

JAN 23 2009

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# A BILL FOR AN ACT

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RELATING TO CONTRACTORS.

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

SECTION 1. Section 444-10.5, Hawaii Revised Statutes, is amended as follows:

1. By amending subsections (a) and (b) to read:

"(a) In addition to any other remedy available, the investigator ~~[may]~~ shall issue citations to persons acting in the capacity of or engaging in the business of a contractor within the State, without having a license ~~[previously obtained under and in compliance]~~ in good standing in accordance with this chapter and the rules ~~[promulgated]~~ adopted thereunder. If the investigator determines that a person is acting in the capacity of, or engaging in the business of, a contractor within this State without having a license ~~[to so act or engage,]~~ in good standing, the investigator ~~[may]~~ shall issue a citation and a cease and desist order, as provided in subsection (b), to ~~[such]~~ that person.

(b) Each citation shall be in writing and shall describe the basis of the citation, including the specific statutory provisions alleged to have been violated, and shall contain an



1 order to cease and desist from the violation, and an assessment  
2 of civil penalties as provided in section 444-23. The citation  
3 shall also include notice of the sanctions for violating the  
4 cease and desist order. Upon the issuance of a citation, the  
5 person cited shall cease work immediately and shall not resume  
6 work until the person cited holds the licenses required under  
7 this chapter to perform the work. All penalties collected under  
8 this section shall be deposited in the special fund established  
9 under section 26-9."

10 2. By amending subsection (j) to read:

11 "(j) The director may apply to the appropriate court for  
12 injunctive or any other relief the court deems appropriate,  
13 including a fine of not less than \$10,000 for each offense,  
14 against any person who has been issued a citation for operating  
15 without a license and who violates a cease and desist order.  
16 Each day's violation or failure to comply with the license  
17 requirements under this chapter or a cease and desist order  
18 shall be deemed a separate offense. The allegations in the  
19 citation shall be deemed conclusively established for purposes  
20 of a proceeding for permanent or temporary relief to enforce the  
21 cease and desist order."



SECTION 2. Section 444-23, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) Except as provided in subsections (a), (b), (d), and (e), any person who violates or fails to comply with this chapter shall be fined not less than \$100 or more than \$5,000 for each violation; provided that any person without a license in good standing in accordance with this chapter who violates section 444-9 shall be fined:

(1) [~~\$500~~] \$ \_\_\_\_\_ per day or forty per cent of the total contract price, whichever is greater, for the first offense;

(2) [~~\$1,000~~] \$ \_\_\_\_\_ per day or forty per cent of the total contract price, whichever is greater, for the second offense; and

(3) [~~\$5,000~~] \$ \_\_\_\_\_ per day or forty per cent of the total contract price, whichever is greater, for any subsequent offense,

and when the person is or was a defendant or respondent in a separate citation or lawsuit filed with or by the department, all tools, implements, documents, materials, or any other property used by the person in activities violating section 444-9 shall be subject to forfeiture as provided by section



1 444-23.5 and shall be turned over to the department for  
2 disposition under that section."

3 SECTION 3. Statutory material to be repealed is bracketed  
4 and stricken. New statutory material is underscored.

5 SECTION 4. This Act shall take effect on January 1, 2010.

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INTRODUCED BY: \_\_\_\_\_

*[Signature]*

*[Signature]*  
*Clarence M. McMillan*

*Will Egan*

*[Signature]*



**Report Title:**

Contractors; License Requirements; Citations; Civil Penalties

**Description:**

Prohibits the resumption of work for any person who is issued a citation for operating without a contractor's license in good standing until the person cited holds the required licenses conducted and makes the issuance of citations and cease and desist orders mandatory. Amends penalties. Effective 1/1/10.

