

JAN 28 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 by amending subsections (a) and (b) to read as follows:
3 "(a) In addition to any other remedy available, [the
4 ~~investigator may issue citations to persons acting in the~~
5 ~~capacity of or engaging in the business of a contractor within~~
6 ~~the State, without having a license previously obtained under~~
7 ~~and in compliance with this chapter and the rules promulgated~~
8 ~~thereunder. If the investigator determines that a person is~~
9 ~~acting in the capacity of, or engaging in the business of, a~~
10 ~~contractor within this State without having a license to so act~~
11 ~~or engage, the investigator may issue a citation to such~~
12 person.] citations shall be issued in the manner set forth in
13 this subsection. The investigator shall issue a citation and a
14 cease and desist order, as provided in subsection (b), to a
15 person not exempt under section 444-2, whom the investigator
16 personally observes and determines is acting in the capacity of,
17 or engaging in the business of, a contractor within this State



1 without having any license in good standing pursuant to this
2 chapter. Where the investigator does not personally observe,
3 but determines that a person not exempt under section 444-2 is
4 acting in the capacity of, or engaging in the business of, a
5 contractor within this State without having any license in good
6 standing pursuant to this chapter, the investigator may issue a
7 citation to that person.

8 (b) Each citation shall be in writing and shall describe
9 the basis of the citation, including the specific statutory
10 provisions alleged to have been violated, and shall contain an
11 order to cease and desist from the violation, and an assessment
12 of civil penalties as provided in section 444-23. The citation
13 shall also include notice of the sanctions for violating the
14 cease and desist order. Upon the issuance of a citation, the
15 person cited shall cease work immediately and shall not resume
16 until the person cited holds the licenses required under this
17 chapter to perform the work. All penalties collected under this
18 section shall be deposited in the special fund established under
19 section 26-9."

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



1 "(c) Except as provided in subsections (a), (b), (d), and
2 (e), any person who violates or fails to comply with this
3 chapter shall be fined not less than \$100 or more than \$5,000
4 for each violation; provided that any person without any license
5 in good standing pursuant to this chapter who violates section
6 444-9 shall be fined:

7 (1) [~~\$500~~] \$2,500 or forty per cent of the total contract
8 price, whichever is greater, for the first offense;

9 (2) [~~\$1,000~~] \$3,500 or forty per cent of the total
10 contract price, whichever is greater, for the second
11 offense; and

12 (3) \$5,000 or forty per cent of the total contract price,
13 whichever is greater, for any subsequent offense,

14 and when the person is or was a defendant or respondent in a
15 separate citation or lawsuit filed with or by the department,
16 all tools, implements, documents, materials, or any other
17 property used by the person in activities violating section
18 444-9 shall be subject to forfeiture as provided by section
19 444-23.5 and shall be turned over to the department for
20 disposition under that section."

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



1 SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY: *Clarence K. Nishihara*



Report Title:

Contractors; License Requirements; Citations; Civil Penalties

Description:

Specifies that investigators of the contractors license board may issue citations to both nonexempt persons observed first hand and determined to be unlicensed and nonexempt persons not observed first hand but determined to be unlicensed. Specifies that persons issued cease and desist orders may not resume work until a license is obtained. Increases the flat rate fines for operating without a license.

