

JAN 23 2015

A BILL FOR AN ACT

RELATING TO PUBLIC SAFETY.

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

1 SECTION 1. The legislature finds that public safety is
2 unduly put in jeopardy when a general contractor is allowed to
3 act as a specialty contractor in an area in which the general
4 contractor is not licensed to operate. The Hawaii supreme court
5 held that a general engineering or building contractor is
6 prohibited from doing any work that requires it to act as a
7 specialty contractor in an area the general contractor is not
8 licensed to operate. *Okada Trucking Co., Ltd. v. Board of Water*
9 *Supply, 40 p.3d 73, 83 (2002).*

10 The legislature finds that the purpose of chapter 444,
11 Hawaii Revised Statutes, entitled "Contractors", is as stated in
12 section 444-4(2), "the protection of the general public." The
13 protection of the general public is best achieved through the
14 requirement of specialty licenses for specialty work. The
15 specialty license ensures that basic industry standards for each
16 specialty craft are met because the contractor must demonstrate



1 its qualifications in this regard to obtain a specialty license.

2 Thus, the possibility of substandard work is minimized.

3 The purpose of this Act is to safeguard public safety as it
4 relates to contracting by not allowing a general contractor to
5 do specialty work in areas in which it does not possess a
6 specialty license.

7 SECTION 2. Section 444-1, Hawaii Revised Statutes, is
8 amended by adding a new definition to be appropriately inserted
9 and to read as follows:

10 "Incidental and supplemental work" means any work directly
11 related to a larger project, major project, or operation
12 requiring the specialty license held by a general engineering,
13 general building, or specialty contractor, for which the
14 aggregate contract price for labor, materials, taxes, and all
15 other items is not more than half a per cent of the total
16 contract."

17 SECTION 3. Section 444-7, Hawaii Revised Statutes, is
18 amended by amending subsections (b) and (c) to read as follows:

19 "(b) A general engineering contractor is a contractor
20 whose principal contracting business is in connection with fixed
21 works requiring specialized engineering knowledge and skill,



1 including the following divisions or subjects: irrigation,
2 drainage, water power, water supply, flood control, inland
3 waterways, harbors, docks and wharves, shipyards and ports, dams
4 and hydroelectric projects, levees, river control and
5 reclamation works, railroads, highways, streets and roads,
6 tunnels, airports and airways, sewers and sewage disposal plants
7 and systems, waste reduction plants, bridges, overpasses,
8 underpasses and other similar works, pipelines and other systems
9 for the transmission of petroleum and other liquid or gaseous
10 substances, parks, playgrounds and other recreational works,
11 refineries, chemical plants and similar industrial plants
12 requiring specialized engineering knowledge and skill,
13 powerhouses, power plants and other utility plants and
14 installations, mines and metallurgical plants, land levelling
15 and earth-moving projects, excavating, grading, trenching,
16 paving and surfacing work and cement and concrete works in
17 connection with the above mentioned fixed works.

18 A general engineering contractor shall employ responsible
19 managing employees with appropriate specialty licenses and
20 specialty contractors when necessary to complete any contracted
21 work.



1 (c) A general building contractor is a contractor whose
2 principal contracting business is in connection with any
3 structure built, being built, or to be built, for the support,
4 shelter, and enclosure of persons, animals, chattels, or movable
5 property of any kind, requiring in its construction the use of
6 more than two unrelated building trades or crafts, or to do or
7 superintend the whole or any part thereof.

8 A general building contractor shall employ responsible
9 managing employees with appropriate specialty licenses and
10 specialty contractors when necessary to complete any contracted
11 work."

12 SECTION 4. Section 444-7.5, Hawaii Revised Statutes, is
13 amended by amending subsection (a) to read as follows:

14 "(a) The board shall provide for the licensure or
15 permitted activities as a specialty contractor of any person who
16 engages in any activity involving the application, enclosure,
17 removal, encapsulation, renovation, repair, demolition, or other
18 disturbances of friable asbestos or asbestos-containing material
19 that may become friable during the activity; provided that this
20 section shall not apply to activities such as maintenance,
21 repair, or removal of asbestos pipe or sheets, vinyl asbestos



1 floor materials or asbestos- bituminous or resinous material as
2 well as other activities that the board may exempt which are
3 incidental and supplemental work to the primary purpose for
4 which the contractor holds a license and if they were performed
5 in a manner that no health hazard is posed to the public, the
6 contractor, or the contractor's employees."

7 SECTION 5. Section 444-9, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "§444-9 Licenses required. No person within the purview
10 of this chapter shall act, or assume to act, or advertise, as
11 general engineering contractor, general building contractor, or
12 specialty contractor without a license previously obtained under
13 and in compliance with this chapter and the rules and
14 regulations of the contractors license board. A general
15 engineering or general building contractor shall not perform
16 incidental and supplemental work for which it is not,
17 automatically or otherwise, duly licensed and for which it lacks
18 the requisite specialized skill to undertake."



1 SECTION 6. New statutory material is underscored.

2 SECTION 7. This Act shall take effect upon its approval.

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Report Title:

Contractors; Incidental Work

Description:

Prohibits a general engineering and general building contractor from doing any work that requires it to act as a specialty contractor in an area the general contractor is not licensed to operate.

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