
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 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 multifamily 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 one-
13 year prohibition on leasing residential units built by owner-
14 builders who act as their own general contractor.

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



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

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

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

15 (3) An owner or lessee exempted under this section shall:
16 (A) Supervise the construction activity on the exempt
17 buildings or structures;
18 (B) Hire subcontractors appropriately licensed under
19 this chapter to perform any part of the
20 construction activity for which a license is
21 required;



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



1 (D) Proof of payment to all persons contracted to
2 work on the exempt buildings and structures; and
3 (5) Upon completion of the construction activity, an owner
4 or lessee exempted under this section shall keep and
5 maintain the records identified in paragraph (4) for a
6 period of three years from completion of the
7 construction activity and shall make the records
8 available for inspection within seven business days
9 upon request by the department.

10 (b) Proof of the sale [~~or lease,~~] or offering for sale [~~or~~
11 ~~lease,~~] of the structure within one year after completion shall
12 be prima facie evidence that the construction or improvement of
13 the structure was undertaken for the purpose of sale [~~or lease~~];
14 provided that this subsection shall not apply to:

- 15 (1) Residential properties sold [~~or leased~~] to employees
16 of the owner or lessee;
- 17 (2) Construction or improvements performed pursuant to an
18 approved building permit where the estimated valuation
19 of work to be performed, as reflected in the building
20 permit, is less than \$10,000; or



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

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

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

16 (2) Submit a written application to the board at any time
17 prior to selling[~~, leasing,~~] or offering to sell [~~or~~
18 ~~lease~~] the property describing the nature of the
19 applicant's unforeseen hardship. The application
20 shall include supporting documentation detailing the
21 hardship, such as:



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

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

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

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

16 "Disclosure Statement

17 State law requires construction to be done by licensed
18 contractors. You have applied for a permit under an
19 exemption to that law. The exemption provided in section
20 444-2.5, Hawaii Revised Statutes, allows you, as the owner
21 or lessee of your property, to act as your own general



1 contractor even though you do not have a license. You must
2 supervise the construction yourself. You must also hire
3 licensed subcontractors. The building must be for your own
4 use and occupancy. It may not be built for sale [~~or~~
5 ~~lease~~]. If you sell [~~or lease~~] a building you have built
6 yourself within one year after the construction is
7 complete, the law will presume that you built it for sale
8 [~~or lease~~], which is a violation of the exemption, and you
9 may be prosecuted for this. It is your responsibility to
10 make sure that subcontractors hired by you have licenses
11 required by state law and by county licensing ordinances.
12 Electrical or plumbing work must be performed by
13 contractors licensed under chapters 448E and 444, Hawaii
14 Revised Statutes. Any person working on your building who
15 is not licensed must be your employee which means that you
16 must deduct F.I.C.A. and withholding taxes and provide
17 workers' compensation for that employee, all as prescribed
18 by law. Your construction must comply with all applicable
19 laws, ordinances, building codes, and zoning regulations.
20 If you violate section 444-2.5 or fail to comply with the
21 requirements set forth in this disclosure statement, you



S.B. NO. 2949

Report Title:

Contractors; Owner-builder Exemption; Disclaimer

Description:

Removes the leasing restriction on owner-builders who obtain an owner-builder exemption to act as their own general contractor.

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

