

Testimony of
Pacific Resource Partnership

State of Hawaii
Department of Accounting and General Services
State Building Code Council

Comments and proposed Amendments to the Hawaii State Building Code
Tuesday, April 20, 2021
9:00 a.m.

Aloha Members of the State Building Code Council:

Pacific Resource Partnership (PRP) raises legal, health and safety, and fairness concerns related to the adoption of Chapter 17 and Section 3113, 2018 IBC and proposed State amendments to Chapter 17. We also recommend the complete deletion of Chapter 17 and Section 3113 to ensure that: 1) the SBCC does not violate State law and 2) the Building Code is not corrupted to give companies a competitive advantage over competitors.

Adoption of Draft IBC Would Violate Hawaii Statutes.

1. Adoption of Chapter 17 and Section 3113, 2018 IBC and proposed State amendments to Chapter 17 appear to violate HRS Section 107-26. The plain language of Chapter 17 violates Hawaii state law, because this chapter is specific to “Special Inspections and Tests.” HRS Section 107-26, specifically states “In adopting the Hawaii state building codes, the council shall not adopt provisions that: (1) Relate to administrative, permitting, or enforcement and inspection procedures of each county (emphasis added).
2. The adoption of Chapter 17 and Section 3113, 2018 IBC and proposed State amendments to Chapter 17 also violates HRS Section 107-26, because specific language in these chapters relate to administrative, permitting, or enforcement and inspection procedures. Provisions related to Chapter 17 and Section 3113 replace the standard permitting and inspection procedures of the counties. In reviewing the proposed State building code amendment package and Chapter 17 and Section 3113, 2018 IBC appears to: (1) replace the administrative, permitting and inspection procedures of the counties by allowing factory-built and modular housing and buildings to be tested and inspected just once by an approved agency, paid for by the owner or owner’s agent. (2) terms like “assemblies,” “methods of construction,” and “relocatable buildings” are broad enough to include factory-built and modular housing and buildings. What this means is that the current Code inspection regimen, enacted to ensure public health and safety on a unit by unit basis, will be replaced in these situations by a single inspection by a paid for individual—just on a single mock up. This does not ensure protection of public health and safety.



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Building Code Should Not Be Corrupted To Give Companies A Competitive Advantage Over Competitors

The first and foremost purpose of the Building Code is to protect the health and safety of the public by using public employees who are independent of the builder. It should not be corrupted to give companies a competitive advantage over their competitors.

These special provisions of the Building Code are solely and exclusively for the benefit of the developer of factory-built and/or modular housing and buildings. Such housing and buildings are being proposed to provide a competitive advantage to these developers and not to ensure the safety of the consumer. By circumventing the standard provisions of the Building Code's unit by unit inspection process, the developer of factory-built and/or modular housing and buildings obtains a competitive advantage over conventional housing/buildings. The elimination of the standard, time-tested inspections regime, will result in projects which are inherently unsafe.

Given the above, PRP recommends the following amendments:

- 1) DELETE CHAPTER 17, SPECIAL INSPECTIONS AND TESTS, IN ITS ENTIRETY.
- 2) DELETE SECTION 3113, RELOCATABLE BUILDINGS, IN ITS ENTIRETY.

Request Formal Written Opinion From The Attorney General On Legal Concerns Raised In This Testimony

At the March 31, 2021 Subcommittee of Building Officials meeting, SBCC member Mr. Lloyd Rogers said that the Attorney General's Office provided an opinion on a prior matter similar to our legal concerns that we raised in this and prior testimony. We respectfully request that the SBCC provide us with a copy of the Attorney General's opinion that Mr. Rogers referenced.

Additionally, we request that the SBCC obtain a formal legal opinion from the Attorney General's Office specific to our concerns related to the SBCC's adoption of Chapter 17 and Section 3113. This request does not seek to restrict the SBCC from taking action to pass the remainder of the 2018 IBC or any other portion outside of Chapter 17 and Section 3113.