
A BILL FOR AN ACT

RELATING TO OWNER-BUILDER PERMITS.

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

1 SECTION 1. Chapter 508D, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§508D- Real Estate Disclosure; construction,
5 alteration, improvement, demolition, or repair of building or
6 structure by owner-builder. Any construction, alteration,
7 improvement, demolition, or repair to a building or structure
8 done by an owner-builder under section 444-2(7) is a material
9 fact that shall be conspicuously included in the disclosure
10 statement."

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

13 "**§444-9.1 Issuance of building permits; owner-builder**
14 **registration.** (a) Each county or other local subdivision of
15 the State which requires the issuance of a permit as a condition
16 precedent to the construction, alteration, improvement,
17 demolition, or repair of any building or structure shall also
18 require that each applicant for such a permit file as a



1 condition to the issuance of a permit a statement that the
2 applicant and all specialty contractors are licensed under this
3 chapter, giving the license numbers and stating that the
4 licenses are in full force and effect, or, if the applicant is
5 exempt from this chapter, the basis for the claimed exemption;
6 provided that if the applicant claims an exemption under section
7 444-2(7), the applicant shall also be required to certify that
8 the building or structure is for the applicant's personal use
9 and not for use or occupancy by the general public. Each county
10 or local subdivision of the State shall maintain an owner-
11 builder registration list which shall contain the following
12 information: (1) the name of any owner or lessee who claims an
13 exemption from this chapter as provided in section 444-2(7); (2)
14 the address of the property where exempt building or improvement
15 activity is to occur; (3) a description of the type of building
16 or improvement activity to occur; (4) the approximate dates of
17 construction activity; and (5) whether any electrical or
18 plumbing work is to be performed and if so, the name and license
19 number of the person or entity who will do the work. The
20 absence of such registration is prima facie evidence that the
21 exemption in section 444-2(7) does not apply.



1 (b) The county shall verify the license against a list of
2 licensed contractors provided by the state contractors licensing
3 board, which [~~list~~] shall be updated at least quarterly. The
4 county shall also verify that the applicant is in fact the
5 contractor so licensed or the contractor's duly authorized
6 agent.

7 (c) To qualify for the exemption under section 444-2(7),
8 the county shall provide the applicant with a disclosure
9 statement in substantially the following form:

10 "Disclosure Statement

11 State law requires the construction, alteration,
12 improvement, demolition, or repair of any building or
13 structure to be done by licensed contractors. You have
14 applied for a permit under an exemption to that law. The
15 exemption provided in section 444-2(7), Hawaii Revised
16 Statutes, allows you, as the owner or lessee of your
17 property, to act as your own general contractor even though
18 you do not have a license. You must supervise the
19 construction, alteration, improvement, demolition, or
20 repair yourself. You must also hire licensed
21 subcontractors. The building must be for your own use and
22 occupancy. It may not be built for sale or lease. If you



1 sell or lease a building you have built yourself within one
2 year after the construction, alteration, improvement,
3 demolition, or repair is complete, the law will presume
4 that you built it for sale or lease, which is a violation
5 of the exemption, and you may be prosecuted for this. It
6 is your responsibility to make sure that subcontractors
7 hired by you have licenses required by state law and by
8 county licensing ordinances. Electrical or plumbing work
9 must be performed by contractors licensed under chapters
10 448E and 444, Hawaii Revised Statutes. Any person working
11 on your building or structure who is not licensed must be
12 your employee, which means that you must deduct F.I.C.A.
13 and withholding taxes and provide workers' compensation for
14 that employee, all as prescribed by law. Your
15 construction, alteration, improvement, demolition, or
16 repair must comply with all applicable laws, ordinances,
17 building codes, and zoning regulations. If you violate
18 section 444-2(7), or fail to comply with the requirements
19 set forth in this disclosure statement, you may be fined
20 \$5,000 or forty per cent of the [~~appraised~~] value specified
21 by the county or other local subdivision on the permit
22 application of the construction, alteration, improvement,



1 demolition, or repair of the building [~~as determined by the~~
2 ~~county tax appraiser,~~] or structure, whichever is greater,
3 for the first offense; and \$10,000 or fifty per cent of the
4 [~~appraised~~] value specified by the county or other local
5 subdivision on the permit application of the construction,
6 alteration, improvement, demolition, or repair of the
7 building [~~as determined by the county tax appraiser,~~] or
8 structure, whichever is greater, for any subsequent
9 offense."

10 The county shall not issue a building permit to the owner-
11 applicant until the applicant signs a statement that the
12 applicant has read and understands the disclosure form.

13 (d) A county building inspector or other building official
14 shall report to the regulated industries complaints office the
15 name and address of any person, who, in the opinion of the
16 building inspector or official, has violated this chapter by
17 accepting or contracting to accomplish work which would classify
18 the person as a contractor under this chapter.

19 (e) Any person who obtains a permit under section 444-2(7)
20 shall comply with all of the requirements specified in the
21 disclosure statement in subsection (c)."



1 SECTION 3. Section 444-23, Hawaii Revised Statutes, is
2 amended by amending subsection (e) to read as follows:

3 "(e) Any person who violates section 444-2(7) [~~7~~] or 444-
4 9.1(e) shall be fined:

5 (1) \$5,000 or forty per cent of the [~~appraised~~] value
6 specified by the county or other local subdivision on
7 the permit application of the [~~building as determined~~
8 by the county tax appraiser,] construction,
9 alteration, improvement, demolition, or repair of the
10 building or structure, whichever is greater, for the
11 first offense; and

12 (2) \$10,000 or fifty per cent of the [~~appraised~~] value
13 specified by the county or other local subdivision on
14 the permit application of the [~~building as determined~~
15 by the county tax appraiser,] construction,
16 alteration, improvement, demolition, or repair of the
17 building or structure, whichever is greater, for any
18 subsequent offenses."

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

21 SECTION 5. This Act shall take effect on November 1, 2008.



Report Title:

Owner-builder Permits; Disclosure

Description:

Requires sellers to disclose whether a building or structure was built or improved under an owner-builder permit. Clarifies that owner builders must use licensed subcontractors. Establishes penalties for owner-builders who fail to comply with the owner-builder permit requirements. (HB3107 HD1)

