

A Bill for an Act Relating to Contractors.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 444, Hawaii Revised Statutes, is amended as follows:

1. Three new sections are added to be appropriately designated and to read:

“Sec. 444- Issuance of building permits. Each county or other local subdivision of the State which requires the issuance of a permit as a condition precedent to the construction, alteration, improvement, demolition, or repair of any building or structure shall also require that each applicant for such a permit file as a condition to the issuance of a permit a statement that the applicant is licensed under this chapter, giving the number of the license and stating that it is in full force and effect, or, if the applicant is exempt from this chapter, the basis for the claimed exemption.

Sec. 444- Advertising. It is a misdemeanor for any person, including a person who is exempt by section 444-2 from this chapter, to advertise as a contractor unless such person holds a valid license under this chapter in the classification so advertised. “Advertise” as used in this section includes, but is not limited to, the issuance of any card, sign, or device to any person, the causing, permitting, or allowing of any sign or marking on or in any building or structure, or in any newspaper or magazine, or in any directory

under a listing of contractor, or broadcasting by airwave transmission, with or without any limiting qualifications.

Sec. 444- Aiding or abetting. Aiding or abetting an unlicensed person to evade this chapter or knowingly combining or conspiring with an unlicensed person, or allowing one's license to be used by an unlicensed person, or acting as agent or partner or associate, or otherwise, of an unlicensed person, with the intent to evade this chapter, shall be a misdemeanor."

2. Section 444-1 is amended to read:

"Sec. 444-1 Definitions. As used in this chapter:

- (1) "Board" means the contractors license board;
- (2) "Contractor" means any person who by himself or through others offers to undertake, or holds himself out as being able to undertake, or does undertake to alter, add to, subtract from, improve, enhance, or beautify any realty or construct, alter, repair, add to, subtract from, improve, move, wreck, or demolish any building, highway, road, railroad, excavation, or other structure, project, development, or improvement, or do any part thereof, including the erection of scaffolding or other structures or works in connection therewith;
- (3) "Contractor" includes a subcontractor and a specialty contractor;
- (4) "Person" means an individual, partnership, joint venture, corporation, or any combination thereof. "Corporation" includes an association, business trust or any organized trust or any organized group of persons;
- (5) "RME" means responsible managing employee;
- (6) "Sale" means any arrangement between two or more persons as a result of which there is, or is to be, a transfer of property for a consideration."

3. Section 444-2 is amended to read:

"Sec. 444-2 Exemptions. This chapter shall not apply to:

- (1) An officer or employee of the United States, the State, or any political subdivision if the project or operation is performed by employees thereof;
- (2) Any person acting as a receiver, trustee in bankruptcy, administrator or executor, or any other person acting under any order or authorization of any court;
- (3) A person who sells or installs any finished products, materials, or articles or merchandise which are not actually fabricated into and do not become a permanent fixed part of the structure, or to the construction, alteration, improvement, or repair of personal property;
- (4) Any project or operation for which the aggregate contract price for labor, materials, and all other items is less than \$100. This exemption shall not apply in any case wherein the undertaking is only a part of a larger or major project or operation, whether undertaken by the same or a different contractor or in which a division of the project or operation is made in contracts of amounts less than \$100 for the purpose of evading this chapter or otherwise;

- (5) A registered architect or professional engineer acting solely in his professional capacity;
- (6) Any person who engages in the activities herein regulated as an employee with wages as his sole compensation;
- (7) Any person who undertakes by himself or through his employees any operation for himself or his parents or children which is not constructed or improved solely for immediate sale at a profit. The requirements of this paragraph are met if the owner, parents or children occupy any portion of the building, or if the sale of the property, unless otherwise permitted by law, is initiated after the date of completion of the improvements as defined in section 507-43; and
- (8) Owners or lessees of property who build or improve residential, farm, industrial or commercial buildings or structures on such property for their own use and do not offer them for sale or lease. In all actions brought under this paragraph, proof of the sale or lease, or offering for sale or lease, of such structure within one year after completion is "prima facie" evidence that the construction or improvement of such structure was undertaken for the purpose of sale or lease; provided, however, that this shall not apply to residential properties sold or leased to employees of the owner or lessee;
- (9) Any copartnership or joint venture if all members thereof hold licenses issued under this chapter."

4. Section 444-5 is amended to read as follows:

"Sec. 444-5 Executive secretary; other assistants. (a) Subject to chapters 76 and 77 the department of regulatory agencies may employ and remove such administrative and clerical assistants as the contractors license board may require and prescribe their powers and duties;

- (b) (1) The department shall employ an executive secretary of the board whose position shall be subject to chapters 76 and 77. The executive secretary shall be employed with due regard to his fitness, thorough administrative ability and knowledge of and experience in the business of contracting. He shall devote his entire time to the duties of his office and shall not be actively engaged or employed in any other business, vocation, or employment, nor shall he have any pecuniary interest, direct or indirect, in any contracting enterprise or enterprises conducted or carried on within the State;
- (2) The executive secretary shall, under the supervision of the board, administer this chapter and the rules and regulations and orders established thereunder and perform such other duties as the board may require, he shall attend but not vote at all meetings of the board; he shall be in charge of the offices of the board and responsible to the board for the preparation of reports and the collection and dissemination of data and other public information relating to contracting;
- (3) The board may, by written order filed in its office, delegate to the executive secretary such of its powers or duties as it deems reasonable and proper for the effective administration of this chapter,

except the power to make rules or regulations. The delegated powers and duties may be exercised by the executive secretary in the name of the board.

(c) The department may appoint an investigator who shall be exempt from the provisions of chapter 76 and who shall act as investigator for the contractors license board.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 3. This Act shall take effect on July 1, 1974.

(Approved May 31, 1974.)

*Edited accordingly.