
A BILL FOR AN ACT

RELATING TO THE OWNER-BUILDER EXEMPTION.

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 Hawaii is one of only
8 seven states in the country that temporarily prohibit the
9 leasing of residential structures built by the owner-builder.
10 Current regulations and barriers hinder homeowners in Hawaii
11 from efficiently converting their single-family properties into
12 multi-family dwellings, limiting their ability to actively
13 participate in addressing the housing crisis.

14 Accordingly, the purpose of this Act is to:

15 (1) Remove the leasing restriction on owner-builders who
16 obtain an owner-builder exemption to act as their own
17 contractor and who build or improve residential or



1 farm buildings or structures on property they own or
2 lease and do not offer the buildings or structures for
3 sale; and

4 (2) Require an owner or lessee to provide signed written
5 notice that a residential structure offered for lease
6 or sublease was built or improved by an individual who
7 is not a licensed contractor.

8 SECTION 2. Section 444-2.5, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "**§444-2.5 Owner-builder exemption.** (a) This chapter
11 shall not apply to owners or lessees of property who build or
12 improve residential or farm buildings or structures on property
13 [~~for their own use, or for use by their grandparents, parents,~~
14 ~~siblings, or children,~~] they own or lease and who do not offer
15 the buildings or structures for sale [~~or lease~~]; provided that:

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

19 (2) The exemption under this section shall not apply to
20 electrical or plumbing work that must be performed
21 only by persons or entities licensed in accordance



1 with this chapter, unless the owner or lessee of the
2 property is licensed for [~~such~~] work under chapter
3 448E;

4 (3) An owner or lessee exempted under this section shall:

5 (A) Supervise the construction activity on the exempt
6 buildings or structures;

7 (B) Hire subcontractors appropriately licensed under
8 this chapter to perform any part of the
9 construction activity for which a license is
10 required;

11 (C) Ensure that any electrical or plumbing work is
12 performed by persons and entities appropriately
13 licensed under this chapter or chapter 448E;

14 (D) Deduct Federal Insurance Contributions Act and
15 withholding taxes and provide workers'
16 compensation insurance for persons working on the
17 construction activity who are not licensed under
18 this chapter or chapter 448E and who shall be
19 considered employees of the owner or lessee; and



- 1 (E) Ensure that the construction activity complies
- 2 with all applicable laws, ordinances, building
- 3 codes, and zoning regulations;
- 4 (4) Until completion of the construction activity, an
- 5 owner or lessee exempted under this section shall make
- 6 available the following records for immediate
- 7 inspection upon request by the department:
- 8 (A) A copy of the building permit application;
- 9 (B) A copy of the issued building permit;
- 10 (C) Copies of all contracts with the names of all
- 11 persons who performed or are performing work on
- 12 the exempt buildings and structures; and
- 13 (D) Proof of payment to all persons contracted to
- 14 work on the exempt buildings and structures; and
- 15 (5) Upon completion of the construction activity, an owner
- 16 or lessee exempted under this section shall keep and
- 17 maintain the records identified in paragraph (4) for a
- 18 period of three years from completion of the
- 19 construction activity and shall make the records
- 20 available for inspection within seven business days
- 21 upon request by the department.



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

6 (1) Residential properties sold [~~or leased~~] to employees
7 of the owner or lessee;

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

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

15 (c) The board shall determine the eligibility of an
16 unforeseen hardship claimed by an owner under subsection (b);
17 provided that an alleged unforeseen hardship shall not be deemed
18 eligible if the board determines that the construction or
19 improvement of the structure was undertaken for the purpose of
20 sale [~~or lease~~]. An exemption for an unforeseen hardship shall
21 not be denied solely because of lack of completion, as the term



1 is defined in subsection [~~(e)~~] (h). An owner seeking a
2 determination of eligibility of an unforeseen hardship shall:

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

6 (2) Submit a written application to the board at any time
7 prior to selling[, ~~leasing,~~] or offering to sell [~~or~~
8 ~~lease~~] the property describing the nature of the
9 applicant's unforeseen hardship. The application
10 shall include supporting documentation detailing the
11 hardship, such as:

12 (A) Evidence of receipt of unemployment compensation;

13 (B) Tax returns;

14 (C) Medical records;

15 (D) Bank statements;

16 (E) Divorce decrees ordering sale of property;

17 (F) Mortgage default letters; or

18 (G) Bankruptcy filings.

19 The board shall communicate its determination to the owner in
20 writing within ninety days of receiving a completed application
21 under this subsection.



1 (d) Any owner or lessee of property found to have violated
2 this section shall not be permitted to engage in any activities
3 pursuant to this section or to register under section 444-9.1
4 for a period of three years. There is a rebuttable presumption
5 that an owner or lessee has violated this section when the owner
6 or lessee obtains an exemption from the licensing requirements
7 of section 444-9 more than once in two years.

8 ~~[(e) For the purposes of this section, "completion" means~~
9 ~~the date of final inspection approval by the county.]~~

10 (e) An owner or lessee exempted under this section shall
11 provide, at the time of offering a residential structure for
12 lease or sublease, a written notice stating that the residential
13 structure was built or improved by an individual who is not a
14 licensed contractor. The written notice shall be signed and
15 dated by the owner or lessee.

16 (f) An owner or lessee exempted under this section shall
17 not be eligible to recover from the contractors recovery fund.

18 (g) This section shall not apply to agricultural
19 buildings, structures, or appurtenances thereto that do not
20 require a building permit or are exempt from the building code.



1 may be prosecuted for this. It is your responsibility to
2 make sure that subcontractors hired by you have licenses
3 required by state law and by county licensing ordinances.
4 Electrical or plumbing work must be performed by
5 contractors licensed under chapters 448E and 444, Hawaii
6 Revised Statutes. Any person working on your building who
7 is not licensed must be your employee, which means that you
8 must deduct F.I.C.A. and withholding taxes and provide
9 workers' compensation for that employee, all as prescribed
10 by law. Your construction must comply with all applicable
11 laws, ordinances, building codes, and zoning regulations.
12 If you violate section 444-2.5, Hawaii Revised Statutes, or
13 fail to comply with the requirements set forth in this
14 disclosure statement, you may be fined \$5,000 or forty per
15 cent of the appraised value of the building as determined
16 by the county tax appraiser, whichever is greater, for the
17 first offense; and \$10,000 or fifty per cent of the
18 appraised value of the building as determined by the county
19 tax appraiser, whichever is greater, for any subsequent
20 offense."



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

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

6 SECTION 5. This Act shall take effect on July 1, 3000.



Report Title:

Owner-Builder Exemption; Contractors; 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. Requires an owner or lessee to provide signed written notice that a residential structure offered for lease or sublease was built or improved by an individual who is not a licensed contractor. Effective 7/1/3000. (HD1)

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