

## 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,

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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 ownerbuilders 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,

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



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HOUSE OF REPRESENTATIVES THIRTY-SECOND LEGISLATURE, 2024 STATE OF HAWAII

## A BILL FOR AN ACT

RELATING TO CONTRACTORS.

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

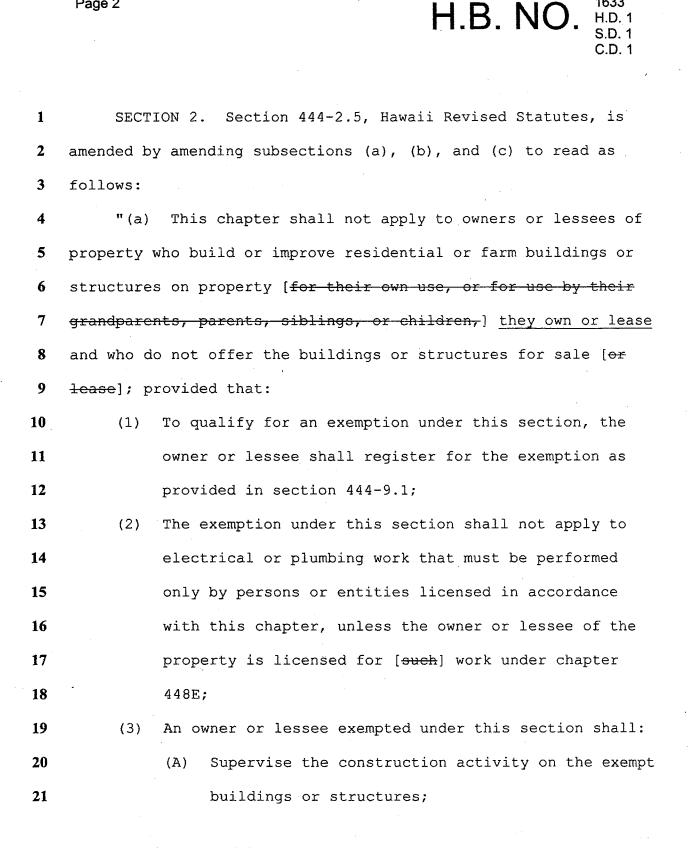
SECTION 1. The legislature finds that the State faces a
 critical shortage of affordable rental housing, creating
 challenges for residents seeking accessible and diverse housing
 options. The escalating demand for rental properties, coupled
 with limited housing supply, has led to increased housing costs
 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.

Accordingly, the purpose of this Act is to remove the leasing restriction on owner-builders who obtain an ownerbuilder 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.

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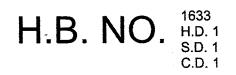


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1		(B)	Hire subcontractors appropriately licensed under
2			this chapter to perform any part of the
3			construction activity for which a license is
4			required;
5		(C)	Ensure that any electrical or plumbing work is
6			performed by persons and entities 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)	Unti	l completion of the construction activity, an
18		owne	r or lessee exempted under this section shall make
19		avai	lable the following records for immediate
20		insp	ection upon request by the department:
21		(A)	A copy of the building permit application;

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A copy of the issued building permit; 1 (B) Copies of all contracts with the names of all 2 (C) persons who performed or are performing work on 3 the exempt buildings and structures; and 4 5 (D) Proof of payment to all persons contracted to work on the exempt buildings and structures; and 6 Upon completion of the construction activity, an owner (5) 7 or lessee exempted under this section shall keep and 8 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.

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

19 (1) Residential properties sold [or leased] to employees
20 of the owner or lessee;

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Construction or improvements performed pursuant to an 1 (2) approved building permit where the estimated valuation 2 of work to be performed, as reflected in the building 3 permit, is less than \$10,000; or 4 Any sale [or lease] caused by an eligible unforeseen (3) 5 hardship as determined by the board pursuant to 6 7 subsection (c). The board shall determine the eligibility of an 8 (C) 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 improvement of the structure was undertaken for the purpose of 12 13 sale [or lease]. An exemption for an unforeseen hardship shall not be denied solely because of lack of completion, as the term 14 15 is defined in subsection (e). An owner seeking a determination 16 of eligibility of an unforeseen hardship shall: 17 Be in compliance with the requirements set forth in (1)18 the disclosure statement required to be provided under 19 section 444-9.1; and Submit a written application to the board at any time 20 (2) 21 prior to selling[, leasing,] or offering to sell [or



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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			

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. 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 contractor even though you do not have a license. You must 6 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

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workers' compensation for that employee, all as prescribed 1 by law. Your construction must comply with all applicable 2 laws, ordinances, building codes, and zoning regulations. 3 4 If you violate section 444-2.5, Hawaii Revised Statutes, or fail to comply with the requirements set forth in this 5 disclosure statement, you may be fined \$5,000 or forty per 6 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-

applicant until the applicant signs a statement that the
applicant has read and understands the disclosure form."
SECTION 4. Statutory material to be repealed is bracketed
and stricken. New statutory material is underscored.
SECTION 5. This Act shall take effect upon its approval.

APPROVED this day of , 2024

### GOVERNOR OF THE STATE OF HAWAII

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#### 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.

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Scott K. Saiki Speaker House of Representatives

This life

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.

WM.N . President of the Senate

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Clerk of the Senate