maile Sky Court construction site in Waikiki. In this case, the general contractor working on the site utilized subcontractors who were underpaying employee wages and not providing necessary benefits and safety standards. The subcontractor received a number of fines from federal and state agencies, however the general contractor involved in the scheme received no penalties related to the payroll fraud happening on site.

As a result, the general contractor accrued all of the financial benefits of the fraudulent scheme without repercussion: his use of a shady subcontractor allowed him to underbid legitimate contractors, to report and pay lower taxes, and avoid the liability for unpaid wages. Had the case not been caught by federal and state agencies, he could have repeated the scheme elsewhere in the state without any consequences, to the detriment of the local construction community.

HB 167 HD2 provides a needed remedy to ensure that general contractors don't turn a blind eye to the shady activities of their subcontractors. The bill seeks to make general contractors liable for unpaid wages of their subcontractors, and provides a tool to general contractors to be able to require their subcontractors to furnish payroll records and other relevant documents upon request, so that a general contractor can ensure all subcontractors' workers are being paid properly in compliance with the law.

Mahalo.

### STATE HEADQUARTERS & BUSINESS OFFICES

OAHU: 1311 Houghtailing Street, Honolulu Hawaii 96817-2712 • Ph. (808) 847-5761 Fax (808) 440-9188  
HILO OFFICE: 525 Kilauea Avenue, Room 205, Hilo, Hawaii 96720-3050 • Ph. (808) 935-8575 Fax (808) 935-8576  
KONA OFFICE: 75-126 Lunapule Road, Kailua-Kona, Hawaii 96740-2106 • Ph. (808) 329-7355 Fax (808) 326-9376  
MAUI OFFICE: 330 Hookahi Street, Wailuku, Maui 96793-1449 • Ph. (808) 242-6891 Fax (808) 242-5961  
KAUAI OFFICE: Kuhio Medical Ctr Bldg., 3-3295 Kuhio Hwy, Suite 201, Lihue, Kauai 96766-1040 • Ph. (808) 245-8511 Fax (808) 245-8911





**SENATE COMMITTEE ON GOVERNMENT OPERATIONS**  
**State Capitol**  
**415 South Beretania Street**  
**3:00 PM**

MARCH 21, 2023

RE: HB 167 HD2 - RELATING TO WAGES

Chair McKelvey, Vice Chair Gabbard, and members of the committee:

My name is Max Lindsey, 2023 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 opposition to HB 167 HD2, Relating to Wages.** This bill would make general contractors entering into or under contracts in the State for work on buildings, structures, or other private works liable for debt incurred by subcontractors for wages due to claimants for performance of labor in the contract between the general contractor and owner.

While HB 167 might be suitable for larger construction companies with large office/support staff, it is extremely anti-small business. Smaller general contractors tend to have limited or no direct office help and are not capable of dedicating the time needed to ensure every subcontractor is paying their wages. Furthermore, the actions of one or two unscrupulous subcontractors could endanger the very existence of smaller general contractors. It seems wrong that any one company should be held accountable for another company's payroll. However, we would not object to such a bill if it provided exemptions for small businesses.

The state of Hawaii is in a dire housing crisis. As the Legislature is aware, the cost of housing in Hawaii is extremely high, with Oahu's median price of homes being currently over \$1 million. Approximately 153,967 U.S. households are priced out of buying a home for every \$1000 increase in price, according to the National Association of Home Builders (NAHB).

We appreciate the opportunity to share our comments.

Testimony of  
Pacific Resource Partnership

Senate Committee On Government Operations  
Senator Angus L.K. McKelvey, Chair  
Senator Mike Gabbard, Vice Chair

HB 167, HD2—Relating To Wages  
Tuesday, March 21, 2023  
3:00 P.M.

Aloha Chair McKelvey, Vice Chair Gabbard, and Members of the Committee:

Pacific Resource Partnership (PRP) is a non-profit market recovery trust fund which represents approximately 7,000 men and women union carpenters and 240 large and small contractors. With our expertise in research, compliance, marketing, and project advocacy, we are committed to building a stronger, more sustainable Hawaii in a way that promotes a vibrant economy, creates jobs, and enhances the quality of life for all residents of Hawaii.

PRP writes in **strong support** of HB 167, HD2, which would hold unscrupulous general contractors accountable for supporting or ignoring the unfair labor practices of their subcontractors who fail to pay wages owed to their employees.

HB 167, HD2 will modernize the law to address new and complicated marketplace abuses that are occurring in the construction industry. Under current law, general contractors are not held accountable for the unfair labor practices of their subcontractors, which includes the nonpayment of wages. For instance, at the Maile Sky Court construction site in Waikiki, the general contractor working on the site utilized subcontractors who were underpaying employee wages. The subcontractor received a number of fines from the state and federal agencies, however, the general contractor involved in the scheme received no penalties related to payroll fraud that occurred at the construction site. This job should have gone to one of the law-abiding subcontractors who bid on this work. Unfortunately, in the end, the general contractor benefitted from the subcontractor's unfair labor practices by obtaining cheap labor without any consequences.

HB 167, HD2 provides adequate protections to law abiding and vigilant contractors. The general contractor is the single entity that has the most knowledge of every aspect of the project. If the general contractor does his/her due diligence upfront, they will ensure that unscrupulous subcontractors are not on the job and avoid liability. Moreover, HB 167, HD2 provides the general contractors with the power to demand a subcontractor's employee payroll records and project award information to ensure that their subcontractors are in compliance with the law. General contractors may withhold any of all future payments to the subcontractor unless the requested information is submitted promptly.



**(Continued From Page 1)**

If general contractors are held liable for their cheating subcontractors, they will take extra precautions to hire responsible subcontractors. This will benefit honest contractors, workers and their families, taxpayers, and the public as a whole.

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



**HB-167-HD-2**

Submitted on: 3/18/2023 9:49:40 AM

Testimony for GVO on 3/21/2023 3:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Evan K. Fujimoto	Testifying for Graham Builders	Oppose	Written Testimony Only

Comments:

Why should general contractors be responsible for the payroll obligations of its subcontractors? Should a supermarket be responsible for unpaid wages to the employees of each of its suppliers? Should a shopping mall owner be responsible for unpaid wages to employees who work in any store within their malls? Should a hospital be responsible for unpaid wages to any employees of medical groups that provide services to that hospital?

Small builders especially have neither the time nor resources to be monitoring and enforcing financial and payroll obligations of their subs. We are builders not the IRS, State Tax Office, nor the Dept. of Labor. This bill has the potential to cause irreparable damage to builders. Think of what we just went through with the pandemic. We struggle with labor shortages, supply chain problems, rising costs, to name a few.

For all the talk about the need for affordable housing, this bill is antithetical to achieving that goal. A better approach would be to increase the budgets of the state departments in charge of enforcing wage and labor laws. Create a hotline that unpaid workers can call. Hire case workers who can help them to receive their wages, even provide them with free legal help. This is a governmental responsibility and not something business should have to be liable for.

Thank you

**HB-167-HD-2**

Submitted on: 3/20/2023 9:16:34 AM

Testimony for GVO on 3/21/2023 3:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Justin Smith	Testifying for JT Smith Construction, LLC.	Oppose	Written Testimony Only

Comments:

I am writing on behalf of my organization to oppose HB167. We are a small general contracting company located on the Big Island and it would cause hardship for us if we were held accountable for another company's payroll.

**HB-167-HD-2**

Submitted on: 3/20/2023 10:39:30 AM

Testimony for GVO on 3/21/2023 3:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Marshall Hickox	Individual	Oppose	Written Testimony Only

Comments:

Small volume General Contractors continue to operate with limited or in some cases no office staff as they have had to downsize to offset permitting times, increased and erratic lumber and other building material prices, as well as preparing for the already evident slow down of construction due to increased interest rates and looming economic uncertainty. General Contractors cannot be reasonably expected to monitor and enforce the businesses practices of its subcontractors and in many cases it's subcontractors. Those subcontractors employee's have many resources already in place to ensure their direct employer is compliant with all labor laws. Shifting the liability to the General Contractor may in fact have a many unintended consequence if which one is to exasperate rather than reduce the occurrences.

**LATE**

TO: Members of the Committee on Government Operations

FROM: Natalie Iwasa  
808-395-3233

HEARING: 3 p.m. Tuesday, March 21, 2023

SUBJECT: HB 167, HD2, General Contractors Liable for Subcontractor's Unpaid Wages –  
**OPPOSED**

Aloha Chair McKelvey and Committee Members,

Thank you for allowing the opportunity to provide testimony on HB 167, HD2, which would make the general contractor liable for a subcontractor's unpaid wages for certain projects.

The Department of Labor and Industrial Relations stated in their testimony that current law “does not require an employer to pay for any unpaid wages from another employer.” And that’s how it should be. One employer should not be held responsible for another employer’s liabilities unless that employer has agreed to do so in a signed contract.

These types of policy changes don’t happen in a vacuum. It seems to me that if you make the general liable for a subcontractor’s unpaid wages, that general will attempt to make itself whole by charging more for the contract, in anticipation of additional costs. The result will be increased contract prices on these jobs.

It is simply wrong to hold a general liable for a sub’s unpaid bills.

**Please vote “no” on HB 167, HD2.**



**LATE**

*"To unify the building community through active advocacy, communication, and education to sustain industry growth and best practices"* A Maui Chamber of Commerce Trade Council

## **Testimony on Legislation for Contractor liability; unpaid wages**

March 21, 2023

At time of this writing, the Construction Industry of Maui (CIM) is aware of the proposed amended legislation for House Bill 167 currently being heard. It is CIM's understanding that this bill is intended to hold the General Contractor liable for the wages that were not paid to any employees of their contracted Subcontractors. We strongly oppose this bill, below is why....

Holding the General Contractor liable for the internal practices of a Subcontractor is egregiously out to lunch/insane. This will force General Contractors to pad their bids for a contingency to cover the risk and/or insisting ALL Subcontractors to provide bonds, thus adding more cost to do construction. Tools are already in place for this occurrence, there is not a need for further legislation on the matter. Methods to mitigate these risks, covering both sides of the street, are already there - by Payment & Performance bonds and lien rights.

We do understand that if a subcontractor goes out of business the employees are still owed their wages, but we do not believe that is the responsibility of the General Contractor to cover those wages. Nor should it be the obligation for the General Contractor to require the detailed information outlined in section (f) in the proposed amendment for payment. This adds more administrative work to be done for both companies, all together adding unnecessary costs to construction and extending the time to get paid.

Owner delinquency or non-payment is a more frequent event than the belly-up sub scenario. Competent General Contractor's have bonding capacity or request it accordingly, if unable to procure in house, from their Subcontractors. This is commonly an advantageous moment for General Contractor's to make another percent. Poor General Contractor's are usually at least smart enough to require lien releases every time they write a check to a Subcontractor. No one in this business wants to spend a penny on arbitration.

Assuming both the General Contractor and the Subcontractor are licensed in Hawaii, they are both held to the standards the Contractors Licensing Boards requires. One of those requirements is to have a good reputation for honesty, truthfulness, financial integrity, and fair dealing. Union or non-union, we have a role to represent the greater good, common element and keep the playing field as even as possible. Every licensed contractor deserves an opportunity to succeed or fail on their own. General Contractors that adhere to appropriate protection measures already in place do not need added liability of the Subcontractor's business methods. Thorough vetting of Subcontractors washes the bad apples down the drain before the show even starts.

The CIM supports all construction businesses, all trades both merit and union. This proposed amendment is overreaching and unnecessary due to existing rules and processes; it is only good for one silo and not the greater good of our community. Vote No.

Mailing Address: PO BOX 1628, KAHULUI, HI 96733  
Website: [cimmaui.com](http://cimmaui.com)  
[Constructionindustryofmaui@gmail.com](mailto:Constructionindustryofmaui@gmail.com)