

ACT 274

S.B. NO. 757

A Bill for an Act Relating to Contractors.

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

SECTION 1. The construction industry has become increasingly concerned about lost revenues which are diverted to non-Hawaii contractors due to the non-

licensing of those contractors who work directly or indirectly for the federal government. In addition, there is concern about the lack of payment by such contractors of Hawaii workers' compensation premium rates. These non-licensed, non-Hawaii contractors who receive federal contracts can and do subsequently hire non-licensed subcontractors.

The legislature is also concerned about the economic aspects of this issue and the fact that there is a significant dollar loss to the Hawaii construction industry in particular, and to the State in general. Failure to require contractors working directly or indirectly for the federal government to be licensed under Hawaii's contractor licensing laws is a contributing factor to the high unemployment rates found in Hawaii's unions. Equity in the application of Hawaii's licensing requirements is necessary to safeguard the State's economy and public welfare.

The absence of licensing requirements means that problems can arise regarding the enforcement of Hawaii building standards and also policing non-licensed contractors and subcontractors. In some cases, when a federal job is temporarily brought to a halt or runs into scheduling problems, the non-licensed contractors take jobs in the private sector where licensing is required. In the event problems arise later with regard to their work, consumer complaints must go unanswered because these contractors have long since left the Islands.

Therefore the legislature finds that appropriate amendments to Chapter 444, Hawaii Revised Statutes, must be made to clarify contractor licensing laws.

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

"§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[;], and any person, general engineering, general building, or specialty contractor who performs construction as defined in section 444-1(2) directly or indirectly for the federal government;
- (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.

If any provision of this section, or the application thereof to any person, or circumstances, is held to be invalid, the invalidity shall not affect other provisions or applications of this section which can be given effect without the invalid

provision or application, and to this end the provisions of this section are severable.”

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

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

(Approved June 14, 1983.)