

**COMMERCIAL GENERAL LIABILITY COVERAGE FOR DEFECTIVE WORK
STATE-BY-STATE SURVEY
FEBRUARY 2008**

STATE	IS DEFECTIVE WORK AN OCCURRENCE?		PROPERTY DAMAGE EXCLUSIONS APPLIED?
	Status	Case Law	Case Law
Hawaii	No	<i>Keneke Roofing, Inc. v. Island Ins. Co., Ltd.</i> , 98 P.3d 246 (Haw. 2004); ⁱ <i>Burlington Ins. Co. v. Oceanic Design & Constr., Inc.</i> , 383 F.3d 940 (9th Cir. 2004); ⁱⁱ <i>Burlington Ins. Co. v. Steve's Ag Services, Ltd.</i> , 2007 WL 4357767 (9th Cir. Dec. 10, 2007). ⁱⁱⁱ	<i>Sturla, Inc. v. Fireman's Fund Ins. Co.</i> , 684 P.2d 960 (Haw. 1984); ^{iv} <i>Burlington Ins. Co. v. Steve's Ag Services, Ltd.</i> , 2007 WL 4357767 (9th Cir. Dec. 10, 2007). ^v

ⁱ **Hawaii:** *Keneke Roofing, Inc. v. Island Ins. Co., Ltd.*, 98 P.3d 246 (Haw. 2004). A roofing subcontractor's faulty workmanship, which led to water damage to the roof, was not an occurrence since the water damage was the foreseeable result of the subcontractor's abandonment of the work.

ⁱⁱ **Hawaii:** *Burlington Ins. Co. v. Oceanic Design & Constr., Inc.*, 383 F.3d 940 (9th Cir. 2004). A contractor's faulty workmanship in the design and construction of the foundation of a home was not an occurrence under the policy since the defective work was considered a breach of contract and the damages were reasonably foreseeable.

ⁱⁱⁱ **Hawaii:** *Burlington Ins. Co. v. Steve's Ag Services, Ltd.*, 2007 WL 4357767 (9th Cir. Dec. 10, 2007). Even though insured contractor negligently logged trees on state land without a permit, since the actions of the insured breached its contract, there could be no occurrence under Hawaii law because a breach of contract claim precludes accidental conduct.

^{iv} **Hawaii:** *Sturla, Inc. v. Fireman's Fund Ins. Co.*, 684 P.2d 960 (Haw. 1984). The 1973 Work Performed and Products Exclusions applied to deny coverage for claims asserted by the buyers of carpeting that faded prematurely.

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^v **Hawaii:** *Burlington Ins. Co. v. Steve's Ag Services, Ltd*, 2007 WL 4357767 (9th Cir. Dec. 10, 2007). Exclusion j(6), the Faulty Workmanship Exclusion, applied to deny coverage to the insured contractor that logged state lands without a permit, since the claim for the value of the timber taken constituted an effort to repair and replace the insured's work within the meaning of the exclusion.