



GOV. MSG. NO. **1347**

EXECUTIVE CHAMBERS
HONOLULU

NEIL ABERCROMBIE
GOVERNOR

July 06, 2012

The Honorable Shan Tsutsui, President
and Members of the Senate
Twenty-Sixth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

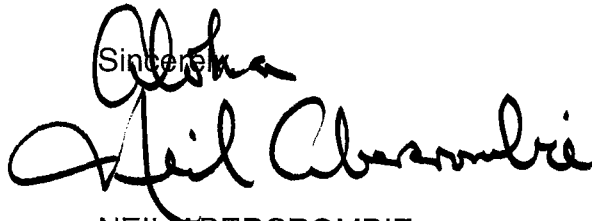
The Honorable Calvin Say, Speaker
and Members of the House
Twenty-Sixth State Legislature
State Capitol, Room 431
Honolulu, Hawaii 96813

Dear President Tsutsui, Speaker Say and Members of the Legislature:

This is to inform you that on July 06, 2012, the following bill was signed into law:

HB1295 HD3 SD2 CD1

RELATING TO BUSINESS.
Act 244 (12)

Sincerely,


NEIL ABERCROMBIE
Governor, State of Hawaii

RECEIVED
SENATE
OFFICE OF THE PRESIDENT

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on JUL 6 2012

HOUSE OF REPRESENTATIVES
TWENTY-SIXTH LEGISLATURE, 2011
STATE OF HAWAII

ACT 244
H.B. NO. 1295
H.D. 3
S.D. 2
C.D. 1

A BILL FOR AN ACT

RELATING TO BUSINESS.

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

SECTION 1. Chapter 708, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

"PART . UNLICENSED CONTRACTING OFFENSES

§708-A Unlicensed contracting activity. (1) A person commits the offense of unlicensed contracting activity if the person:

(a) Engages in any activity that requires a contractor's license under chapter 444 and is not a licensed contractor when engaging in the activity, other than an offense involving the inadvertent failure to renew a previously existing license; or

(b) Uses any word, title, or representation to induce the false belief that the person is licensed under chapter 444 to engage in contracting activity.

(2) Unlicensed contracting activity is a misdemeanor.



(3) Each day the violation of this section continues after written notice of the violation to the unlicensed contractor shall constitute a distinct and separate offense.

(4) It is an affirmative defense to a prosecution under this section that the defendant was a licensed contractor performing activity outside the scope of the defendant's contractor's license. This defense shall not preclude any administrative or civil enforcement action for the unlicensed activity.

§708-B Habitual unlicensed contracting activity; felony.

(1) A person commits the offense of habitual unlicensed contracting activity if the person has had two or more convictions within ten years, preceding the conduct for which the person is charged under this section, for unlicensed contracting activity in violation of section 436B-27 or 708-A, and:

(a) Engages in any activity for which a contractor's license is required under chapter 444, and is not licensed as a contractor under chapter 444 when engaging in the activity; or



(b) Uses any word, title, or representation to induce the false belief that the person is licensed under chapter 444 to engage in contracting activity.

(2) A conviction for purposes of this section is a judgment on a verdict, a finding of guilt, or a judgment on a plea of guilty or nolo contendere. The convictions shall have occurred on separate dates and be for separate incidents on separate dates. At the time of the instant offense, the convictions shall not have been expunged by pardon, reversed, or set aside.

(3) Habitual unlicensed contracting activity is a class C felony.

(4) It is an affirmative defense to a prosecution under this section that the defendant was a licensed contractor performing activity outside the scope of the defendant's contractor's license. This defense shall not preclude any administrative or civil enforcement action for the unlicensed activity.

§708-C Unlicensed contractor fraud. (1) A person commits the offense of unlicensed contractor fraud if the person:

(a) Engages in any activity that requires a contractor's license under chapter 444 and is not licensed as a



1 contractor under chapter 444 when the person engages
2 in the activity; and

3 (b) While engaged in the activity, obtains or exerts
4 control over the property of another by deception,
5 with intent to deprive the other of the property.

6 (2) For purposes of this section, "deception," as defined
7 in section 708-800, includes deception as to the person's status
8 as a licensed contractor or as to permits required to engage in
9 the activity.

10 **§708-D Unlicensed contractor fraud in the first degree.**

11 (1) A person commits the offense of unlicensed contractor fraud
12 in the first degree if the person commits unlicensed contractor
13 fraud and the total value of the property over which the person
14 obtains control is equal to or greater than \$20,000.

15 (2) Unlicensed contractor fraud in the first degree is a
16 class B felony.

17 **§708-E Unlicensed contractor fraud in the second degree.**

18 (1) A person commits the offense of unlicensed contractor fraud
19 in the second degree if the person commits unlicensed contractor
20 fraud and the total value of the property over which the person
21 obtains control is less than \$20,000.



1 (2) Unlicensed contractor fraud in the second degree is a
2 class C felony.

3 §708-F Unlicensed contractor fraud; valuation of property.

4 For purposes of unlicensed contractor fraud, the value of the
5 property shall be the greater of:

6 (1) The value of property as provided in section 708-801;
7 or

8 (2) The total value of all moneys and any assets of value
9 paid or lost by the victim or victims pursuant to the
10 same scheme or course of conduct."

11 SECTION 2. Section 436B-27, Hawaii Revised Statutes, is
12 amended by amending subsection (b) to read as follows:

13 "(b) Any person, who engages in an activity requiring a
14 license issued by the licensing authority and who fails to
15 obtain the required license, or who uses any word, title, or
16 representation to induce the false belief that the person is
17 licensed to engage in the activity, other than a circumstance of
18 first instance involving the inadvertent failure to renew a
19 previously existing license, shall be guilty of a misdemeanor
20 ~~[and be subject to a fine of not more than \$1,000 or imprisoned not~~
21 ~~more than one year, or both,]~~ and each ~~[day's violation]~~ day of
22 unlicensed activity shall be deemed a separate offense."



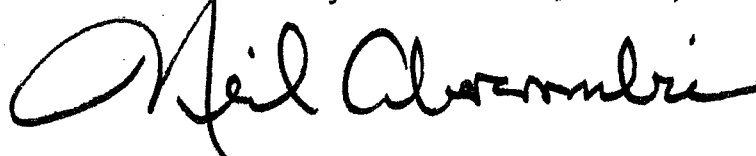
1 SECTION 3. In codifying the new sections added by section
2 1 of this Act, the revisor of statutes shall substitute
3 appropriate section numbers for the letters used in designating
4 the new sections in this Act.

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 on July 1, 2012.

APPROVED this 6 day of JUL , 2012



GOVERNOR OF THE STATE OF HAWAII

