

JAN 23 2009

A BILL FOR AN ACT

RELATING TO CONTRACTORS.

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

1 SECTION 1. Section 444-10.5, Hawaii Revised Statutes, is
2 amended as follows:

3 1. By amending subsections (a) and (b) to read:

4 "(a) In addition to any other remedy available, the
5 investigator ~~[may]~~ shall issue citations to persons acting in
6 the capacity of or engaging in the business of a contractor
7 within the State without having a license ~~[previously obtained~~
8 ~~under and in compliance]~~ in good standing in accordance with
9 this chapter and the rules ~~[promulgated thereunder.]~~ adopted
10 pursuant to this chapter. If the investigator determines that a
11 person is acting in the capacity of, or engaging in the business
12 of, a contractor within this State without having a license ~~[to~~
13 ~~so act or engage,]~~ in good standing, the investigator ~~[may]~~
14 shall issue a citation and a cease and desist order, as provided
15 in subsection (b), to ~~[such]~~ that person.

16 (b) Each citation shall be in writing and shall describe
17 the basis of the citation, including the specific statutory



1 provisions alleged to have been violated, and shall contain an
2 order to cease and desist from the violation, and an assessment
3 of civil penalties as provided in section 444-23. The citation
4 shall also include notice of the sanctions for violating the
5 cease and desist order. Upon the issuance of a citation, the
6 person cited shall cease work immediately and shall not resume
7 until the person cited holds the licenses required under this
8 chapter to perform the work. All penalties collected under this
9 section shall be deposited in the special fund established under
10 section 26-9."

11 2. By amending subsection (j) to read:

12 "(j) The director may apply to the appropriate court for
13 injunctive or any other relief the court deems appropriate,
14 including a fine of not less than \$10,000 for each offense,
15 against any person who has been issued a citation for operating
16 without a license and who violates a cease and desist order.
17 Each day's violation or failure to comply with the license
18 requirements under this chapter or a cease and desist order
19 shall be deemed a separate offense. The allegations in the
20 citation shall be deemed conclusively established for purposes
21 of a proceeding for permanent or temporary relief to enforce the
22 cease and desist order."



1 SECTION 2. 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 without a license
7 in good standing under this chapter who violates section 444-9
8 shall be fined:

- 9 (1) [~~\$500~~] \$ _____ per day or forty per cent of the
10 total contract price, whichever is greater, for the
11 first offense;
- 12 (2) [~~\$1,000~~] \$ _____ per day or forty per cent of the
13 total contract price, whichever is greater, for the
14 second offense; and
- 15 (3) [~~\$5,000~~] \$ _____ per day or forty per cent of the
16 total contract price, whichever is greater, for any
17 subsequent offense,

18 and when the person is or was a defendant or respondent in a
19 separate citation or lawsuit filed with or by the department,
20 all tools, implements, documents, materials, or any other
21 property used by the person in activities violating section
22 444-9 shall be subject to forfeiture as provided by section



S.B. NO. 694

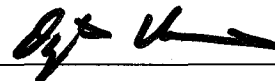
1 444-23.5 and shall be turned over to the department for
2 disposition under that section."


3 SECTION 3. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 4. This Act shall take effect on July 1, 2009.

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INTRODUCED BY: _____




Michelle R. Sadyri
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Report Title:

Contractors; License Requirements; Citations; Civil Penalties

Description:

Prohibits the resumption of work for any person who is issued a citation for operating without a contractor's license in good standing until a hearing is conducted, and makes the issuance of citations and cease and desist orders mandatory. Amends penalties.

