

S.B. NO. 2824

JAN 23 2014

A BILL FOR AN ACT

RELATING TO ASSISTING UNLICENSED CONTRACTORS.

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

1 SECTION 1. Section 444-9.3, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "[+]§444-9.3[+] **Aiding or abetting.** Aiding or abetting an
4 unlicensed person to evade this chapter or knowingly combining
5 or conspiring with an unlicensed person, or allowing one's
6 license to be used by an unlicensed person, or acting as agent
7 or partner or associate, or otherwise, of an unlicensed person,
8 with the intent to evade this chapter, shall be a misdemeanor[-]
9 and may subject the licensee to additional discipline by the
10 board."

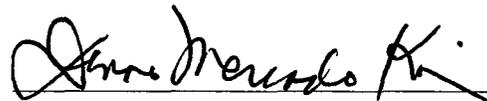
11 SECTION 2. Statutory material to be repealed is bracketed
12 and stricken. New statutory material is underscored.

13 SECTION 3. This Act, upon its approval, shall take effect
14 on July 1, 2014.

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INTRODUCED BY:



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BY REQUEST

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Report Title:

Aiding and Abetting; Unlicensed Contractor; Discipline

Description:

Provides that a contractor licensee who aids and abets an unlicensed contractor may subject the licensee to further discipline by the Contractors License Board.

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

JUSTIFICATION SHEET

SB. NO. 2824

DEPARTMENT: Commerce and Consumer Affairs

TITLE: A BILL FOR AN ACT RELATING TO ASSISTING UNLICENSED CONTRACTORS.

PURPOSE: To clarify that a contractor licensee who aids and abets an unlicensed contractor may be subject to additional discipline by the Contractors License Board ("Board").

MEANS: Amend section 444-9.3, Hawaii Revised Statutes (HRS).

JUSTIFICATION: Pursuant to section 444-9.3, HRS, it is a misdemeanor for a licensed contractor to aid and abet an unlicensed person. The Board, through several prior decisions, has determined that section 444-9.3, HRS, applies to criminal conduct and penalties and is therefore outside the scope of administrative proceedings. As a result, the Department's Regulated Industries Complaints Office ("RICO") is unable to administratively prosecute violations of section 444-9.3, HRS.¹

For purposes of administrative prosecutions of aiding and abetting conduct, RICO has relied on section 444-17(17), HRS. This section, however, only applies to situations where a licensee enters into a contract with an unlicensed contractor. Since aiding and abetting conduct by a licensee often occurs without a written or oral contract between the licensee and the unlicensed person, RICO is unable to pursue sanctions against the aiding and abetting licensee in a majority of circumstances.

¹ RICO is unaware of any criminal prosecutions under section 444-9.3, HRS, against licensed contractors for aiding and abetting.

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This bill clarifies that a licensee engaging in aiding and abetting conduct may be subject to further discipline by the Board.

Impact on the public: The bill will benefit consumers by strengthening enforcement of aiding and abetting violations by contractor licensees.

Impact on the department and other agencies: The bill will enable RICO to pursue and the Board to impose disciplinary action against contractor licensees who aid and abet an unlicensed contractor. No impact on other agencies is anticipated.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: None.

OTHER AFFECTED
AGENCIES: None.

EFFECTIVE DATE: July 1, 2014.