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# A BILL FOR AN ACT

RELATING TO CONTRACTING.

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

1           SECTION 1. Chapter 46, Hawaii Revised Statutes, is amended  
2 by adding a new section to part V to be appropriately designated  
3 and to read as follows:

4           "§46-       Private building developments; tax clearances.

5           (a) No building license shall be granted for a private  
6 development valued at \$195,000 or greater, unless the applicant  
7 has presented to the issuing officer tax clearances from the  
8 director of taxation and the Internal Revenue Service on behalf  
9 of the building contractor and any subcontractors. The issuing  
10 officer shall verify that all contractors and subcontractors  
11 have filed all tax returns due, and that all taxes, interest,  
12 and penalties levied against the contractor and subcontractors  
13 or accrued under title 14 that are administered by the  
14 department of taxation and under the Internal Revenue Code have  
15 been paid. The director of taxation may waive the Internal  
16 Revenue Service tax clearance requirement if the director  
17 determines that it is in the best interest of the State. A



1 building license issued pursuant to this subsection shall be  
2 valid for two years, provided that all appropriate tax  
3 clearances were obtained and submitted with the application.

4 (b) Any assignment of a contract for a private development  
5 valued at \$195,000 or greater shall require the assignee, as a  
6 condition precedent to the assignment, to first obtain a bulk  
7 sales certificate if required under section 237-43, and present  
8 the certificate, or tax clearance as provided under subsection  
9 (a) if a bulk sales certificate is not required, to the state or  
10 county contracting officer or agent.

11 (c) If the building license issued pursuant to subsection  
12 (a) expires, all state and county contracting officers or agents  
13 shall withhold final inspection of a private development valued  
14 at \$195,000 or greater until the receipt of tax clearances from  
15 the director of taxation and the Internal Revenue Service on  
16 behalf of the building contractor and any subcontractors;  
17 provided that the tax clearances shall be dated no earlier than  
18 forty-five days prior to the date of the request for final  
19 inspection of the private development.

20 (d) This section shall not apply to a contractor or  
21 subcontractor if the department of taxation certifies that the



1 contractor or subcontractor is in good standing under a plan in  
2 which delinquent taxes, interest, and penalties are being paid  
3 to the department of taxation or the Internal Revenue Service,  
4 if applicable, in installments.

5 (e) The department of taxation may require that an  
6 application for a tax clearance required by this section be  
7 submitted electronically.

8 (f) Any officer or employee of any governmental agency who  
9 intentionally or knowingly violates any provision under this  
10 section shall be fined not more than \$1,000 or imprisoned not  
11 more than one year, or both.

12 (g) This section shall not apply to the extent and during  
13 the period that the validity of the taxes, penalties, or  
14 interest is being contested in an administrative or judicial  
15 appeal with the department of taxation or Internal Revenue  
16 Service."

17 SECTION 2. This Act does not affect rights and duties that  
18 matured, penalties that were incurred, and proceedings that were  
19 begun before its effective date.

20 SECTION 3. New statutory material is underscored.



1 SECTION 4. This Act shall take effect on January 1, 2022,  
2 and shall be repealed on December 31, 2026.



**Report Title:**

DOTAX; Counties; Contracting; Private Developments; Tax Clearance

**Description:**

Requires contractors and subcontractors to submit tax clearances as a condition of: (1) obtaining building permits for private developments exceeding a certain value, which shall be valid for two years; (2) assigning a contract for private developments exceeding a certain value; and (3) obtaining final inspection of private developments exceeding a certain value in certain circumstances. Authorizes the department of taxation to require that tax clearance applications be submitted electronically. Establishes penalties. Effective 1/1/2022. Repeals 12/31/2026. (SD1)

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

