

JAN 26 2011

A BILL FOR AN ACT

RELATING TO CONTRACTORS.

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

1 SECTION 1. Chapter 444, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§444- License applications and disciplinary
5 proceedings; public hearing; notice. (a) The board shall
6 conduct a public hearing pursuant to subsection (b) prior to
7 making any determination on:

- 8 (1) Any application for a contractor's license under
9 section 444-16, if the board receives timely submitted
10 opposition to the application pursuant to board rule;
11 (2) Disciplinary action for any alleged violation of this
12 chapter, including license suspensions or revocations
13 and denials of license renewals under section 444-17
14 or any penalties under section 444-23; or
15 (3) Any settlement agreement subject to board approval and
16 entered into between the regulated industries
17 complaints office and a licensee who is subject to



1 disciplinary action for any violation under this
2 chapter.

3 (b) Within a time frame established by rule, the board
4 shall hold the public hearing required under subsection (a) to
5 afford interested persons the opportunity to submit data, views,
6 or arguments, orally or in writing. Public notice of the
7 hearing shall be given at least fourteen days prior to the date
8 of the hearing and pursuant to the notice requirements of
9 section 92-41.

10 (c) After holding a public hearing under this section, the
11 board may take final action on the matter."

12 SECTION 2. Section 444-16, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "**§444-16 Action on applications.** Within one hundred and
15 twenty days after the filing of a proper application for a
16 license and the payment of the required fees, the board shall
17 ~~[(1) conduct]~~:

18 (1) Conduct an investigation of the applicant, and in that
19 investigation may post pertinent information,
20 including but not limited to, the name and address of
21 the applicant, and if the applicant is associated in
22 any partnership, corporation, or other entity, the



1 names, addresses, and official capacities of the
2 applicant's associates; [~~and (2) either~~]

3 (2) Hold a public hearing on the application pursuant to
4 section 444- , if the board receives timely
5 submitted opposition to the application pursuant to
6 board rule; and

7 (3) Either issue a license to the applicant or notify the
8 applicant in writing by registered mail of the board's
9 decision not to grant the license and specifically
10 notify the applicant of the applicant's right to
11 submit a request for a contested case hearing pursuant
12 to chapter 91 within sixty days of the board's
13 decision. The hearing shall be conducted in
14 accordance with chapter 91."

15 SECTION 3. Section 444-17, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "**§444-17 Revocation, suspension, and renewal of licenses.**

18 In addition to any other actions authorized by law, and after a
19 public hearing conducted pursuant to section 444- , the board
20 may revoke any license issued pursuant to this section, or
21 suspend the right of a licensee to use a license, or refuse to
22 renew a license for any cause authorized by law, including:



- 1 (1) Any dishonest, fraudulent, or deceitful act as a
2 contractor that causes substantial damage to another;
- 3 (2) Engaging in any unfair or deceptive act or practice as
4 prohibited by section 480-2;
- 5 (3) Abandonment of any construction project or operation
6 without reasonable or legal excuse;
- 7 (4) Wilful diversion of funds or property received for
8 prosecution or completion of a specific construction
9 project or operation, or for a specified purpose in
10 the prosecution or completion of any construction
11 project or operation, and the use thereof for any
12 other purpose;
- 13 (5) Wilful departure from, or wilful disregard of plans or
14 specifications in any material respect without consent
15 of the owner or the owner's duly authorized
16 representative, that is prejudicial to a person
17 entitled to have the construction project or operation
18 completed in accordance with those plans and
19 specifications;
- 20 (6) Wilful violation of any law of the State, or any
21 county, relating to building, including any violation



- 1 of any applicable rule of the department of health, or
2 of any applicable safety or labor law;
- 3 (7) Failure to make and keep records showing all
4 contracts, documents, records, receipts, and
5 disbursements by a licensee of all the licensee's
6 transactions as a contractor for a period of not less
7 than three years after completion of any construction
8 project or operation to which the records refer or to
9 permit inspection of those records by the board;
- 10 (8) When the licensee being a partnership or a joint
11 venture permits any partner, member, or employee of
12 the partnership or joint venture who does not hold a
13 license to have the direct management of the
14 contracting business thereof;
- 15 (9) When the licensee being a corporation permits any
16 officer or employee of the corporation who does not
17 hold a license to have the direct management of the
18 contracting business thereof;
- 19 (10) Misrepresentation of a material fact by an applicant
20 in obtaining a license;



- 1 (11) Failure of a licensee to complete in a material
2 respect any construction project or operation for the
3 agreed price if the failure is without legal excuse;
- 4 (12) Wilful failure in any material respect to comply with
5 this chapter or the rules adopted pursuant thereto;
- 6 (13) Wilful failure or refusal to prosecute a project or
7 operation to completion with reasonable diligence;
- 8 (14) Wilful failure to pay when due a debt incurred for
9 services or materials rendered or purchased in
10 connection with the licensee's operations as a
11 contractor when the licensee has the ability to pay or
12 when the licensee has received sufficient funds
13 therefor as payment for the particular operation for
14 which the services or materials were rendered or
15 purchased;
- 16 (15) The false denial of any debt due or the validity of
17 the claim therefor with intent to secure for a
18 licensee, the licensee's employer, or other person,
19 any discount of the debt or with intent to hinder,
20 delay, or defraud the person to whom the debt is due;
- 21 (16) Failure to secure or maintain workers' compensation
22 insurance, unless the licensee is authorized to act as



- 1 a self-insurer under chapter 386 or is excluded from
2 the requirements of chapter 386;
- 3 (17) Entering into a contract with an unlicensed contractor
4 involving work or activity for the performance of
5 which licensing is required under this chapter;
- 6 (18) Performing service on a residential or commercial air
7 conditioner using CFCs without using refrigerant
8 recovery and recycling equipment;
- 9 (19) Performing service on any air conditioner after
10 January 1, 1994, without successful completion of an
11 appropriate training course in the recovery and
12 recycling of CFC and HCFC refrigerants, which included
13 instruction in the proper use of refrigerant recovery
14 and recycling equipment that is certified by
15 Underwriters Laboratories, Incorporated;
- 16 (20) Violating chapter 342C;
- 17 (21) Failure to pay delinquent taxes, interest, and
18 penalties assessed under chapter 237 that relate to
19 the business of contracting, or to comply with the
20 terms of a conditional payment plan with the
21 department of taxation for the payment of such
22 delinquent taxes, interest, and penalties; and




1 (22) Knowingly or intentionally employing a person who is
2 not eligible to work in the United States under
3 federal law to perform work on any project or
4 operation."

5 SECTION 4. This Act does not affect rights and duties that
6 matured, penalties that were incurred, and proceedings that were
7 begun before its effective date.

8 SECTION 5. Statutory material to be repealed is bracketed
9 and stricken. New statutory material is underscored.

10 SECTION 6. This Act shall take effect upon its approval;
11 provided that the amendments made to section 444-17, Hawaii
12 Revised Statutes, under section 3 of this Act, shall not be
13 repealed when that section is reenacted on June 30, 2013,
14 pursuant to section 3 of Act 185, Session Laws of Hawaii 2010.

15

INTRODUCED BY: 

By Request



Report Title:

Contractors License Board; Public Hearings

Description:

Requires the Contractors License Board to conduct public hearings for license applications and disciplinary proceedings.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

