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# 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 current regulations and  
8 barriers hinder homeowners in Hawaii from efficiently converting  
9 their single-family properties into multi-family dwellings,  
10 limiting their ability to actively participate in addressing the  
11 housing crisis.

12           Accordingly, the purpose of this Act is to remove the  
13 leasing restriction on owner-builders who obtain an owner-  
14 builder exemption to act as their own contractor and who build  
15 or improve residential or farm buildings or structures on  
16 property they own or lease and do not offer the buildings or  
17 structures for sale.



1 SECTION 2. Section 444-2.5, Hawaii Revised Statutes, is  
2 amended by amending subsections (a), (b), and (c) to read as  
3 follows:

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

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

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

19 (3) An owner or lessee exempted under this section shall:  
20 (A) Supervise the construction activity on the exempt  
21 buildings or structures;



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



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



1 (2) Construction or improvements performed pursuant to an  
2 approved building permit where the estimated valuation  
3 of work to be performed, as reflected in the building  
4 permit, is less than \$10,000; or

5 (3) Any sale [~~or lease~~] caused by an eligible unforeseen  
6 hardship as determined by the board pursuant to  
7 subsection (c).

8 (c) The board shall determine the eligibility of an  
9 unforeseen hardship claimed by an owner under subsection (b);  
10 provided that an alleged unforeseen hardship shall not be deemed  
11 eligible if the board determines that the construction or  
12 improvement of the structure was undertaken for the purpose of  
13 sale [~~or lease~~]. An exemption for an unforeseen hardship shall  
14 not be denied solely because of lack of completion, as the term  
15 is defined in subsection (e). An owner seeking a determination  
16 of eligibility of an unforeseen hardship shall:

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

20 (2) Submit a written application to the board at any time  
21 prior to selling [~~leasing~~] or offering to sell [~~or~~



1 lease] the property describing the nature of the  
2 applicant's unforeseen hardship. The application  
3 shall include supporting documentation detailing the  
4 hardship, such as:

- 5 (A) Evidence of receipt of unemployment compensation;
- 6 (B) Tax returns;
- 7 (C) Medical records;
- 8 (D) Bank statements;
- 9 (E) Divorce decrees ordering sale of property;
- 10 (F) Mortgage default letters; or
- 11 (G) Bankruptcy filings.

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

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

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

20 "Disclosure Statement



1 State law requires construction to be done by licensed  
2 contractors. You have applied for a permit under an  
3 exemption to that law. The exemption provided in section  
4 444-2.5, Hawaii Revised Statutes, allows you, as the owner  
5 or lessee of your property, to act as your own general  
6 contractor even though you do not have a license. You must  
7 supervise the construction yourself. You must also hire  
8 licensed subcontractors. [~~The building must be for your~~  
9 ~~own use and occupancy.~~] It may not be built for sale [~~or~~  
10 ~~lease~~]. If you sell [~~or lease~~] a building you have built  
11 yourself within one year after the construction is  
12 complete, the law will presume that you built it for sale  
13 [~~or lease~~], which is a violation of the exemption, and you  
14 may be prosecuted for this. It is your responsibility to  
15 make sure that subcontractors hired by you have licenses  
16 required by state law and by county licensing ordinances.  
17 Electrical or plumbing work must be performed by  
18 contractors licensed under chapters 448E and 444, Hawaii  
19 Revised Statutes. Any person working on your building who  
20 is not licensed must be your employee, which means that you  
21 must deduct F.I.C.A. and withholding taxes and provide



1 workers' compensation for that employee, all as prescribed  
2 by law. Your construction must comply with all applicable  
3 laws, ordinances, building codes, and zoning regulations.  
4 If you violate section 444-2.5, Hawaii Revised Statutes, or  
5 fail to comply with the requirements set forth in this  
6 disclosure statement, you may be fined \$5,000 or forty per  
7 cent of the appraised value of the building as determined  
8 by the county tax appraiser, whichever is greater, for the  
9 first offense; and \$10,000 or fifty per cent of the  
10 appraised value of the building as determined by the county  
11 tax appraiser, whichever is greater, for any subsequent  
12 offense."

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

16 SECTION 4. Statutory material to be repealed is bracketed  
17 and stricken. New statutory material is underscored.

18 SECTION 5. This Act shall take effect upon its approval.



**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. (CD1)

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

