



LINDA LINGLE
GOVERNOR
JAMES R. AIONA, JR.
LT. GOVERNOR

STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
335 MERCHANT STREET, ROOM 310
P.O. Box 541
HONOLULU, HAWAII 96809
Phone Number: 586-2850
Fax Number: 586-2856
www.hawaii.gov/dcca

LAWRENCE M. REIFURTH
DIRECTOR
RONALD BOYER
DEPUTY DIRECTOR

**PRESENTATION OF
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
REGULATED INDUSTRIES COMPLAINTS OFFICE**

**TO THE HOUSE COMMITTEE ON
ECONOMIC REVITALIZATION, BUSINESS, AND MILITARY AFFAIRS**

**TWENTY-FIFTH STATE LEGISLATURE
REGULAR SESSION, 2009**

**TUESDAY, MARCH 17, 2009
7:30 A.M.**

TESTIMONY ON SENATE BILL NO. 205 S.D.1 – RELATING TO OWNER-BUILDERS

**TO THE HONORABLE ANGUS L.K. MCKELVEY, CHAIR,
AND TO THE HONORABLE ISAAC W. CHOY, VICE-CHAIR,
AND MEMBERS OF THE COMMITTEE:**

The Department of Commerce and Consumer Affairs ("Department") appreciates the opportunity to testify on Senate Bill No. 205 S.D.1, Relating to Owner-Builders. My name is Jo Ann Uchida, Complaints and Enforcement Officer for the Department's Regulated Industries Complaints Office ("RICO"). The Department strongly supports measures that will enhance its enforcement of laws against unlicensed contracting activity. The Department supports certain provisions of this bill and takes no position as to the remainder of the bill.

Section 444-2, Hawaii Revised Statutes ("HRS"), exempts persons who qualify as "owner-builders" from the contractor licensing law. This exemption was originally designed to allow an individual homeowner to act as his or her own contractor for purposes of building or improving their residence. Owner-builders are authorized to obtain special building permits that do not have to be signed by licensed contractors. However, owner-builders are expected to comply with all laws and, if they hire people to perform the construction, those people have to be licensed.

The exemption applies to owners or lessees of property who build or improve residential, farm, industrial, or commercial structures or buildings for their own or family's use, restricts the owner from fixing up the structure or building and then selling it within a year thereafter, and limits the frequency with which owner-builder permits can be obtained.

Senate Bill No. 205 S.D.1, among other things, increases the restriction on post-construction sale from one to two years after the closing of the building permit, and limits the availability of the owner-builder permit to once every three years instead of two years under the current law. The bill also requires owner-builders to comply with certain contractor law requirements.

The Department supports the language on page 3 line 10 and page 7 line 2 of the bill that changes the word "completion" to "closing of the building permit." The Department supports this change because it provides greater clarity as to which date applies.

Testimony on Senate Bill No. 205 S.D.1
March 17, 2009
Page 3

The Department also supports the language on page 7 lines 18 and 19 of the bill that makes clear that an owner-builder's failure to comply with the requirements of the disclosure statement would subject the owner-builder to certain fines.

Finally, the Department supports the language on page 8 lines 14-17. The language requires that any person who obtains a permit under §444-2(7), HRS, shall comply with the disclosure statement requirements in subsection (c) and provides that a failure to comply constitutes a violation of §444-2(7), HRS. This language ensures that violators are subject to the fines set forth in §444-23(e), HRS.

Thank you for the opportunity to testify on Senate Bill No. 205 S.D.1. I will be happy to answer any questions that the members of the Committee may have.

**PRESENTATION OF THE
CONTRACTORS LICENSE BOARD**

**TO THE HOUSE COMMITTEE ON ECONOMIC REVITALIZATION,
BUSINESS, & MILITARY AFFAIRS**

**TWENTY-FIFTH LEGISLATURE
Regular Session of 2009**

**Tuesday, March 17, 2009
7:30 a.m.**

TESTIMONY ON SENATE BILL NO. 205, S.D.1, RELATING TO OWNER-BUILDERS.

**TO THE HONORABLE ANGUS L.K. MCKELVEY, CHAIR,
AND MEMBERS OF THE COMMITTEE:**

My name is Denny Sadowski, Legislative Committee Chair of the Contractors License Board ("Board"). The Board appreciates the opportunity to present testimony on Senate Bill No. 205, S.D. 1, Relating to Owner-Builders. The Board supports the intent of this bill, which is to place additional restrictions on owner-builders to prevent abuses of the permit process which foster unlicensed contractor activity.

The Board supports the proposed amendments to Chapter 444, HRS, which: (1) increases the time period that the owner-builder is prohibited from selling the property from one to two years after the closing of the building permit; (2) increases the time period that the owner-builder cannot pull another owner-builder permit from two to three years; and (3) requires the owner-builder to comply with the terms of the disclosure statement in section 444-9.1(c).

We believe these amendments will assist in the enforcement of our licensing requirements by preventing unlicensed contractors from abusing the owner-builder permit process.

Thank you for the opportunity to present comments on Senate Bill No. 205,
S.D. 1.

BIA-HAWAII

BUILDING INDUSTRY ASSOCIATION

March 17, 2009

Honorable Angus McKelvey, Chair
Committee on Economic Revitalization,
Business, & Military Affairs
State Capitol, Room 312
Honolulu, HI 96813

RE: SB 205, SD1 "Relating to Owner-Builders"

Chair McKelvey and Members of the Committee on Economic Revitalization, Business,
& Military Affairs:

I am Karen Nakamura, Chief Executive Officer of the Building Industry Association of Hawaii (BIA-Hawaii). Chartered in 1955, the Building Industry Association of Hawaii is a professional trade organization affiliated with the National Association of Home Builders, representing the building industry and its associates. BIA-Hawaii takes a leadership role in unifying and promoting the interests of the industry to enhance the quality of life for the people of Hawaii.

BIA-Hawaii supports the passage of SB205, SD1 "Relating to Owner-Builders". SB 205, SD1 increases period prohibiting sale or lease by owner-builder from 1 to 2 years unless there are circumstances beyond control of the owner or lessee as determined by the contractors licensing board. The bill also requires that an exemption from licensing requirements is given no more than once in 3 years and clarifies violation provisions.

BIA-Hawaii is greatly concerned about unlicensed activity by builders from a consumer protection viewpoint. To that extent, we support the amendment that the Contractors Licensing Board determines whether or not circumstances are beyond the control of the owner or lessee such that he/she needs to sell or lease the property before the 2 year prohibition ends. The granting of an owner-builder permit is a privilege, not to facilitate the quick turnaround of a property for a sale to be made. We also support the amendment that an owner-builder permit will not be given more than once in 3 years.

Thank you for the opportunity to share our views with you.



Chief Executive Officer
BIA-Hawaii

SAH - Subcontractors Association of Hawaii
820 Mililani Street, Suite 810, Honolulu, Hawaii 96813-2938
Phone: (808) 537-5619 ✦ Fax: (808) 533-2739

March 17, 2009

Testimony To: House Committee on Economic Revitalization, Business, & Military Affairs
Representative Angus L.K. McKelvey, Chair

Presented By: Tim Lyons
President

Subject: S.B. 205, SD 1 – RELATING TO OWNER-BUILDERS

Chair McKelvey and Members of the Committee:

I am Tim Lyons, President of the Subcontractors Association of Hawaii and we are in support of this bill. SAH represents the following eight separate and distinct subcontracting associations:

HAWAII FLOORING ASSOCIATION

ROOFING CONTRACTORS ASSOCIATION OF HAWAII

HAWAII WALL AND CEILING INDUSTRIES ASSOCIATION

TILE CONTRACTORS PROMOTIONAL PROGRAM

PLUMBING AND MECHANICAL CONTRACTORS ASSOCIATION OF HAWAII

SHEETMETAL CONTRACTORS ASSOCIATION OF HAWAII

PAINTING AND DECORATING CONTRACTORS ASSOCIATION

PACIFIC INSULATION CONTRACTORS ASSOCIATION

Unfortunately, unlicensed activity has been in existence forever for the construction industry. With the increasing poor economy, we would expect it to get even worse.

What we are talking about here is the "underground" economy; those that are operating illegally, generally are not paying taxes and violate a multitude of labor laws. We would agree that it should be legal for an individual to build their own house, that's not the problem. The problem is when they hire other people to fill in the areas where they don't feel comfortable doing it themselves. That too, is actually okay, as long as they use licensed contractors and subcontractors. From our experience however, we know that in these kinds of cases, owner-builders tend to hire casual labor thinking they are legal and calling them independent contractors. HIOSH actually cited an owner-builder recently because of the safety violations on the job.

In conclusion, we think that tightening up this law is definitely in order and we agree with increasing the period from one (1) to two (2) years and further providing that an exemption can be provided no more than once in every three (3) years.

Thank you for the opportunity to testify.

1065 Ahua Street
Honolulu, HI 96819
Phone: 808-833-1681 FAX: 839-4167
Email: info@gcahawaii.org
Website: www.gcahawaii.org



GCA of Hawaii

GENERAL CONTRACTORS ASSOCIATION OF HAWAII

Quality People. Quality Projects.

March 13, 2009

TO: THE HONORABLE REPRESENTATIVE ANGUS L. K. MCELVEY, CHAIR
AND MEMBERS OF THE COMMITTEE ON ECONOMIC
REVITALIZATION, BUSINESS, & MILITARY AFFIARS

SUBJECT: S.B. 205, SD1, RELATING TO OWNER-BUILDERS

NOTICE OF HEARING

DATE: Tuesday, March 17, 2009
TIME: 7:30 AM
PLACE: Conference Room 312

Dear Chair McElvey and Members of the Committee:

The General Contractors Association (GCA), an organization comprised of over five hundred and sixty (560) general contractors, subcontractors, and construction related firms, supports the passage of S.B. 205, SD1, Relating to Owner-Builders.

This bill attempts to address the continued of construction of residences by unlicensed contractors under the guise of owner builder exemption of Chapter 444-2, HRS. This problem is especially prevalent on the neighbor islands and unfair to the licensed contractor.

The GCA believes that the increase in the holding period before a residence built under this exemption is not undue long and will not in most cases affect the legitimate owner builder. The waiver of the two year requirement by the Contractors License Board will also insure that unforeseen circumstances are provided for.

The GCA supports the passage of S.B. 205, SD1 and recommends its passage.

Thank you for the opportunity to provide our views on this issue.

Representative Angus L.K. McKelvey, Chair
Representative Isaac Choy, Vice-Chair
Economic Revitalization, Business, & Military Affairs Committee

House of Representatives of the State of Hawai'i

Lance D. Collins, Esq.
Attorney for Akaku: Maui Community Television

Tuesday, March 17, 2009
Support SB No. 205, SD1, Relating to Owner Builders

My name is Lance D. Collins. I am an attorney in private practice on the island of Maui and testify on my own behalf.

As a consumer advocate and litigator, I have witnessed first hand the myriad problems associated with the owner builder exemption permitted in statute. This exemption permits mischief of unlicensed contracting that the building was designed to prevent. The bill proposes to close substantially the loopholes that unlicensed contractors and custom home builders use to exploit.

The purpose of the home owners exemption is to allow a person to build his own home without being required to become a licensed contractor. An economic system in which real property may be alienated to the private ownership of individuals necessarily implies a moral right to build upon that real property one's own home with minimum restrictions by the state. However, this moral right does not encompass the power to engage in unlicensed contracting generally. Such an unwarranted expansion of the moral right to build one's own home defeats the public policy of licensing building contractors.

This bill attempts to ward off market forces that would otherwise create such an unwarranted expansion of this fundamental moral right of our economic system.

Thank you for this opportunity to provide testimony on this measure.