

ACT 132

H.B. NO. 3484

A Bill for an Act Relating to the Contractors.

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

SECTION 1. Section 444-15, Hawaii Revised Statutes, is amended to read as follows:

“§444-15 Fees; biennial renewals. The biennial fee or inactive license

fee, and recovery and education fund fees as provided in rules adopted by the director pursuant to chapter 91, shall be paid to the board on or before April 30 of each even-numbered year. Failure, neglect, or refusal of any licensee to pay the biennial renewal fee and to submit all documents requested by the board before that date shall constitute a forfeiture of the licensee's license. Any forfeited license may be restored upon written application therefor within sixty days from that date and the payment of the required fee plus an amount equal to ten per cent thereof.

Upon written request of a licensee, the board may place that person's active license in an inactive status. The license, upon payment of the inactive license fee, may continue inactive for the biennial period. Failure, neglect, or refusal of any licensee in inactive status to pay the inactive license fee shall constitute a forfeiture of the license. The license may be reactivated at any time during the biennial period by making written request to the board and by fulfilling all the requirements, including the payment of the appropriate fees."

SECTION 2. Section 444-26, Hawaii Revised Statutes, is amended to read as follows:

"§444-26 Contractors recovery fund; use of fund; person injured; fees. The contractors license board is authorized and directed to establish and maintain a contractors recovery fund from which any person injured by an act, representation, transaction, or conduct of a duly licensed contractor, which is in violation of [the provisions of] this chapter or the [regulations promulgated] rules adopted pursuant thereto, may recover by order of the circuit court or district court of the judicial circuit where the violation occurred, an amount of not more than \$12,500 per contract, regardless of the number of persons injured under the contract, for damages sustained by the act, representation, transaction, or conduct. Recovery from the fund shall be limited to the actual damages suffered by the claimant, including court costs and fees as set by law, and reasonable attorney fees as determined by the court; provided that recovery from the fund shall not be awarded to persons injured by an act, representation, transaction, or conduct of a contractor whose license was in an inactive status at the time of the injury.

For purposes of this chapter, "person injured" or "injured person" means and is limited to owners or lessees of private residences, including condominium or cooperative units, who have contracted with a duly licensed contractor for the construction of improvements or alterations to their own private residences and owners or lessees of real property who [contract] have contracted with a duly licensed contractor for the construction of their own private residences on their real property.

[On or after May 1, 1974, when] When any person [makes application] applies for a contractors license, the person shall pay, in addition to the person's original license fee, a fee of \$150 for deposit in the contractors recovery fund[.], and a fee for deposit in the contractors education fund as provided in rules adopted by the director pursuant to chapter 91. In the event that the contractors license board does not issue the license, [this fee] these fees shall be returned to the applicant."

SECTION 3. Section 444-27, Hawaii Revised Statutes, is amended to read as follows:

"§444-27 Additional payments to fund. (a) [If, on December 31 of any year,] At any time when the balance remaining in the contractors recovery fund is

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less than \$250,000, [every contractor, when renewing the contractor's license during the following biennial renewal period, shall pay, in addition to the contractor's license renewal fee,] the board may assess every contractor a fee not to exceed [\$250] \$500 annually for deposit in the contractors recovery fund.

(b) The failure of any contractor to pay the assessment within sixty days from the date of assessment shall constitute a forfeiture of the contractor's license. The board may impose other penalties or requirements as a condition of restoration of the license."

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved June 8, 1994.)