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# A BILL FOR AN ACT

RELATING TO CONTRACTORS.

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

1           SECTION 1. Chapter 444, Hawaii Revised Statutes, is  
2 amended by adding a new section to be appropriately designated  
3 and to read as follows:

4           "§444-       License applications and disciplinary  
5 proceedings; public hearing; notice. (a) The board shall  
6 conduct a public hearing pursuant to subsection (b) prior to  
7 making any determination on:

8           (1) Any application for a contractor's license under  
9           section 444-16, if the board receives timely submitted  
10           opposition to the application pursuant to board rule;

11           (2) Disciplinary action for any alleged violation of this  
12           chapter, including license suspensions or revocations  
13           and denials of license renewals under section 444-17  
14           or any penalties under section 444-23; or

15           (3) Any settlement agreement subject to board approval and  
16           entered into between the regulated industries  
17           complaints office and a licensee who is subject to



1           disciplinary action for any violation under this  
2           chapter.

3           (b) Within a time frame established by rule, the board  
4           shall hold the public hearing required under subsection (a) to  
5           afford interested persons the opportunity to submit data, views,  
6           or arguments, orally or in writing. Public notice of the  
7           hearing shall be given at least fourteen days prior to the date  
8           of the hearing and pursuant to the notice requirements of  
9           section 92-41.

10          (c) After holding a public hearing under this section, the  
11          board may take final action on the matter."

12          SECTION 2. Section 444-16, Hawaii Revised Statutes, is  
13          amended to read as follows:

14          "**§444-16 Action on applications.** Within one hundred and  
15          twenty days after the filing of a proper application for a  
16          license and the payment of the required fees, the board shall  
17          ~~[-(1) conduct]:~~

18          (1) Conduct an investigation of the applicant, and in that  
19                                  investigation may post pertinent information,  
20                                  including but not limited to, the name and address of  
21                                  the applicant, and if the applicant is associated in  
22                                  any partnership, corporation, or other entity, the



1 names, addresses, and official capacities of the  
2 applicant's associates; [~~and (2) either~~]

3 (2) Hold a public hearing on the application pursuant to  
4 section 444- , if the board receives timely  
5 submitted opposition to the application pursuant to  
6 board rule; and

7 (3) Either issue a license to the applicant or notify the  
8 applicant in writing by registered mail of the board's  
9 decision not to grant the license and specifically  
10 notify the applicant of the applicant's right to  
11 submit a request for a contested case hearing pursuant  
12 to chapter 91 within sixty days of the board's  
13 decision. The hearing shall be conducted in  
14 accordance with chapter 91."

15 SECTION 3. Section 444-17, Hawaii Revised Statutes, is  
16 amended to read as follows:

17 **"§444-17 Revocation, suspension, and renewal of licenses.**

18 In addition to any other actions authorized by law, and after a  
19 public hearing conducted pursuant to section 444- , the board  
20 may revoke any license issued pursuant to this section, or  
21 suspend the right of a licensee to use a license, or refuse to  
22 renew a license for any cause authorized by law, including:



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- 1           (1) Any dishonest, fraudulent, or deceitful act as a  
2           contractor that causes substantial damage to another;
- 3           (2) Engaging in any unfair or deceptive act or practice as  
4           prohibited by section 480-2;
- 5           (3) Abandonment of any construction project or operation  
6           without reasonable or legal excuse;
- 7           (4) Wilful diversion of funds or property received for  
8           prosecution or completion of a specific construction  
9           project or operation, or for a specified purpose in  
10          the prosecution or completion of any construction  
11          project or operation, and the use thereof for any  
12          other purpose;
- 13          (5) Wilful departure from, or wilful disregard of plans or  
14          specifications in any material respect without consent  
15          of the owner or the owner's duly authorized  
16          representative, that is prejudicial to a person  
17          entitled to have the construction project or operation  
18          completed in accordance with those plans and  
19          specifications;
- 20          (6) Wilful violation of any law of the State, or any  
21          county, relating to building, including any violation



1 of any applicable rule of the department of health, or  
2 of any applicable safety or labor law;

3 (7) Failure to make and keep records showing all  
4 contracts, documents, records, receipts, and  
5 disbursements by a licensee of all the licensee's  
6 transactions as a contractor for a period of not less  
7 than three years after completion of any construction  
8 project or operation to which the records refer or to  
9 permit inspection of those records by the board;

10 (8) When the licensee being a partnership or a joint  
11 venture permits any partner, member, or employee of  
12 the partnership or joint venture who does not hold a  
13 license to have the direct management of the  
14 contracting business thereof;

15 (9) When the licensee being a corporation permits any  
16 officer or employee of the corporation who does not  
17 hold a license to have the direct management of the  
18 contracting business thereof;

19 (10) Misrepresentation of a material fact by an applicant  
20 in obtaining a license;



- 1       (11) Failure of a licensee to complete in a material
- 2             respect any construction project or operation for the
- 3             agreed price if the failure is without legal excuse;
- 4       (12) Wilful failure in any material respect to comply with
- 5             this chapter or the rules adopted pursuant thereto;
- 6       (13) Wilful failure or refusal to prosecute a project or
- 7             operation to completion with reasonable diligence;
- 8       (14) Wilful failure to pay when due a debt incurred for
- 9             services or materials rendered or purchased in
- 10            connection with the licensee's operations as a
- 11            contractor when the licensee has the ability to pay or
- 12            when the licensee has received sufficient funds
- 13            therefor as payment for the particular operation for
- 14            which the services or materials were rendered or
- 15            purchased;
- 16       (15) The false denial of any debt due or the validity of
- 17            the claim therefor with intent to secure for a
- 18            licensee, the licensee's employer, or other person,
- 19            any discount of the debt or with intent to hinder,
- 20            delay, or defraud the person to whom the debt is due;
- 21       (16) Failure to secure or maintain workers' compensation
- 22            insurance, unless the licensee is authorized to act as



- 1 a self-insurer under chapter 386 or is excluded from  
2 the requirements of chapter 386;
- 3 (17) Entering into a contract with an unlicensed contractor  
4 involving work or activity for the performance of  
5 which licensing is required under this chapter;
- 6 (18) Performing service on a residential or commercial air  
7 conditioner using CFCs without using refrigerant  
8 recovery and recycling equipment;
- 9 (19) Performing service on any air conditioner after  
10 January 1, 1994, without successful completion of an  
11 appropriate training course in the recovery and  
12 recycling of CFC and HCFC refrigerants, which included  
13 instruction in the proper use of refrigerant recovery  
14 and recycling equipment that is certified by  
15 Underwriters Laboratories, Incorporated;
- 16 (20) Violating chapter 342C;
- 17 (21) Failure to pay delinquent taxes, interest, and  
18 penalties assessed under chapter 237 that relate to  
19 the business of contracting, or to comply with the  
20 terms of a conditional payment plan with the  
21 department of taxation for the payment of such  
22 delinquent taxes, interest, and penalties; and



1           (22) Knowingly or intentionally employing a person who is  
2                   not eligible to work in the United States under  
3                   federal law to perform work on any project or  
4                   operation."

5           SECTION 4. This Act does not affect rights and duties that  
6           matured, penalties that were incurred, and proceedings that were  
7           begun before its effective date.

8           SECTION 5. Statutory material to be repealed is bracketed  
9           and stricken. New statutory material is underscored.

10          SECTION 6. This Act shall take effect upon its approval;  
11          provided that the amendments made to section 444-17, Hawaii  
12          Revised Statutes, under section 3 of this Act, shall not be  
13          repealed when that section is reenacted on June 30, 2013,  
14          pursuant to section 3 of Act 185, Session Laws of Hawaii 2010.

15

INTRODUCED BY:

Calvin K. Iy

BY REQUEST

JAN 24 2011





**Report Title:**

Contractors License Board; Public Hearings

**Description:**

Requires the Contractors License Board to conduct public hearings for license applications and disciplinary proceedings.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

