



GOV. MSG. NO. 866

EXECUTIVE CHAMBERS

HONOLULU

LINDA LINGLE
GOVERNOR

July 16, 2009

The Honorable Colleen Hanabusa, President
and Members of the Senate
Twenty-Fifth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

Re: Senate Bill No. 203 SD2 HD1 CD1

On July 15, 2009, Senate Bill No. 203, entitled "A Bill for an Act Relating to Contractors" became law without my signature, pursuant to Section 16 of Article III of the State Constitution.

The purpose of this bill is to increase the monetary penalties for unlicensed contracting from (1) \$500 to \$2,500 for the first offense, or 40% of the contract cost, and (2) from \$1,000 to \$3,500, or 40% of the contract cost, for the second offense.

Although this bill has the goal of deterring unlicensed contracting in the State of Hawaii, I am concerned that this legislation dramatically increases monetary fines without a corresponding increase in the threshold under the contractor licensing law's "handyman" exemption. This exemption provides that the licensing law 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 \$1,000 threshold has not been increased since 1992. The handyman exemption allows property owners to seek help with minor repairs and renovations. The dollar value of the threshold should be adjusted to reflect cost changes that have occurred over the past 17 years.

Although the Department of Commerce and Consumer Affairs has indicated that it plans to use reasonable discretion in imposing penalties under this bill, unlicensed workers may nevertheless face substantial fines when the work they are doing might more appropriately fall under the handyman exemption.

The Honorable Colleen Hanabusa, President
and Members of the Senate

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For the foregoing reasons, I allowed Senate Bill No. 203 to become law as Act 195,
effective July 15, 2009, without my signature.

Sincerely,

A handwritten signature in black ink, appearing to read "L. Lingle", with a large, stylized loop at the end.

LINDA LINGLE

A BILL FOR AN ACT

RELATING TO CONTRACTORS.

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

1 SECTION 1. Section 444-23, Hawaii Revised Statutes, is
2 amended by amending subsection (c) to read as follows:

3 "(c) Except as provided in subsections (a), (b), (d), and
4 (e), any person who violates or fails to comply with this
5 chapter shall be fined not less than \$100 or more than \$5,000
6 for each violation; provided that any person who violates
7 section 444-9 shall be fined:

8 (1) [~~\$500~~] \$2,500 or forty per cent of the total contract
9 price, whichever is greater, for the first offense;

10 (2) [~~\$1,000~~] \$3,500 or forty per cent of the total
11 contract price, whichever is greater, for the second
12 offense; and

13 (3) \$5,000 or forty per cent of the total contract price,
14 whichever is greater, for any subsequent offense,

15 and when the person is or was a defendant or respondent in a
16 separate citation or lawsuit filed with or by the department,
17 all tools, implements, documents, materials, or any other
18 property used by the person in activities violating section



1 444-9 shall be subject to forfeiture as provided by section
2 444-23.5 and shall be turned over to the department for
3 disposition under that section."

4 SECTION 2. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 3. This Act shall take effect upon its approval.

APPROVED this day of , 2009

GOVERNOR OF THE STATE OF HAWAII