

SAH - Subcontractors Association of Hawaii

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

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

March 31, 2021

Testimony To: House Committee on Finance
Representative Sylvia Luke, Chair

Presented By: Tim Lyons, President

Subject: S.B. 1104, HD 1 – RELATING TO THE CONTRACTORS RECOVERY FUND.

Chair Luke and Members of the Committee:

I am Tim Lyons, President of the Subcontractors Association of Hawaii. The SAH represents the following nine separate and distinct contracting trade organizations.

HAWAII FLOORING ASSOCIATION

ROOFING CONTRACTORS ASSOCIATION OF HAWAII

HAWAII WALL AND CEILING INDUSTRIES ASSOCIATION

ELECTRICAL CONTRACTORS ASSOCIATION OF HAWAII

TILE CONTRACTORS PROMOTIONAL PROGRAM

PLUMBING AND MECHANICAL CONTRACTORS ASSOCIATION OF HAWAII

SHEETMETAL CONTRACTORS ASSOCIATION OF HAWAII

PAINTING AND DECORATING CONTRACTORS ASSOCIATION

PACIFIC INSULATION CONTRACTORS ASSOCIATION

We just think it is important for everyone to be mindful that it is the "good guys" that pay into this fund. That is, all licensed contractors are assessed a fee in order to build up the money in this fund and then it is paid out on behalf of the "bad guys" who don't know what they are doing or go out of business. So, the "good guys" are paying for the "bad guys".

We have not heard of any data revealing the number of times and the amounts where the current cap was hit and therefore needs to be increased.

It should also be remembered that this "extra" remedy is not available to consumers of any other profession, other than real estate. Without the historical information we are reluctant to support this bill and its increases.

Thank you.

Testimony of the Contractors License Board

**Before the
House Committee on Finance
Wednesday, March 31, 2021
2:30 p.m.
Via Videoconference**

**On the following measure:
S.B. 1104, H.D. 1, RELATING TO THE CONTRACTORS RECOVERY FUND**

Chair Luke and Members of the Committee:

My name is Candace Ito, and I am the Executive Officer of the Contractors License Board (Board). The Board supports this administration bill.

The purpose of this bill is to increase the monetary amount an injured homeowner may recover from the Contractors Recovery Fund.

The Contractors Recovery Fund was created to provide financial assistance to homeowners injured by the act, representation, transaction, or conduct of a licensed contractor. Currently, the maximum amount of recovery from the fund is \$12,500 per contract, and the maximum payout per licensed contractor is \$25,000.¹ Due to increased construction costs, however, homeowners are increasingly unable to recoup some of their financial loss from the fund.

Interested parties have expressed concerns that increasing the amount that homeowners may recover from the fund will result in the fund balance dropping below \$250,000.00, which may result in an additional fee from assessment every contractor as provided in Hawaii Revised Statutes section 444-27. For the Committee's information, since the establishment of the contractor recovery fund in 1973, only one additional assessment of \$50.00 from contracting entities was made in 1995.

In addition, to be eligible to recover from the fund, the homeowner must: (1) have hired a contractor with a current and active license at the time they enter into the contract; (2) provide written notification to the Board upon the commencement of a lawsuit which may result in collection from the fund; (3) obtain a judgment from the court against the contractor; and (4) make reasonable searches and inquiries to determine

¹ These maximum amounts were last statutorily increased in 1983.

whether the licensed contractor has any assets from which the judgment can be satisfied. If the licensed contractor is unable to satisfy the judgment, the homeowner may file a motion for payment from the fund. Upon payment from the fund, the homeowner must assign all of their rights in the judgment to the Board. Further, the contractor's license is automatically terminated upon the issuance of a court order authorizing payment from the fund and the contractor shall not be eligible for a new license until the contractor repays the amount paid from the fund plus ten percent interest.

The Board believes that increasing the maximum amount of recovery to \$25,000 per contract and the maximum payout per licensed contractor to \$75,000, will enhance the homeowners' relief from their financial loss.

Thank you for the opportunity to testify, and we respectfully ask the Committee to pass this administration bill.

LATE

SB-1104-HD-1

Submitted on: 3/30/2021 3:12:30 PM

Testimony for FIN on 3/31/2021 2:30:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Craig Watase	Mark Development, Inc.	Oppose	No

Comments:

Aloha Senators,

Regarding SB1104, why does this fund even exist? Doesn't our judicial system and profession liability insurance offer enough recourse to consumers? Why would you take money from good contractors to pay for the actions of bad ones? Lets apply that philosophy to government. When a bad legislator or employee makes a decision that cost the public money, lets have a fund made from wage deductions of good legislators or good government workers to pay for the bad workers mistake and cost to taxpayers. Sounds ridiculous? Exactly.

The public will be better served with more enforcement of unlicensed contractor activity rather than burdening the tax paying, insured professional licensed contractors. These are the straws that breaks the camel's back and yet you wonder why housing is not affordable.

Sincerely,

Craig Watase

President, Mark Development Inc.



LATE

**HOUSE COMMITTEE ON FINANCE
Hawaii State Capitol
415 South Beretania Street
Via Videoconference
2:30 PM**

March 31, 2021

RE: SB 1104 - RELATING TO CONTRACTORS RECOVERY FUND

Chair Luke, Vice-Chair Cullen, and members of the committee:

My name is Beau Nobmann, 2021 President 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.

BIA Hawaii is in opposition to SB 1104, which would increase the monetary amount an injured homeowner can recover from the Contractors Recovery Fund.

It is our understanding that the intent of the Contractors Recovery Fund is to be a means of last resort after bond claims and any possible lawsuits have been settled. This fund is currently funded by an annual assessment paid by contractors, and raising the limit would mean the assessment would also be raised. This would represent a hardship on contractors who are already struggling in this economic climate. With the combined effects of the housing crisis and the economic chaos due to the pandemic, we must find ways to ease burdens on businesses in the construction industry, not add to them.

We appreciate the opportunity to provide our comments on this matter.

SB-1104-HD-1

Submitted on: 3/31/2021 7:57:27 AM

Testimony for FIN on 3/31/2021 2:30:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
John Cheung	CC Engineering & Construction, Inc.	Oppose	No

Comments:

Dear Chair and Committee Memebers:

I Oppose SB1104.

If enacted this Bill will increase payments to Owners who were damaged by bad contractors. The fund is maintaned by assessing licensed contractors who are working hard everyday to make ends meet. Increasing cost of doing business during COVID-19 is not a good idea.

Please vote NO.

John Cheung

SB-1104-HD-1

Submitted on: 3/31/2021 10:02:11 AM

Testimony for FIN on 3/31/2021 2:30:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Michael J Mazzone	Statewide General Contracting & Construction, Inc	Oppose	No

Comments:

I oppose this Bill, it will unfairly raise the cost to do business on legitimate contractors. The contractor recovery fund should not be the only avenue for consumers to recover damages from unscrupulous contractors. Good contractor will be penalized for the action of other contractors and that is not fair.

1065 Ahua Street
Honolulu, HI 96819
Phone: 808-833-1681 FAX: 839-4167
Email: info@gcawhawaii.org
Website: www.gcawhawaii.org



GCA of Hawaii

GENERAL CONTRACTORS ASSOCIATION OF HAWAII

Quality People. Quality Projects.

Uploaded via Capitol Website

March 31, 2021

TO: HONORABLE SYLVIA LUKE, CHAIR, HONORABLE TY CULLEN,
COMMITTEE ON FINANCE

SUBJECT: **OPPOSITION TO S.B. 1104 HD1, RELATING TO THE CONTRACTORS RECOVERY FUND.** Increases the monetary amount an injured homeowner may recover from the contractors recovery fund.

HEARING

DATE: Wednesday, March 31, 2021
TIME: 2:30 p.m.
PLACE: Capitol Room 308

Dear Chair Luke, Vice Chair Cullen, 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 is in **opposition** to S.B. 1104 HD1, which increases the monetary amount an injured homeowner may recover from the contractors recovery fund.

The contractors recovery fund is funded by an annual assessment by licensed contractors. Any increase to the limit that an injured homeowner can recover from the fund will undoubtedly increase the assessment as well. This will have the ripple effect of raising the cost of construction for properly licensed contractors.

Thank you for this opportunity to testify in opposition of this measure.

SB-1104-HD-1

Submitted on: 3/30/2021 2:42:11 PM

Testimony for FIN on 3/31/2021 2:30:00 PM



Submitted By	Organization	Testifier Position	Present at Hearing
Greg Thielen	Individual	Oppose	No

Comments:

Dear Chair Luke, Vice Chair Cullen and Members of the Committee,

I am writing in Opposition to SB1104 HD1. Increasing payouts from the Contractors Recovery Fund will deplete fund resources and result in additional assesments against all Contractors. We will be paying for the bad actors. Homeowners have other remedies for negligent Contractors and shouldn't rely on the fund for recourse.

Mahalo,

Greg Thielen

President Complete Construction Services

SB-1104-HD-1

Submitted on: 3/30/2021 6:51:43 PM

Testimony for FIN on 3/31/2021 2:30:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
ZAJI ZAJRADHARA	Individual	Comments	No

Comments:

Good afternoon,

with regards to the bill that is before this committee; my statements are as follows: its rather difficult for me to decide if the entirety of the bill is correct; having said that, Hawaii, as well as the entire american territories, especially the CNMI wherein i am now working truly needs this bill.

We, as consumers do need to hold all contractors fully responsible for their slipshod constuction work...this is true; but we also need to take in consideration, the need not to penalize the good for the professional behaviours of a few. there should exist an accreditation syetm that all imported workers have to maintain; here in the CNMI, with its depenence on "cw-1" contract workers from the phillipines, and no, i repeat no enforcement of the International building codes standards,certification of professional documents, no actual background checks on the professional and or educational merits of the imported workers, you can imagine the terrible construction work thats being carried out on these islands, i mean really; the "homes", if you can call them that have been known to blow away under the slightest duress...so, i understand what this committee wants to do at its foundation; make sure that the buildings being constructed live up to international building and safety codes , as qwell as to what the desires were of any consumer that hires said general contractors. i stand with the true premise of the idea, of responsibility of the contratrcor, and i truly believe that if a contractor does faluty work that they should be held to the full extent of the laws...but, please do throw out the baby with the bath water. thank you for your time..I just hope that someone in the CNMI creates something like this bill, because the construction here is terrible~!

SB-1104-HD-1

Submitted on: 3/31/2021 9:23:01 AM

Testimony for FIN on 3/31/2021 2:30:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
bonnie gay	Individual	Oppose	No

Comments:

3/31/21, 9:14am

Honored Committee Members, Thank you for considering my testimony.

Testimony:

I am objecting to SB1104 contractor recovery funds because the bill does not define where the recovery funds are coming from.

Discussion:

I think that 'taxing' or 'increasing license costs' for ALL contractors would punish good to pay for bad.

In my opinion: the recovery fund is an EASY-OUT for bad Contractors that deserve to be sued & go out of business. Buyers beware: the cheapest price does not always come with the best service.

An alternative would be to strengthen the already-in-place permitting & inspection process. Keep the Govt out of the dispute, except for making your folks available only as 'expert opinion'. The dispute between Contractee & Contractor is a civil matter, not a Govt matter. The Govt has done its job through the licensing/permitting/inspection process.

For instance: suppose a Contractee sues licensed Contractor for the dinner services....shall the Govt (the licensee) refund the money? NO. Same with construction...

Again, In my opinion: the recovery fund is an EASY-OUT for bad Contractors that deserve to be sued & go out of business. Buyers beware: the cheapest price does not typically come with the best service.

My contractor experience: Alaska pipeline starting 1974, Hawaii Dredging starting 1987, Facility Engineering starting 2015, Diploma: Mechanical Engineering, Colo State University.

aloha, Bonnie Gay

SB-1104-HD-1

Submitted on: 3/31/2021 9:59:12 AM

Testimony for FIN on 3/31/2021 2:30:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Peter Eldridge	Individual	Oppose	No

Comments:

Aloha,

This bill penalizes good contractors as they are forced to pay more for unethical contractors. The current system is already taking from the good to pay for the bad. Please oppose this and raise the civil penalties on contractors who steal clients money.

SB-1104-HD-1

Submitted on: 3/31/2021 11:15:45 AM

Testimony for FIN on 3/31/2021 2:30:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Roy Skaggs	Individual	Oppose	No

Comments:

Mahalo for hearing my testimony. This will cause undue harm to contractors who do the right thing. Please kill this Bill.