

[CHAPTER 103B]
EMPLOYMENT OF STATE RESIDENTS ON
CONSTRUCTION PROCUREMENT CONTRACTS

Section

- 103B-1 Definitions
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" **[\$103B-1] Definitions.** As used in this chapter:
"Construction" has the same meaning as in section 103D-104.
"Contract" means contracts for construction under chapter 103D.

"Contractor" has the same meaning as in section 103D-104; provided that "contractor" includes a subcontractor where applicable.

"Procurement officer" has the same meaning as in section 103D-104.

"Resident" means a person who is physically present in the State at the time the person claims to have established the person's domicile in the State and shows the person's intent is to make Hawaii the person's primary residence.

"Shortage trade" means a construction trade in which there is a shortage of Hawaii residents qualified to work in the trade. [L 2010, c 68, pt of §2]

" **[\$103B-2] Application of chapter.** (a) This chapter shall apply to all construction procurements under chapter 103D; provided that this chapter shall not apply to procurements for professional services under section 103D-304 and procurements for small purchases under [section] 103D-305.

(b) This chapter shall apply to any subcontract of \$50,000 or more in connection with any general contract otherwise covered by this chapter. [L 2010, c 68, pt of §2]

" **§103B-3 Requirements of contractor.** (a) A contractor awarded any contract shall ensure that Hawaii residents compose not less than eighty per cent of the workforce employed to perform the contract on a particular construction project, as determined under subsection (b). Prior to an award of a contract, the contractor may withdraw a bid without penalty if the contractor finds that it is unable to comply with this subsection.

(b) The eighty per cent requirement under subsection (a) shall be determined by dividing the total number of hours worked on a contract by residents, by the total number of hours worked by all employees of the contractor in the performance of the contract. Hours worked for any subcontractor of the contractor shall count towards the calculation for purposes of this subsection. The hours worked by employees within shortage trades, as determined by the department of labor and industrial relations, shall not be included in the calculations for purposes of this subsection.

(c) Certification of compliance with this chapter shall be made under oath by an officer of the general contractor and

applicable subcontractor to the procurement officer with the notice of completion of the contract.

(d) A general contractor or subcontractor who fails to comply with this chapter shall be subject to sanctions as follows:

- (1) With respect to the general contractor, withholding of final payment on the contract until the contractor complies with subsection (a); or
- (2) With respect to the general contractor and subcontractor, proceedings for debarment or suspension of the contractor or subcontractor under section 103D-702;

provided that a general contractor shall not be sanctioned for noncompliance with this section by a subcontractor of that general contractor on the same contract. [L 2010, c 68, pt of §2; am L 2011, c 192, §1]

" **[\$103B-4] Conflict with federal law.** This chapter shall not apply if the application of this chapter is in conflict with any federal law, or if the application of this chapter will disqualify any state or county agency from receiving federal funds or aid. [L 2010, c 68, pt of §2]