
A BILL FOR AN ACT

RELATING TO CONTRACTORS.

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

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

3 **"§444-2 Exemptions.** This chapter shall not apply to:

4 (1) Officers and employees of the United States, the
5 State, or any county while in the performance of their
6 governmental duties;

7 (2) Any person acting as a receiver, trustee in
8 bankruptcy, personal representative, or any other
9 person acting under any order or authorization of any
10 court;

11 (3) A person who sells or installs any finished products,
12 materials, or articles of merchandise that are not
13 actually fabricated into and do not become a permanent
14 fixed part of the structure, or to the construction,
15 alteration, improvement, or repair of personal
16 property;



- 1 (4) Any project or operation for which the aggregate
2 contract price for labor, materials, taxes, and all
3 other items is not more than \$1,000. This exemption
4 shall not apply in any case where a building permit is
5 required regardless of the aggregate contract price,
6 nor where the undertaking is only a part of a larger
7 or major project or operation, whether undertaken by
8 the same or a different contractor or in which a
9 division of the project or operation is made in
10 contracts of amounts not more than \$1,000 for the
11 purpose of evading this chapter or otherwise;
- 12 (5) A registered architect or professional engineer acting
13 solely in the person's professional capacity;
- 14 (6) Any person who engages in the activities regulated in
15 this chapter as an employee with wages as the person's
16 sole compensation; provided that the employee is not
17 the RME for a contracting entity;
- 18 (7) Owners or lessees of property who build or improve
19 residential, farm, industrial, or commercial buildings
20 or structures on property for their own use, or for
21 use by their grandparents, parents, siblings, or
22 children and who do not offer the buildings or



1 structures for sale or lease; provided that this
2 exemption shall not apply to electrical or plumbing
3 work that must be performed only by persons or
4 entities licensed under this chapter, or to the owner
5 or lessee of the property if the owner or lessee is
6 licensed under chapter 448E. In all actions brought
7 under this paragraph, proof of the sale or lease, or
8 offering for sale or lease, of the structure not more
9 than one year after completion is prima facie evidence
10 that the construction or improvement of the structure
11 was undertaken for the purpose of sale or lease;
12 provided that this provision shall not apply to
13 residential properties sold or leased to employees of
14 the owner or lessee; provided further that in order to
15 qualify for this exemption the owner or lessee must
16 register for the exemptions as provided in section
17 444-9.1. Any owner or lessee of property found to
18 have violated this paragraph shall not be permitted to
19 engage in any activities pursuant to this paragraph or
20 to register under section 444-9.1 for a period of
21 three years. There is a presumption that an owner or
22 lessee has violated this section, when the owner or



- 1 lessee obtains an exemption from the licensing
2 requirements of section 444-9 more than once in two
3 years;
- 4 (8) Any joint venture if all members thereof hold licenses
5 issued under this chapter;
- 6 (9) Any project or operation where it is determined by the
7 board that less than ten persons are qualified to
8 perform the work in question and that the work does
9 not pose a potential danger to public health, safety,
10 and welfare; or
- 11 (10) Any public works project that requires additional
12 qualifications beyond those established by the
13 licensing law and which is deemed necessary and in the
14 public interest by the contracting agency."

15 SECTION 3. Section 444-4, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "**§444-4 Powers and duties of board.** In addition to any
18 other powers and duties authorized by law, the board shall:

- 19 (1) Grant licenses, including conditional licenses, to
20 contractors pursuant to this chapter and rules;
- 21 (2) Adopt, amend, or repeal [~~such~~] rules [~~as~~] that the
22 board may deem proper fully to effectuate this chapter



1 and carry out the purpose thereof, which is the
2 protection of the general public. All rules shall be
3 approved by the governor and the director, and when
4 adopted pursuant to chapter 91, shall have the force
5 and effect of law. The rules may forbid acts or
6 practices deemed by the board to be detrimental to the
7 accomplishment of the purpose of this chapter. The
8 rules may require contractors to make reports to the
9 board containing any items of information [as] that
10 will better enable the board to enforce this chapter
11 and rules, or [as] that will better enable the board
12 from time to time to amend the rules more fully to
13 effectuate the purposes of this chapter. The rules
14 may require contractors to furnish reports to owners
15 containing any matters of information [as] that the
16 board deems necessary to promote the purpose of this
17 chapter. The enumeration of specific matters which
18 may properly be made the subject of rules shall not be
19 construed to limit the board's general power to make
20 all rules necessary fully to effectuate the purpose of
21 this chapter;



- 1 (3) Adopt rules pursuant to chapter 91 necessary to
2 implement [~~the provisions of~~] this chapter relating to
3 CFCs, including, but not limited to, procedures for
4 the disposal of air conditioning units utilizing CFCs
5 that include mandatory recovery and recycling of CFCs;
- 6 (4) Enforce this chapter and rules adopted pursuant
7 thereto;
- 8 (5) Suspend or revoke any license for any cause prescribed
9 by this chapter, or for any violation of the rules,
10 and refuse to grant, renew, restore, or reinstate any
11 license for any cause which would be grounds for
12 revocation or suspension of a license;
- 13 (6) Publish and distribute pamphlets and circulars
14 containing any information [~~as~~] that the board deems
15 proper to further the accomplishment of the purpose of
16 this chapter;
- 17 (7) Contract for professional testing services to prepare,
18 administer, and grade the examinations for applicants
19 [~~as~~] that may be required for the purposes of this
20 chapter. The board shall determine the scope and
21 length of the examinations, whether the examinations



1 shall be oral, written, or both, and the score that
2 shall be deemed a passing score;

3 (8) Order summary suspension of a license; provided that
4 summary suspensions may be delegated in accordance
5 with section 436B-23;

6 (9) Issue informal nonbinding interpretations or
7 declaratory rulings, and conduct contested case
8 proceedings pursuant to chapter 91; and

9 (10) Subpoena witnesses and documents, administer oaths,
10 receive affidavits and oral testimony, including
11 telephonic communications.

12 When a licensed contractor is subject to discipline for any
13 cause prescribed in this chapter, or for any violation of the
14 rules adopted pursuant to this section, in addition to any
15 remedies provided by law that the board may impose on the
16 contractor, the board may also award reasonable attorney fees to
17 the injured person."

18 SECTION 4. Section 444-11, Hawaii Revised Statutes, is
19 amended by amending subsection (a) to read as follows:

20 "(a) No license hereunder shall be issued to:

21 (1) Any person unless the person has filed an application
22 and paid the applicable fees;



- 1 (2) Any person unless the person meets the experience
2 requirements as prescribed in the board's rules;
3 provided that the board may accept experience acquired
4 on a self-employed or unlicensed basis if the
5 experience can be verified;
- 6 (3) Any person or RME of a contracting entity who does not
7 possess a history of honesty, truthfulness, financial
8 integrity, and fair dealing; provided that any person
9 or RME of a contracting entity who during the six
10 years prior to application has failed to satisfy an
11 undisputed debt or a judgment relating to services or
12 materials rendered in connection with operations as a
13 contractor shall be presumed not to possess a history
14 of financial integrity;
- 15 (4) Any person unless the person has successfully passed a
16 written examination as prescribed by the board;
- 17 (5) Any individual unless the individual is age eighteen
18 years or more;
- 19 (6) Any joint venture which is not exempt under section
20 444-2(8) unless the contracting business thereof is
21 under the direct management of a member or employee



- 1 thereof, and unless the member or employee holds an
2 appropriate license;
- 3 (7) Any individual who is unable to qualify as a
4 contractor or any partnership or corporation, unless
5 the contracting business of the individual,
6 partnership, or corporation is under the direct
7 management of an employee, partner, or officer thereof
8 who holds an appropriate license;
- 9 (8) Any person unless the person submits satisfactory
10 proof to the board that the person has obtained
11 workers' compensation insurance, or has been
12 authorized to act as a self-insurer under chapter 386
13 or is excluded from the requirements of chapter 386;
- 14 (9) Any person unless the person submits satisfactory
15 proof to the board that the person has obtained
16 liability insurance; or
- 17 (10) Any person unless the person submits a bond if
18 required by the board under section 444-16.5."

19 SECTION 5. This Act does not affect rights and duties that
20 matured, penalties that were incurred, and proceedings that were
21 begun, before its effective date.



1 SECTION 6. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 7. This Act shall take effect on July 1, 2050.



Report Title:

Contractors; Financial Responsible Managing Employees; Attorneys Fees

Description:

Specifies that responsible managing employees of a contracting entity are not exempt from the requirements of chapter 444, Hawaii Revised Statutes. Authorizes the contractors licensing board to award reasonable attorneys fees for violations of chapter 444, Hawaii Revised Statutes. (SD1)

