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## A BILL FOR AN ACT

RELATING TO CONTRACTORS.

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

1           SECTION 1. Section 444-4, Hawaii Revised Statutes, is  
2 amended to read as follows:

3           "**§444-4 Powers and duties of board.** In addition to any  
4 other powers and duties authorized by law, the board shall:

- 5           (1) Grant licenses, including conditional licenses, to  
6                 contractors pursuant to this chapter and rules[+]   
7                 adopted by the board pursuant to chapter 91;  
8           (2) Adopt, amend, or repeal [~~such~~] rules [~~as~~] that the  
9                 board [~~may deem~~] deems proper [~~fully~~] to fully  
10                effectuate this chapter and carry out the purpose  
11                [~~thereof, which is the protection~~] of protecting the  
12                general public. All rules shall be approved by the  
13                governor and the director, and when adopted pursuant  
14                to chapter 91, shall have the force and effect of law.  
15                The rules may forbid acts or practices deemed by the  
16                board to be detrimental to the accomplishment of the  
17                purpose of this chapter. The rules may require  
18                contractors to make reports to the board containing



1 any [~~items of~~] information [~~as will better~~] necessary  
2 to enable the board to enforce this chapter and rules,  
3 or [~~as will better~~] to enable the board from time to  
4 time to amend the rules to more fully [~~to~~] effectuate  
5 the purposes of this chapter. The rules may require  
6 contractors to furnish reports to owners containing  
7 any [~~matters of~~] information as the board deems  
8 necessary to promote the purpose of this chapter. The  
9 enumeration of specific matters which may properly be  
10 made the subject of rules shall not be construed to  
11 limit the board's general power to make all rules  
12 necessary fully to effectuate the purpose of this  
13 chapter;

14 (3) Adopt rules pursuant to chapter 91 necessary to  
15 implement the provisions of this chapter relating to  
16 CFCs, including, but not limited to, procedures for  
17 the disposal of air conditioning units utilizing CFCs  
18 that include mandatory recovery and recycling of CFCs;

19 (4) Adopt rules pursuant to chapter 91 to establish  
20 procedures necessary to implement the conduct of  
21 criminal history record checks required under section  
22 444-9;



- 1        [~~(4)~~] (5) Enforce this chapter and rules adopted pursuant  
2                    [~~thereto,~~] to this chapter;
- 3        [~~(5)~~] (6) Suspend or revoke any license for any cause  
4                    prescribed by this chapter, or for any violation of  
5                    the rules [~~7~~] adopted by the board; and refuse to  
6                    grant, renew, restore, or reinstate any license for  
7                    any cause which would be grounds for revocation or  
8                    suspension of a license;
- 9        [~~(6)~~] (7) Publish and distribute pamphlets and circulars  
10                   containing any information as the board deems proper  
11                   to further the accomplishment of the purpose of this  
12                   chapter;
- 13        [~~(7)~~] (8) Contract for professional testing services to  
14                   prepare, administer, and grade the examinations for  
15                   applicants as may be required for the purposes of this  
16                   chapter [~~—The~~]; provided that the board shall  
17                   determine the scope and length of the examinations,  
18                   whether the examinations shall be oral, written, or  
19                   both, and the score that shall be deemed a passing  
20                   score;



1       ~~[(8)]~~ (9) Order summary suspension of a license; provided  
2               that summary suspensions may be delegated in  
3               accordance with section 436B-23;

4       ~~[(9)]~~ (10) Issue informal nonbinding interpretations or  
5               declaratory rulings, and conduct contested case  
6               proceedings pursuant to chapter 91; and

7       ~~[(10)]~~ (11) Subpoena witnesses and documents, administer  
8               oaths, receive affidavits and oral testimony,  
9               including telephonic communications."

10       SECTION 2. Section 444-9, Hawaii Revised Statutes, is  
11 amended to read as follows:

12       "**§444-9 Licenses required.** (a) No person within the  
13 purview of this chapter shall act, or assume to act, or  
14 advertise, as general engineering contractor, general building  
15 contractor, or specialty contractor without a license previously  
16 obtained under and currently in compliance with this chapter and  
17 the rules and regulations of the contractors license board.

18       (b) Effective January 1, 2012, the board shall conduct a  
19 criminal history record check on each applicant for licensure in  
20 accordance with section 846-2.7 and pursuant to procedures  
21 adopted by the board.



1        (c) Every person who holds a license under this chapter  
2 issued prior to January 1, 2012, shall be subject to a criminal  
3 history record check conducted by the board in accordance with  
4 section 846-2.7 and pursuant to procedures adopted by the board.

5        (d) The board shall adopt rules pursuant to chapter 91 to  
6 establish procedures relating to the criminal history record  
7 checks required under this section."

8        SECTION 3. Section 846-2.7, Hawaii Revised Statutes, is  
9 amended by amending subsection (b) to read as follows:

10        "(b) Criminal history record checks may be conducted by:

11        (1) The department of health on operators of adult foster  
12 homes or developmental disabilities domiciliary homes  
13 and their employees, as provided by section 333F-22;

14        (2) The department of health on prospective employees,  
15 persons seeking to serve as providers, or  
16 subcontractors in positions that place them in direct  
17 contact with clients when providing non-witnessed  
18 direct mental health services as provided by section  
19 321-171.5;

20        (3) The department of health on all applicants for  
21 licensure for, operators for, prospective employees,  
22 and volunteers at [~~one or more of the following:~~]



1           every: skilled nursing facility, intermediate care  
2           facility, adult residential care home, expanded adult  
3           residential care home, assisted living facility, home  
4           health agency, hospice, adult day health center,  
5           special treatment facility, therapeutic living  
6           program, intermediate care facility for the mentally  
7           retarded, hospital, rural health center and  
8           rehabilitation agency, and, in the case of any of the  
9           above facilities operating in a private residence, on  
10          any adult living in the facility other than the client  
11          as provided by section 321-15.2;

12          (4) The department of education on employees, prospective  
13          employees, and teacher trainees in any public school  
14          in positions that necessitate close proximity to  
15          children as provided by section 302A-601.5;

16          (5) The counties on employees and prospective employees  
17          who may be in positions that place them in close  
18          proximity to children in recreation or child care  
19          programs and services;

20          (6) The county liquor commissions on applicants for liquor  
21          licenses as provided by section 281-53.5;



- 1           (7) The department of human services on operators and  
2           employees of child caring institutions, child placing  
3           organizations, and foster boarding homes as provided  
4           by section 346-17;
- 5           (8) The department of human services on prospective  
6           adoptive parents as established under section  
7           346-19.7;
- 8           (9) The department of human services on applicants to  
9           operate child care facilities, prospective employees  
10          of the applicant, and new employees of the provider  
11          after registration or licensure as provided by section  
12          346-154;
- 13          (10) The department of human services on persons exempt  
14          pursuant to section 346-152 to be eligible to provide  
15          child care and receive child care subsidies as  
16          provided by section 346-152.5;
- 17          (11) The department of human services on operators and  
18          employees of home and community-based case management  
19          agencies and operators and other adults, except for  
20          adults in care, residing in foster family homes as  
21          provided by section 346-335;



- 1           (12) The department of human services on staff members of  
2                   the Hawaii youth correctional facility as provided by  
3                   section 352-5.5;
- 4           (13) The department of human services on employees,  
5                   prospective employees, and volunteers of contracted  
6                   providers and subcontractors in positions that place  
7                   them in close proximity to youth when providing  
8                   services on behalf of the office or the Hawaii youth  
9                   correctional facility as provided by section 352D-4.3;
- 10          (14) The judiciary on employees and applicants at detention  
11                   and shelter facilities as provided by section 571-34;
- 12          (15) The department of public safety on employees and  
13                   prospective employees who are directly involved with  
14                   the treatment and care of persons committed to a  
15                   correctional facility or who possess police powers  
16                   including the power of arrest as provided by section  
17                   353C-5;
- 18          (16) The department of commerce and consumer affairs on  
19                   applicants for private detective or private guard  
20                   licensure as provided by section 463-9;
- 21          (17) Private schools and designated organizations on  
22                   employees and prospective employees who may be in



1 positions that necessitate close proximity to  
2 children; provided that private schools and designated  
3 organizations receive only indications of the states  
4 from which the national criminal history record  
5 information was provided pursuant to section 302C-1;

6 (18) The public library system on employees and prospective  
7 employees whose positions place them in close  
8 proximity to children as provided by section  
9 302A-601.5;

10 (19) The State or any of its branches, political  
11 subdivisions, or agencies on applicants and employees  
12 holding a position that has the same type of contact  
13 with children, vulnerable adults, or persons committed  
14 to a correctional facility as other public employees  
15 who hold positions that are authorized by law to  
16 require criminal history record checks as a condition  
17 of employment as provided by section 78-2.7;

18 (20) The department of human services on licensed adult day  
19 care center operators, employees, new employees,  
20 subcontracted service providers and their employees,  
21 and adult volunteers as provided by section 346-97;



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- 1       (21) The department of human services on purchase of  
2           service contracted and subcontracted service providers  
3           and their employees serving clients of the adult and  
4           community care services branch, as provided by section  
5           346-97;
- 6       (22) The department of human services on foster grandparent  
7           program, retired and senior volunteer program, senior  
8           companion program, and respite companion program  
9           participants as provided by section 346-97;
- 10      (23) The department of human services on contracted and  
11           subcontracted service providers and their current and  
12           prospective employees that provide home and community-  
13           based services under Section 1915(c) of the Social  
14           Security Act, 42 United States Code Section 1396n(c),  
15           or under any other applicable section or sections of  
16           the Social Security Act for the purposes of providing  
17           home and community-based services, as provided by  
18           section 346-97;
- 19      (24) The department of commerce and consumer affairs on  
20           proposed directors and executive officers of a bank,  
21           savings bank, savings and loan association, trust



- 1            company, and depository financial services loan  
2            company as provided by section 412:3-201;
- 3        (25) The department of commerce and consumer affairs on  
4            , proposed directors and executive officers of a  
5            nondepository financial services loan company as  
6            provided by section 412:3-301;
- 7        (26) The department of commerce and consumer affairs on the  
8            original chartering applicants and proposed executive  
9            officers of a credit union as provided by section  
10           412:10-103;
- 11       (27) The department of commerce and consumer affairs on:  
12           (A) Each principal of every non-corporate applicant  
13           for a money transmitter license; and  
14           (B) The executive officers, key shareholders, and  
15           managers in charge of a money transmitter's  
16           activities of every corporate applicant for a  
17           money transmitter license,  
18           as provided by section 489D-9;
- 19       (28) The department of commerce and consumer affairs on  
20           applicants for licensure and persons licensed under  
21           title 24;
- 22       (29) The Hawaii health systems corporation on:



- 1 (A) Employees;
- 2 (B) Applicants seeking employment;
- 3 (C) Current or prospective members of the corporation
- 4 board or regional system board; or
- 5 (D) Current or prospective volunteers, providers, or
- 6 contractors,
- 7 in any of the corporation's health facilities as
- 8 provided by section 323F-5.5;
- 9 (30) The department of commerce and consumer affairs on:
  - 10 (A) An applicant for a mortgage loan originator
  - 11 license; and
  - 12 (B) Each control person, executive officer, director,
  - 13 general partner, and manager of an applicant for
  - 14 a mortgage loan originator company license,
  - 15 as provided by chapter 454F; [~~and~~]
- 16 (31) The contractors license board on each applicant for or
- 17 holder of a license issued by the board as provided by
- 18 section 444-9; and
- 19 [~~(31)~~] (32) Any other organization, entity, or the State,
- 20 its branches, political subdivisions, or agencies as
- 21 may be authorized by state law."



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

3           SECTION 5. This Act shall take effect on July 1, 2011.

4

INTRODUCED BY:           Cabrera H. Ay          

BY REQUEST

JAN 24 2011



**Report Title:**

Contractors; Licenses; Criminal History Record Checks

**Description:**

Requires applicants and holders of a contractor license to be subject to a criminal history record check conducted by the contractors licensing board pursuant to rules adopted by the board.

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

