

SB 2707

S.B. NO. 2707

JAN 25 2010

A BILL FOR AN ACT

RELATING TO CONTRACTORS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 444-2, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§444-2 Exemptions.** This chapter shall not apply to:

4 (1) Officers and employees of the United States, the
5 State, or any county while in the performance of their
6 governmental duties;

7 (2) Any person acting as a receiver, trustee in
8 bankruptcy, personal representative, or any other
9 person acting under any order or authorization of any
10 court;

11 (3) A person who sells or installs any finished products,
12 materials, or articles of merchandise that are not
13 actually fabricated into and do not become a permanent
14 fixed part of the structure, or to the construction,
15 alteration, improvement, or repair of personal
16 property;

17 (4) Any project or operation for which the aggregate
18 contract price for labor, materials, taxes, and all

S.B. NO. 2707

1 other items is not more than [~~\$1,000~~] \$2,500. This
2 exemption shall not apply in any case where a building
3 permit is required regardless of the aggregate
4 contract price, nor where the undertaking is only a
5 part of a larger or major project or operation,
6 whether undertaken by the same or a different
7 contractor or in which a division of the project or
8 operation is made in contracts of amounts not more
9 than [~~\$1,000~~] \$2,500 for the purpose of evading this
10 chapter or otherwise;

11 (5) A registered architect or professional engineer acting
12 solely in the person's professional capacity;

13 (6) Any person who engages in the activities regulated in
14 this chapter as an employee with wages as the person's
15 sole compensation;

16 (7) Owners or lessees of property who build or improve
17 residential, farm, industrial, or commercial buildings
18 or structures on property for their own use, or for
19 use by their grandparents, parents, siblings, or
20 children and who do not offer the buildings or
21 structures for sale or lease; provided that this
22 exemption shall not apply to electrical or plumbing

1 work that must be performed only by persons or
2 entities licensed under this chapter, or to the owner
3 or lessee of the property if the owner or lessee is
4 licensed under chapter 448E. In all actions brought
5 under this paragraph, proof of the sale or lease, or
6 offering for sale or lease, of the structure not more
7 than one year after completion is prima facie evidence
8 that the construction or improvement of the structure
9 was undertaken for the purpose of sale or lease;
10 provided that this provision shall not apply to
11 residential properties sold or leased to employees of
12 the owner or lessee; provided further that in order to
13 qualify for this exemption the owner or lessee [~~must~~]
14 shall register for the exemptions as provided in
15 section 444-9.1. Any owner or lessee of property
16 found to have violated this paragraph shall not be
17 permitted to engage in any activities pursuant to this
18 paragraph or to register under section 444-9.1 for a
19 period of three years. There is a presumption that an
20 owner or lessee has violated this section, when the
21 owner or lessee obtains an exemption from the

Report Title:

Contractors; Exemption

Description:

Raises the threshold under the contractor licensing law's "handyman" exemption from \$1,000 to \$2,500.

SB. NO. 2707

JUSTIFICATION SHEET

DEPARTMENT: Attorney General

TITLE: A BILL FOR AN ACT RELATING TO CONTRACTORS.

PURPOSE: To raise the threshold under the contractor licensing law's "handyman" exemption from \$1,000 to \$2,500.

MEANS: Amend section 444-2, Hawaii Revised Statutes (HRS).

JUSTIFICATION: Act 195, Session Laws of Hawaii 2009, increased the monetary sanctions for engaging in contracting without the required license in violation of the contractors licensing law (HRS chapter 444). Fines were increased from \$500 to \$2,500 for the first offense and from \$1,000 to \$3,500 for the second offense. Fines for the third tier remained at \$5,000. This represents a five fold increase in the amount of the first offense fine and over a three fold increase in the second offense fine.

This increase in penalties has the potential to unnecessarily hurt persons who should fall under the "handyman" exemption. HRS section 444-2 lists several exemptions from HRS chapter 444, including the so-called handyman exemption, which provides that chapter 444 does not apply to any project or operation for which the aggregate contract price for labor, materials, taxes, and all other items is not more than \$1,000. The purpose of this \$1,000 threshold exemption is to allow the undertaking of minor projects by a paid handyman without the need for a licensed contractor. In theory, this reduces the cost of these minor projects, and in fact many licensed contractors will not even take these smaller jobs. However, the \$1,000 contractual ceiling was last raised in 1992, from \$100 to its present \$1,000, and has not kept pace with the

rising cost of living. From 1992 to 2008, the Honolulu Consumer Price Index for All Urban Consumers (Honolulu CPI-U) rose almost 48 percent.

It is necessary to raise the handyman exemption from \$1,000 to \$2,500 for several reasons. First, increasing the exemption threshold brings the exemption more in line with the increased fines imposed by Act 195 and reduces that law's potential impact on handymen. Second, raising the handyman exemption will help realtors, developers, and homeowners reduce the costs of maintaining a home. Third, raising the exemption threshold will improve the economic prospects of handymen in Hawaii. Finally, in rural parts of the State, it is often difficult to find licensed contractors because the job is either too small or contractors are not available.

Additionally, despite the presumably higher overall costs for projects in Hawaii in comparison to other areas of the country, several states have handyman exemptions with higher threshold amounts. For example, Georgia's exemption threshold for residential contractors is \$2,500.

Impact on the public: The economic benefits of this bill to realtors, developers, and homeowners will help reduce the costs of doing business and owning a home in Hawaii. The impact on licensed contractors should be minimal, since the vast majority of their revenues come from jobs outside the scope of the handyman exemption. Also, jobs for \$2,500 or less that require a building permit will still fall outside of the handyman exemption and will need to be performed by a licensed contractor.

Impact on the department and other agencies: This change in the law should not have any significant impact on DCCA or the Contractors License Board.

GENERAL FUND: None.
OTHER FUNDS: None.
PPBS PROGRAM DESIGNATION: None.
OTHER AFFECTED AGENCIES: DCCA.
EFFECTIVE DATE: Upon approval.



EXECUTIVE CHAMBERS
HONOLULU

LINDA LINGLE
GOVERNOR

Testimony of
Linda L. Smith
Senior Policy Advisor to the Governor

Before the
SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION
Wednesday, February 3, 2010, 8:30 a.m.
Conference Room 229, State Capitol

SB 2707 RELATING TO CONTRACTORS

Chair Baker, Vice Chair Ige, and Members of the Committee:

The Administration strongly supports SB 2707. This bill raises the threshold under the contractors licensing law's "handyman" exemption from \$1,000 to \$2,500.

Act 195, Session Laws of Hawaii 2009, increased the monetary sanctions for engaging in contracting without the required license in violation of the contractors licensing law (chapter 444, Hawaii Revised Statutes (HRS)). Fines were increased from \$500 to \$2,500 for the first offense and from \$1,000 to \$3,500 for the second offense. Fines for the third tier remained at \$5,000. This represents a five fold increase in the amount of the first offense fine and over a three fold increase in the second offense fine.

Although the purpose of this increase in penalties is to deter unlicensed contracting, it has the potential to unnecessarily hurt persons who should fall under the "handyman" exemption. Section 444-2, HRS, lists several exemptions from chapter 444, including the so-called handyman exemption, which provides that chapter 444 does not apply to any project or operation for which the aggregate contract price for labor, materials, taxes, and all other items is not more than \$1,000. The purpose of this \$1,000 threshold exemption is to allow the undertaking of minor projects by a paid handyman without the need for a licensed contractor. In theory, this reduces the cost of these minor projects, and in fact many licensed contractors will not even take these smaller jobs. However, the \$1,000 contractual ceiling was last raised in 1992, from \$100 to its present \$1,000, and has not kept pace with the rising cost of living. From 1992 to 2008, the Honolulu Consumer Price Index for All Urban Consumers (Honolulu CPI-U) rose almost 48 percent.

It is necessary to raise the handyman exemption from \$1,000 to \$2,500 for several reasons. First, increasing the exemption threshold brings the exemption more in line with the increased fines imposed by Act 195 and reduces that law's potential impact on handymen. Second, raising the handyman exemption will help realtors,

developers, and homeowners reduce the costs of maintaining a home. Third, raising the exemption threshold will improve the economic prospects of handymen in Hawaii. Finally, in rural parts of the State, it is often difficult to find licensed contractors because the job is either too small or contractors are not available.

Additionally, despite the presumably higher overall costs for projects in Hawaii in comparison to other areas of the country, several states have handyman exemptions with higher threshold amounts. For example, Georgia's exemption threshold for residential contractors is \$2,500.

The economic benefits of this bill to realtors, developers, and homeowners will help reduce the costs of doing business and owning a home in Hawaii. The impact on licensed contractors should be minimal, since the vast majority of their revenues come from jobs outside the scope of the handyman exemption. Also, jobs for \$2,500 or less that require a building permit will still fall outside of the handyman exemption and will need to be performed by a licensed contractor.

For the above reasons, the Administration respectfully requests that this bill be passed out of committee.

Thank you.

**PRESENTATION OF THE
CONTRACTORS LICENSE BOARD**

**TO THE SENATE COMMITTEE ON COMMERCE
AND CONSUMER PROTECTION**

**TWENTY-FIFTH LEGISLATURE
Regular Session of 2010**

**Wednesday, February 3, 2010
8:30 a.m.**

TESTIMONY ON SENATE BILL NO. 2707, RELATING TO CONTRACTORS.

**TO THE HONORABLE ROSALYN H. BAKER, CHAIR,
AND MEMBERS OF THE COMMITTEE:**

My name is Denny Sadowski, Legislative Chair of the Contractors License Board ("Board"). Thank you for the opportunity to testify in **opposition** to Senate Bill No. 2707, which proposes to raise the "handyman" exemption from \$1,000 to \$2,500.

The Board believes that raising the exemption will increase the likelihood of consumer harm and contribute to the problem of unlicensed activity. If the exemption is raised to \$2,500, unlicensed individuals who have not met the Board's experience, examination, and insurance requirements will legally be able to perform much more work than is currently allowed. This measure will also negatively impact small contractors, particularly in the specialty contractor classifications, as they will have difficulty competing with unlicensed individuals who do not have to pay license fees and maintain liability insurance. Furthermore, consumers will not be able to file complaints with the Regulated Industries Complaints Office for poor workmanship or other problems.

For these reasons, the Board is opposed to S.B. No. 2707.

Thank you for the opportunity to testify on this bill.

SAH - Subcontractors Association of Hawaii

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

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

February 3, 2010

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

Presented By: Tim Lyons
President

Subject: S.B. 2707 – RELATING TO CONTRACTORS

Chair Baker and Members of the Committee:

I am Tim Lyons, President of the Subcontractors Association of Hawaii. SAH is composed of nine separate and distinct subcontracting organizations including:

ELECTRICAL CONTRACTORS ASSOCIATION OF HAWAII

HAWAII FLOORING ASSOCIATION

ROOFING CONTRACTORS ASSOCIATION OF HAWAII

HAWAII WALL AND CEILING INDUSTRIES ASSOCIATION

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 oppose this bill.

The problem with this bill is that it makes legal the current illegal activities of individuals who act, in most cases, as licensed contractors and prey on the unknowing. People only rarely deal with contractors and the average consumer does not know that they need to use a licensed contractor and they do not know the benefits and protections that have been established by this legislature to protect consumers that deal with contractors. Contractors often times say that they are overregulated but most of those regulations have been passed by this legislature in order to protect consumers from real life situations where they have just flat out been "ripped off". A good example is the Disclosure of Lien Rights. We have attached a copy of this required form to our testimony and this disclosure must be provided to every consumer in a residential contract in order to forewarn them of the possibilities of problems that they can get in to by signing a contract. Homeowners who deal with handymen do not get this disclosure.

This bill would leave barren those consumers who sign contracts under \$2500 with no more protection than you have when dealing with your friendly shoemaker.

There is a whole list of protections afforded to consumers that deal with contractors. This Committee only need ask RICO about the number of cases that they run into where consumers have been ripped off; where roofs have been painted with only paint that is not about to keep any water out; where masonry walls have been stuffed with newspaper instead of solid grouting as it should be for strength or, money that was paid down to a handyman; never to be seen again.

We understand that the problem has been the lack of licensed contractors that may be available however, we would submit to you that in most cases those complaints are from individuals that are hunting for a cheap job and do not want to pay for the protections you have afforded them.

So how is a consumer protected? In many ways:

- *the attached Disclosure of Lien Rights has to be attached to contracts.
- *there is access to a recovery fund, a pool of money for consumers that have been ripped off but only if by licensed contractors.
- *there is a right to cancel.
- *there are special penalties against contractors who hire illegal immigrants but it does not apply to handymen.
- *in order to renew licenses the contractor has to prove taxes were paid, he has workers' compensation insurance and that he has paid taxes such as, unemployment insurance and temporary disability insurance.
- *there is an extra protection for seniors, but again, only if they use a licensed contractor.
- *there are protections since a written contract is required.
- *there is a protection that the homeowner knows that he has a right to get the job bonded for their own protection.
- *the consumer has to know and be advised that there is a Right to Cure in case there is defective workmanship.
- *the consumer has a right to know who the subcontractors are on a particular job so that they can go after them if they have to.
- *consumers have the right to know when the completion date is for their contract.
- *and, the address of the contractor must be up to date in order to locate them.

None, I repeat, none of those items are required when a homeowner deals with a "less than \$2500 handyman". Quite frankly, we are not sure how you can draw the line between those who are entitled to protection and those who you are going to allow to be ripped off.

Although contractors have complained about the costs of regulation, most of them readily embrace it and feel it is a relatively fair system as long as they can pass on their costs and compete on a level playing field. When you have unlicensed contractors or when you raise the amount of work handymen can do and don't have to meet the same regulations, you get cries of "foul".

Based on the above, we cannot support this bill.

Thank you.

DISCLOSURE OF LIEN RIGHTS

HOMEOWNERS TAKE NOTICE

Any person who furnishes labor (prime or subcontractor) or materials (material supplier) for your home improvement or renovation project and is not paid can file a claim (lien) in court against your property. This is true even if you have paid the contract price in full to the prime contractor and the contractor fails to pay his subcontractors or material suppliers.

In order to obtain a lien against your property, a contractor, subcontractor or material supplier must go to court and show that goods or services for the project have been supplied but not been paid for. You will be notified to appear and defend against these claims in court.

If a lien is obtained, you are entitled to prove in a later court proceeding that you paid your prime contractor in full. The court could then enter judgment in your favor against the prime contractor and direct payment out of the contractor's recovery fund up to the amount allowed by law, if the prime contractor was properly licensed at the time you entered into the contract with the prime contractor.

WHAT YOU CAN DO

Here is what you can do to help prevent problems:

- (1) Make certain that the contractor is licensed. Call 587-3295 to verify licensure.
- (2) On bigger jobs ask the contractor to explain to you about the possibility of providing a PERFORMANCE AND PAYMENT BOND which will guarantee completion of the project and payment of all liens. This Bond is usually provided by surety companies or material supply houses to qualified contractors. It may cost you approximately 5% of the project cost.
- (3) YOU SHOULD NOT MAKE ANY ORAL AGREEMENTS. Make sure everything is put in writing, including the price, what work is to be done, any specific exclusions or restrictions, and the grade and brand of materials to be used. If you later agree to make any changes in the original specifications, THESE CHANGES SHOULD BE IN WRITING AS WELL.
- (4) TAKE TIME TO STUDY THE AGREEMENT. Do not let a contractor or salesman hurry you into signing a contract; especially when you feel pressured by emergencies.
- (5) REMEMBER, A CONTRACT IS A LEGAL, BINDING DOCUMENT. Make certain you understand the contract. If not, spend a few extra dollars to have an attorney explain it to you.
- (6) OBTAIN A LIEN RELEASE FROM SUBCONTRACTORS. A mechanic's lien could be placed on your home by a subcontractor if the general contractor fails to pay his bills-EVEN THOUGH YOU HAVE PAID FOR THE WORK. The same thing holds true FOR SUPPLIERS OF CONSTRUCTION MATERIALS INCORPORATED INTO YOUR JOB...GET A LIEN RELEASE! Contractors could provide you with a lien release form. This form will essentially state that you have paid or have entered into an agreement to pay the subcontractor or supplier for their work, and that the subcontractor or supplier therefore relinquishes their lien rights.
- (7) DO NOT APPROVE PLANS OR BLUEPRINTS unless you understand them.
- (8) PLEASE BE SURE YOUR CHECKS are made out to the CONTRACTOR, NOT TO A SALESMAN.
- (9) Make sure and publish a "NOTICE OF COMPLETION" in the newspaper as soon as the work is done. No lien may be claimed 46 days after the notice is published.

- (10) Discuss with your contractor the possibility of withholding a portion of payment until the 45-day period for filing liens has expired. The amount withheld should be sufficient to cover all claims which might be filed. You and your contractor must agree on the amount.
- (11) If you have any questions about lien rights or other contract matters, DO NOT SIGN this or any contract. Contact your lawyer first.

I (we) have discussed with the contractor the lien rights of those who will be supplying labor or materials to my (our) project as well as steps I (we) can take to reduce our lien liability. I (we) have read and understand this DISCLOSURE OF LIEN RIGHTS.

DATED this _____ day of _____, 20_____.

CONTRACTOR

OWNER

WITNESS

OWNER

Testimony In Opposition to
SB2707 RELATING TO CONTRACTORS

By
Al Lardizabal, Director of Government Relations
Hawaii Laborers' Union

To the
Senate Committee on Commerce and Consumer Protection
Wednesday, February 3, 2010, 9:00 a.m., Rm. 229
State Capitol

Honorable Rosalyn H. Baker, Chair; Honorable David Y. Ige. Vice Chair and Members
of the Committee:

SB2707 raises the contractor licensing "handyman" exemption from \$1,000 to \$2,500.

The Hawaii Laborers' Union is in strong opposition to SB2707. It seems that too many individuals are attempting to perform construction or building repair and improvement contracting work without receiving the proper technical training and without passing strict governmental and trade standards.

We refer the Committee to bills currently under consideration by the legislature that is attempting to curb illegal work: SB2325 (identification of licensed experts to prevent fraud); HB2987 (ineligible workers); and SB2220 (task force for construction site inspections for tax evasion, unsafe working conditions etc.).

This bill if passed into law will only encourage more unlicensed persons to put consumers at risk. We recommend that this bill be filed.

Thank you for the opportunity to submit this testimony.

SMCA *Sheet Metal Contractors Association*

905 Umi Street, Suite 305, Honolulu, HI 96819-2377, Ph (808) 845-9393, Fax (808) 845-9395 email: smcasmif@aol.com
HARRY M. UYEMA
Executive Director

February 1, 2010

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

Honorable Rosalyn Baker and Members of the Committee:

SUBJECT: S.B. 2707 – Relating to Contractors

Members of this Association have gone on record to unanimously oppose S.B. 2707.

This bill as proposed will increase the “handyman” exemption from licensing laws from the current \$,1,000.00 limit to \$2,500.00.

We have testified on similar bills in past legislative sessions and our position continues to remain the same. If any contractor wants to do projects larger than \$1,000.00, they should be subjected to the same licensing process as licensed contractors, who must pass tests and show that they possess the necessary skills and knowledge to perform the tasks they are being paid.

The Contractors License Statutes were enacted for **the protection of the public**. Any contractor wanting to do and get paid for projects over \$1,000.00, should have no hesitancy in becoming a licensed contractor. Please note that our contractors, even though they possess both a sheet metal and air conditioning license are not allowed do any work outside of their license, even under a \$1,000.00, unless they possess the license to do that work. The “handyman” can do anything under a \$1,000.00. To allow the handyman to do work up to \$2,500.00 will compromise the statutes and the reason for its enactment.

We strongly urge that this bill not be passed or altered in any manner.

Sincerely,

/s/Harry M. Uyema
Harry M. Uyema
Executive Director

Testimony of Gerald Peters
and The Hawaii Lumber Products Association

(CPN) Senate Committee on Commerce and Consumer Protection

Wednesday February 3, 2010. Room 229. 8:30 am

RE: SENATE BILL 2707 – RELATING TO CONTRACTORS

Chair Baker, Vice Chair Ige, and Members;

My name is Gerald Peters. I am testifying on behalf of The Hawaii Lumber Products Association, as well as myself as an individual, my State Licensed General Engineering and General Contracting Corporation, as a member of the Building Industry of Hawaii Government Relations Committee, and as six years producer and on air co-host of Fixitfridays Home Improvement hour on Clear Channel News/Talk Radio KHVH on The Mike Buck Show.

I and we are unanimously in strong opposition to this legislation which in our and my opinion will undermine the intent of the contractor licensing law, cause free range misuse of so called labor versus materials computations, and thus put an even larger number of home and condo owners and renters at risk of poor and harmful lack of quality, and financial deception by opportunistic so-called handymen. Moreover, I can assure you this legislation would cause hundreds of thousands of dollars or more of increased black market, underground economy evasion of State G.E. and Income taxes.

In today's poor economy, more and more licensed contractors are advertising and providing handyman type services on all islands. This legislation would punish the legitimate contractors and licensed handymen, such as my own company and individuals on Oahu and Maui, and The Big Island and put them/us in a huge disadvantage due to added costs of fulfilling the requirements of the contractor licensing law. The presumptions that licensed contracting services are not available or that free range partial deregulation will save consumers money are not substantiated other than by hearsay, in our opinion.

I believe the starting point for dealing with so called handymen, is to at least have them possess General Excise Tax Licenses and pay something towards participating in our state business community legitimately, and find a way to get them out of the underground economy.

Not only do these people often deal in cash inducements to get home and condo owner and renter business, but furthermore they more often than not misrepresent their experience and abilities to do work, and wade into electrical and plumbing issues which can cause fires and flooding long after they have grabbed the consumers' money.

Either we have a regulated, consumer protection environment or we completely deregulate. This is a foolish, not well considered out initiative, period. We and I urge you to hold this potentially consumer harmful legislation. The unintended consequences would be severe. Thank you.

February 2, 2010

The Honorable Rosalyn H. Baker, Chair

Senate Committee on Commerce & Consumer Protection
State Capitol, Room 229
Honolulu, Hawaii 96813

RE: S.B. 2707 Relating to Contractors

HEARING: Wednesday, February 3, 2010 at 8:30 a.m.

Aloha Chair Baker, Vice Chair Ige and Members of the Committee:

I am Myoung Oh, Government Affairs Director, here to testify on behalf of the Hawai'i Association of REALTORS® ("HAR"), the voice of real estate in Hawai'i, and its 8,800 members in Hawai'i. HAR **submits comments** on S.B. 2707 which raises the contractor licensing law's handyman exemption threshold from \$1,000 to \$2,500.

The handyman exemption, established in 1992, permits the hiring of a person not licensed as a contractor, if the total cost of the project including labor, materials, taxes, and all other items, if equal to or less than \$1,000.

HAR suggests creating a working group or task force to be established via a resolution, to invite the various stakeholders in this matter to discuss the handyman exemption threshold and other related matters prior to convening of the 2011 Legislative Session.

Mahalo for the opportunity to testify.

BIA-HAWAII
BUILDING INDUSTRY ASSOCIATION

February 3, 2010

Senator Rosalyn Baker, Chair
Committee on Commerce and Consumer Protection
State Capitol, Room 2
Honolulu, Hawaii 96813

RE: SB2707 Relating to Contractors

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

I am Karen Nakamura, Chief Executive Officer 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 strongly opposed to SB2707 Relating to Contractors.

BIA-Hawaii believes that there is no substitute for protection of workers and consumers. The raising of the handyman's exemption would be totally detrimental to the protection of workers and consumers. Increasing the handyman's exemption will subject consumers to more liability rather than protect them from fraud and injury.

Licensing of contractors is a consumer protection issue. The legislature established the Contractors License Board for the protection of the public health, safety, and general welfare in dealing with persons engaged in the construction industry. The Contractors License Board affords to the public effective and practical protection against the incompetent, inexperienced, unlawful and unfair practices of unlicensed builders with whom the public contracts. The purpose of the law was to provide remedies to the consumer when a licensed contractor has violated the law. There is no such oversight of the unlicensed builder and no remedy for the consumer against the unlicensed builder. The consumer is not aware that they are responsible for the medical costs of a worker who is injured on the job but who works for an unlicensed builder. This should not be case.

We ask that this bill be filed. Thank you for the opportunity to share our views with you.

Karen I. Nakamura



OAHU CHAPTER

National Association of Residential Property Managers

February 2, 2010

The Honorable Rosalyn H. Baker, Chair
Senate Committee on Commerce and Consumer Protection
State Capitol, Conference Room 229
Honolulu, HI 96813

RE: S.B. 2707 Relating to Contractors

HEARING: Wednesday, February 3, 2010

Aloha Chair Baker, Vice-Chair Ige and Members of the Committee:

I am Darlene Higa, president of the Oahu Chapter of the National Association of Residential Property Managers (NARPM). The Oahu Chapter is the largest chapter nationally with over 160 members managing over 12,000 rental units. S.B. 2707 addresses increasing the ceiling limit of what's come to be known as the handyman exemption. It seeks to raise the limit to \$2,500.00.

We agree with S.B. 2707 for the following reasons since 1992:

1. the hourly cost of using workers from the trade unions whether they be carpenters, plumbers, electricians, painters ,etc. have significantly increased;
2. the cost of materials likewise has constantly increased;
3. the overall cost of doing business for everyone involved has increased.

It is time to be fair to the home owners for whom the handyman works.

We are not proposing changing any other part of the bill which more than adequately protects the public and trade unions but rather only increasing the ceiling from \$1,000.00 TO \$2,500.00.

Thank you for the opportunity to testify.

Sincerely,

Darlene A. Higa (RA), RMP
President NARPM Oahu Chapter



HAWAII BUILDING AND CONSTRUCTION TRADES COUNCIL, AFL-CIO

GENTRY PACIFIC DESIGN CENTER, STE. 215A • 560 N. NIMITZ HIGHWAY, #50 • HONOLULU, HAWAII 96817
(808) 524-2249 • FAX (808) 524-6893

NOLAN MORIWAKI

President

Bricklayers & Ceramic Tile Setters
Local 1 & Plasterers/Cement
Masons Local 630

JOSEPH O'DONNELL

Vice President

Iron Workers Local 625

DAEJEN T. K. KIM

Financial Secretary

International Brotherhood of
Electrical Workers Local 1186

ARTHUR TOLENTINO

Treasurer

Sheet Metal Workers I.A. Local 293

REGINALD GASTANARES

Trustee

Plumbers & Fitters Local 675

THADDEUS TOMEL

Elevator Constructors Local 126

MALCOLM K. AHLO

Carpenters, Linoleum, & Soft Tile
Local 1295

JOSEPH BAZEMORE

Drywall, Tapers, & Finishers

Local 1944

RICHARD TAGGERE

Glassers, Architectural Metal &
Glassworkers Local Union 1889

RONAN KOZUMA

Hawaii Teamsters & Allied
Workers Local 996

GARY AYCOCK

Boilermakers, Ironship Builders
Local 627

LYNN KINNEY

District Council 50

Painters & Allied Trades
Local 1791

KALANI MAHOE

Operating Engineers Local 3

PETER GANASAN

Laborers' International Union of North
America Local 368

DOUGLAS FULP

International Association of
Heat & Frost Insulators
& Allied Workers Local 132

February 2, 2010

Honorable Senator Rosalyn H. Baker, Chair
Honorable Senator David Y. Ige, Vice Chair
Members of the Senate Committee on Commerce & Consumer Protection
Hawaii State Capital
415 South Beretania Street
Honolulu, HI 96813

RE: **IN OPPOSITION OF SB 2707**
RELATING TO CONSTRUCTION SITES
Hearing: Wed., Feb. 3, 2010, 8:30 a.m., Room 229

Dear Chair Baker, Vice Chair Ige, and the Senate Committee on
Commerce and Consumer Protection:

For the Record my name is Buzz Hong the Executive Director for
the Hawaii Building & Construction Trades Council, AFL-CIO. Our
Council is comprised of 16-construction unions and a membership
of 26,000 statewide.

The Council OPPOSES the passage of SB2707 that raises the
threshold under the contractor licensing law's "handyman"
exemption from \$1,000 to \$2,500. This bill will only encourage
more unlicensed persons to put consumers at risk as individuals are
attempting to perform construction or building repair and
improvement contracting work without the proper technical
training and without passing governmental and trade standards.

Thank you for the opportunity to submit this testimony in
opposition of SB2707.

Sincerely,

W. Hong/dg

William "Buzz" Hong
Executive Director

WBH/dg

Senator Rosalyn Baker
Chairman, Commerce and
Consumer Protection Committee

February 2, 2010

Re: Testimony against SB 2707

Dear Senator Baker,

The events of the past are the reasons why we have regulations in place today. SB 2707 is a bill that opens the door to bring back the damaging events from the past to plague our State once again. It will further encourage and perpetuate unlicensed activity. Unlicensed work is the major reason we have regulations in place today. It is the reason why countless businesses in Hawaii were required to go through the long process to get a trade license in order to have the privilege to do business in Hawaii.

SB 2707 allows **unqualified** individuals to operate as a legitimate trade business. A \$2500 exception will hurt all license service trades. Many who are barely surviving to stay in business now will go out of business because work will be taken from sources that they normally depend upon as these sources will turn to handymen and their unfair pricing. Though there is no right time for a bill like SB 2707, the timing of this bill is damaging to our economy and will permanently damage good Kamaaina trade businesses.

SB 2707 moves our State backwards in the protection of consumers as it allows unlicensed, untrained individuals to do unregulated trade work. In my trade it will take an individual a minimum of 7 years pass experience in a supervisory position in roofing to be considered for a license. They must provide sworn written testimony of the individual's work experience. The individual then needs to pass a trade test and a business test for further consideration. Next the individual's test, pass experience and financial status is then examined by the full Licensing Board. If the Board does approve the individual to be licensed, they must also follow any requirements, such as all the proper insurances, bonding and financial requirements given by the Board. All of this is to insure protection for the public.

SB 2707 removes the certainty and protection from the public by allowing an individual(s) to perform work without any regulation or assurance that the individual is properly trained, certified or insured in the work they are doing. It also opens the public up to bad work, liability lawsuits (should one of these handymen fall off a roof or get hurt in a homeowner's property or business).

In the roofing industry, if a roof is done incorrectly it is possible that the homeowner may not be able to receive an insurance claim. Therefore, if a handyman does a \$2,500 roofing job and a storm destroys the roof and rain causes water damage to the interior of the

house, the roofing manufacturer and the insurance company can claim the roof came off because of improper installation thereby nullifying any claim to the homeowner.

If a handyman falls off of a roof and gets badly injured and does not have adequate insurance, his family members can hire an attorney and sue the homeowner for damages. This incident has actually happened. Imagine how many more incidents like these will occur once it becomes legal to do trade work up to \$2,500.

The big losers with SB 2707 are the people of Hawaii and the legitimate license companies. SB2707 removes the protection given to the people of State of Hawaii and takes a big step backwards to insuring proper trade practices and creates an unfair work environment.

Competition among licenses' companies is already fierce. Even when a company gets a job the returns are minimal opening the door to losses should there be unforeseen circumstances. It is a very tenuous time in Hawaii. If SB 2707 becomes law it will rapidly close the doors to many good companies. More important, this bill will open the door to fraud and mass liability to consumers.

Thank you for you time and consideration to this very important matter.

Newton Young
President
Akamai Roofing Inc.