
A BILL FOR AN ACT

RELATING TO CONTRACTORS.

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

1 SECTION 1. The legislature finds that the State faces a
2 critical shortage of affordable rental housing, creating
3 challenges for residents seeking accessible and diverse housing
4 options. The escalating demand for rental properties, coupled
5 with limited housing supply, has led to increased housing costs
6 and economic strain on families throughout the State.

7 The legislature further finds that Hawaii is one of only
8 seven states in the country that temporarily prohibit the
9 leasing of residential structures built by the owner-builder.
10 Current regulations and barriers hinder homeowners in Hawaii
11 from efficiently converting their single-family properties into
12 multi-family dwellings, limiting their ability to actively
13 participate in addressing the housing crisis.

14 Accordingly, the purpose of this Act is to remove the
15 leasing restriction on owner-builders who obtain an owner-
16 builder exemption to act as their own contractor and who build
17 or improve residential or farm buildings or structures on



1 property they own or lease and do not offer the buildings or
2 structures for sale.

3 SECTION 2. Section 444-2.5, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "**§444-2.5 Owner-builder exemption.** (a) This chapter
6 shall not apply to owners or lessees of property who build or
7 improve residential or farm buildings or structures on property
8 [~~for their own use, or for use by their grandparents, parents,~~
9 ~~siblings, or children,~~] they own or lease and who do not offer
10 the buildings or structures for sale [~~or lease~~]; provided that:

11 (1) To qualify for an exemption under this section, the
12 owner or lessee shall register for the exemption as
13 provided in section 444-9.1;

14 (2) The exemption under this section shall not apply to
15 electrical or plumbing work that must be performed
16 only by persons or entities licensed in accordance
17 with this chapter, unless the owner or lessee of the
18 property is licensed for [~~such~~] work under chapter
19 448E;

20 (3) An owner or lessee exempted under this section shall:



- 1 (A) Supervise the construction activity on the exempt
- 2 buildings or structures;
- 3 (B) Hire subcontractors appropriately licensed under
- 4 this chapter to perform any part of the
- 5 construction activity for which a license is
- 6 required;
- 7 (C) Ensure that any electrical or plumbing work is
- 8 performed by persons and entities appropriately
- 9 licensed under this chapter or chapter 448E;
- 10 (D) Deduct Federal Insurance Contributions Act and
- 11 withholding taxes and provide workers'
- 12 compensation insurance for persons working on the
- 13 construction activity who are not licensed under
- 14 this chapter or chapter 448E and who shall be
- 15 considered employees of the owner or lessee; and
- 16 (E) Ensure that the construction activity complies
- 17 with all applicable laws, ordinances, building
- 18 codes, and zoning regulations;
- 19 (4) Until completion of the construction activity, an
- 20 owner or lessee exempted under this section shall make



1 available the following records for immediate
2 inspection upon request by the department:
3 (A) A copy of the building permit application;
4 (B) A copy of the issued building permit;
5 (C) Copies of all contracts with the names of all
6 persons who performed or are performing work on
7 the exempt buildings and structures; and
8 (D) Proof of payment to all persons contracted to
9 work on the exempt buildings and structures; and
10 (5) Upon completion of the construction activity, an owner
11 or lessee exempted under this section shall keep and
12 maintain the records identified in paragraph (4) for a
13 period of three years from completion of the
14 construction activity and shall make the records
15 available for inspection within seven business days
16 upon request by the department.
17 (b) Proof of the sale [~~or lease~~] or offering for sale [~~or~~
18 ~~lease~~] of the structure within one year after completion shall
19 be prima facie evidence that the construction or improvement of
20 the structure was undertaken for the purpose of sale [~~or lease~~];
21 provided that this subsection shall not apply to:



- 1 (1) Residential properties sold [~~or leased~~] to employees
- 2 of the owner or lessee;
- 3 (2) Construction or improvements performed pursuant to an
- 4 approved building permit where the estimated valuation
- 5 of work to be performed, as reflected in the building
- 6 permit, is less than \$10,000; or
- 7 (3) Any sale [~~or lease~~] caused by an eligible unforeseen
- 8 hardship as determined by the board pursuant to
- 9 subsection (c).

10 (c) The board shall determine the eligibility of an

11 unforeseen hardship claimed by an owner under subsection (b);

12 provided that an alleged unforeseen hardship shall not be deemed

13 eligible if the board determines that the construction or

14 improvement of the structure was undertaken for the purpose of

15 sale [~~or lease~~]. An exemption for an unforeseen hardship shall

16 not be denied solely because of lack of completion, as the term

17 is defined in subsection [~~(e)~~] (h). An owner seeking a

18 determination of eligibility of an unforeseen hardship shall:

- 19 (1) Be in compliance with the requirements set forth in
- 20 the disclosure statement required to be provided under
- 21 section 444-9.1; and



- 1 (2) Submit a written application to the board at any time
2 prior to selling[~~ing~~, ~~leasing~~] or offering to sell [~~or~~
3 ~~lease~~] the property describing the nature of the
4 applicant's unforeseen hardship. The application
5 shall include supporting documentation detailing the
6 hardship, such as:
- 7 (A) Evidence of receipt of unemployment compensation;
 - 8 (B) Tax returns;
 - 9 (C) Medical records;
 - 10 (D) Bank statements;
 - 11 (E) Divorce decrees ordering sale of property;
 - 12 (F) Mortgage default letters; or
 - 13 (G) Bankruptcy filings.

14 The board shall communicate its determination to the owner in
15 writing within ninety days of receiving a completed application
16 under this subsection.

17 (d) Any owner or lessee of property found to have violated
18 this section shall not be permitted to engage in any activities
19 pursuant to this section or to register under section 444-9.1
20 for a period of three years. There is a rebuttable presumption
21 that an owner or lessee has violated this section when the owner



1 or lessee obtains an exemption from the licensing requirements
2 of section 444-9 more than once in two years.

3 ~~[(e) For the purposes of this section, "completion" means~~
4 ~~the date of final inspection approval by the county.]~~

5 (e) An owner or lessee exempted under this section shall
6 provide, at the time of offering a residential structure for
7 lease or sublease, a written notice stating that the residential
8 structure was built or improved by an individual who is not a
9 licensed contractor. The written notice shall be signed and
10 dated by the owner or lessee.

11 (f) An owner or lessee exempted under this section shall
12 not be eligible to recover from the contractors recovery fund.

13 (g) This section shall not apply to agricultural
14 buildings, structures, or appurtenances thereto that do not
15 require a building permit or are exempt from the building code.

16 (h) For purposes of this section, "completion" means the
17 date of final inspection approval by the county."

18 SECTION 3. Section 444-9.1, Hawaii Revised Statutes, is
19 amended by amending subsection (c) to read as follows:



1 "(c) The county shall provide applicants for the exemption
2 under section 444-2.5 with a disclosure statement in
3 substantially the following form:

4 "Disclosure Statement

5 State law requires construction to be done by licensed
6 contractors. You have applied for a permit under an
7 exemption to that law. The exemption provided in section
8 444-2.5, Hawaii Revised Statutes, allows you, as the owner
9 or lessee of your property, to act as your own general
10 contractor even though you do not have a license. You must
11 supervise the construction yourself. You must also hire
12 licensed subcontractors. [~~The building must be for your~~
13 ~~own use and occupancy.~~] It may not be built for sale [~~or~~
14 ~~lease~~]. If you sell [~~or lease~~] a building you have built
15 yourself within one year after the construction is
16 complete, the law will presume that you built it for sale
17 [~~or lease~~], which is a violation of the exemption, and you
18 may be prosecuted for this. It is your responsibility to
19 make sure that subcontractors hired by you have licenses
20 required by state law and by county licensing ordinances.
21 Electrical or plumbing work must be performed by



1 contractors licensed under chapters 448E and 444, Hawaii
2 Revised Statutes. Any person working on your building who
3 is not licensed must be your employee, which means that you
4 must deduct F.I.C.A. and withholding taxes and provide
5 workers' compensation for that employee, all as prescribed
6 by law. Your construction must comply with all applicable
7 laws, ordinances, building codes, and zoning regulations.
8 If you violate section 444-2.5, Hawaii Revised Statutes, or
9 fail to comply with the requirements set forth in this
10 disclosure statement, you may be fined \$5,000 or forty per
11 cent of the appraised value of the building as determined
12 by the county tax appraiser, whichever is greater, for the
13 first offense; and \$10,000 or fifty per cent of the
14 appraised value of the building as determined by the county
15 tax appraiser, whichever is greater, for any subsequent
16 offense."

17 The county shall not issue a building permit to the owner-
18 applicant until the applicant signs a statement that the
19 applicant has read and understands the disclosure form."

20 SECTION 4. Statutory material to be repealed is bracketed
21 and stricken. New statutory material is underscored.



1 SECTION 5. This Act shall take effect on July 1, 3000.



Report Title:

Contractors; Owner-builder Exemption; Leasing Restriction;
Disclaimer; Repeal

Description:

Repeals the leasing restriction on owner-builders who obtain an owner-builder exemption to act as their own contractor and who build or improve residential or farm buildings or structures on property they own or lease and do not offer the buildings or structures for sale. Requires an owner or lessee to provide signed written notice that the structure for lease or sublease was built or improved by an individual who is not a licensed contractor. Effective 7/1/3000. (HD1)

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

