



GOV. MSG. NO. 1358

EXECUTIVE CHAMBERS
KE KE'ENA O KE KIA'ĀINA

JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA

July 9, 2024

The Honorable Ronald D. Kouchi
President of the Senate,
and Members of the Senate
Thirty-Second State Legislature
State Capitol, Room 409
Honolulu, Hawai'i 96813

The Honorable Scott K. Saiki
Speaker, and Members of the
House of Representatives
Thirty-Second State Legislature
State Capitol, Room 431
Honolulu, Hawai'i 96813

Dear President Kouchi, Speaker Saiki, and Members of the Legislature:

I am transmitting herewith HB1633, without my approval and with the statement of objections relating to the measure.

HB1633

RELATING TO CONTRACTORS.

Sincerely,

Josh Green, M.D.
Governor, State of Hawai'i

EXECUTIVE CHAMBERS

HONOLULU

July 9, 2024

STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 1633

Honorable Members
Thirty-Second Legislature
State of Hawai'i

Pursuant to Section 16 of Article III of the Constitution of the State of Hawai'i, I am returning herewith, without my approval, House Bill No. 1633, entitled "A Bill for an Act Relating to Contractors."

The purpose of this bill is to remove 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.

This bill is objectionable because it creates a broader owner-builder exemption that would allow unlicensed contractors to be used for rental projects. Increased unlicensed activity would impact quality and safety standards and may adversely affect consumers. The broadened exemption under this bill would allow the impact of the unlicensed work to fall upon a renter who may be unaware that unlicensed work had been done on the property. The repeal of the requirement that structures be built for personal use also increases the possibility that those structures would be built for other purposes, such as short-term rentals.

For the foregoing reasons, I am returning House Bill No. 1633 without my approval.

Respectfully,



JOSH GREEN, M.D.
Governor of Hawai'i

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 [~~er-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 [~~er-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 [~~er-leasing,~~] or offering to sell [~~er~~



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.

APPROVED this day of , 2024

GOVERNOR OF THE STATE OF HAWAII



HB No. 1633, HD 1, SD 1, CD 1

THE HOUSE OF REPRESENTATIVES OF THE STATE OF HAWAII

Date: May 1, 2024
Honolulu, Hawaii

We hereby certify that the above-referenced Bill on this day passed Final Reading in the House of Representatives of the Thirty-Second Legislature of the State of Hawaii, Regular Session of 2024.



Scott K. Saiki
Speaker
House of Representatives





Brian L. Takeshita
Chief Clerk
House of Representatives

THE SENATE OF THE STATE OF HAWAI'I

Date: May 1, 2024
Honolulu, Hawai'i 96813

We hereby certify that the foregoing Bill this day passed Final Reading in the Senate of the Thirty-Second Legislature of the State of Hawai'i, Regular Session of 2024.


President of the Senate


Clerk of the Senate