

ACT 215

S.B. NO. 1271

A Bill for an Act Relating to Contractors.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 444-2, Hawaii Revised Statutes, is amended to read as follows:

“§444-2 Exemptions. This chapter shall not apply to:

- (1) An officer or employee of the United States, the State, or any political subdivision if the project or operation is performed by employees thereof;
- (2) Any person acting as a receiver, trustee in bankruptcy, personal representative, or any other person acting under any order or authorization of any court;

- (3) A person who sells or installs any finished products, materials, or articles of merchandise which are not actually fabricated into and do not become a permanent fixed part of the structure, or to the construction, alteration, improvement, or repair of personal property;
- (4) Any project or operation for which the aggregate contract price for labor, materials, and all other items is less than \$100. This exemption shall not apply in any case wherein the undertaking is only a part of a larger or major project or operation, whether undertaken by the same or a different contractor or in which a division of the project or operation is made in contracts of amounts less than \$100 for the purpose of evading this chapter or otherwise;
- (5) A registered architect or professional engineer acting solely in his professional capacity;
- (6) Any person who engages in the activities herein regulated as an employee with wages as [his] the person's sole compensation;
- (7) Owners or lessees of property who build or improve residential, farm, industrial or commercial buildings or structures on such property for their own use, or for use by their grandparents, parents, siblings, or children and do not offer such buildings or structures for sale or lease. In all actions brought under this paragraph, proof of the sale or lease, or offering for sale or lease, of such structure within one year after completion is "prima facie" evidence that the construction or improvement of such structure was undertaken for the purpose of sale or lease; provided [, however,] that this shall not apply to residential properties sold or leased to employees of the owner or lessee; provided further that in order to qualify for this exemption the owner or lessee must register for the exemptions as provided in section 444-9.1; or
- (8) Any copartnership or joint venture if all members thereof hold licenses issued under this chapter."

SECTION 2. Section 444-9.1, Hawaii Revised Statutes, is amended to read as follows:

"§444-9.1 Issuance of building permits[.]; owner-builder registration.

Each county or other local subdivision of the State which requires the issuance of a permit as a condition precedent to the construction, alteration, improvement, demolition, or repair of any building or structure shall also require that each applicant for such a permit file as a condition to the issuance of a permit a statement that the applicant is licensed under this chapter, giving the number of the license and stating that it is in full force and effect, or, if the applicant is exempt from this chapter, the basis for the claimed exemption; provided that if the applicant claims an exemption under section 444-2(7), [he] the applicant shall also be required to certify that the building or structure is for [his] the applicant's personal use and not for use or occupancy by the general public. Each county or local subdivision of the State shall maintain an owner-builder registration list which shall contain the following information: (1) the name of any owner or lessee who claims an exemption from this chapter as provided in section 444-2(7); (2) the address of the property where exempt building or improvement activity is to occur; (3) a description of the type of building or improvement activity to occur; and (4) the approximate dates of construction activity. The absence of such registration is prima facie evidence that the exemption in section 444-2(7) does not apply.

The county shall verify the license against a list of licensed contractors provided by the state contractors licensing board, which list shall be updated at least quarterly. The county shall also verify that the applicant is in fact the contractor so licensed or his duly authorized agent.”

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 4, 1985.)