
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; building or structural
5 improvement by owner-builder. Any building or structural
6 improvement done by an owner-builder under section 444-2(7) is a
7 material fact that shall be conspicuously included in the
8 disclosure statement."

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

11 "**§444-2 Exemptions.** This chapter shall not apply to:

12 (1) Officers and employees of the United States, the
13 State, or any county while in the performance of their
14 governmental duties;

15 (2) Any person acting as a receiver, trustee in
16 bankruptcy, personal representative, or any other
17 person acting under any order or authorization of any
18 court;



- 1 (3) A person who sells or installs any finished products,
2 materials, or articles of merchandise that are not
3 actually fabricated into and do not become a permanent
4 fixed part of the structure, or to the construction,
5 alteration, improvement, or repair of personal
6 property;
- 7 (4) Any project or operation for which the aggregate
8 contract price for labor, materials, taxes, and all
9 other items is not more than \$1,000. This exemption
10 shall not apply in any case where a building permit is
11 required regardless of the aggregate contract price,
12 nor where the undertaking is only a part of a larger
13 or major project or operation, whether undertaken by
14 the same or a different contractor or in which a
15 division of the project or operation is made in
16 contracts of amounts not more than \$1,000 for the
17 purpose of evading this chapter or otherwise;
- 18 (5) A registered architect or professional engineer acting
19 solely in the person's professional capacity;
- 20 (6) Any person who engages in the activities regulated in
21 this chapter as an employee with wages as the person's
22 sole compensation;



1 (7) Owners or lessees of property who build or [~~improve~~]
2 make structural improvements requiring a permit from
3 the appropriate county agency to residential, farm,
4 industrial, or commercial buildings or structures on
5 property for their own use, or for use by their
6 grandparents, parents, siblings, or children and who
7 do not offer the buildings or structures for sale or
8 lease; provided that this exemption shall not apply to
9 electrical or plumbing work that must be performed
10 only by persons or entities licensed under this
11 chapter, or to the owner or lessee of the property if
12 the owner or lessee is licensed under chapter 448E.
13 In all actions brought under this paragraph, proof of
14 the sale or lease, or offering for sale or lease, of
15 the structure not more than one year after completion
16 is prima facie evidence that the construction or
17 improvement of the structure was undertaken for the
18 purpose of sale or lease; provided that this provision
19 shall not apply to residential properties sold or
20 leased to employees of the owner or lessee; provided
21 further that [~~in order~~] to qualify for this exemption
22 the owner or lessee must register for the exemptions



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

10 (8) Any joint venture if all members thereof hold licenses
11 issued under this chapter;

12 (9) Any project or operation where it is determined by the
13 board that less than ten persons are qualified to
14 perform the work in question and that the work does
15 not pose a potential danger to public health, safety,
16 and welfare; or

17 (10) Any public works project that requires additional
18 qualifications beyond those established by the
19 licensing law and which is deemed necessary and in the
20 public interest by the contracting agency."

21 SECTION 3. Section 444-9.1, Hawaii Revised Statutes, is
22 amended to read as follows:



1 "**§444-9.1 Issuance of building permits; owner-builder**
2 **registration.** (a) Each county or other local subdivision of
3 the State which requires the issuance of a permit as a condition
4 precedent to the construction, alteration, improvement,
5 demolition, or repair of any building or structure shall also
6 require that each applicant for such a permit file as a
7 condition to the issuance of a permit a statement that the
8 applicant and all specialty contractors are licensed under this
9 chapter, giving the license numbers and stating that the
10 licenses are in full force and effect, or, if the applicant is
11 exempt from this chapter, the basis for the claimed exemption;
12 provided that if the applicant claims an exemption under section
13 444-2(7), the applicant shall also be required to certify that
14 the building or structure is for the applicant's personal use
15 and not for use or occupancy by the general public. Each county
16 or local subdivision of the State shall maintain an owner-
17 builder registration list which shall contain the following
18 information:

19 (1) [~~the~~] The name of any owner or lessee who claims an
20 exemption from this chapter as provided in section
21 444-2(7);



- 1 (2) ~~[the]~~ The address of the property where exempt
2 building or improvement activity is to occur;
- 3 (3) [a] A description of the type of building or
4 improvement activity to occur;
- 5 (4) ~~[the]~~ The approximate dates of construction activity;
6 and
- 7 (5) ~~[whether]~~ Whether any electrical or plumbing work is
8 to be performed and if so, the name and license number
9 of the person or entity who will do the work.

10 The absence of such registration is prima facie evidence that
11 the exemption in section 444-2(7) does not apply.

12 (b) The county shall verify the license against a list of
13 licensed contractors provided by the state contractors licensing
14 board, which ~~[list]~~ shall be updated at least quarterly. The
15 county shall also verify that the applicant is in fact the
16 contractor so licensed or the contractor's duly authorized
17 agent.

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



1 "Disclosure Statement

2 State law requires [~~construction~~] building or structural
3 improvement to be done by licensed contractors. You have
4 applied for a permit under an exemption to that law. The
5 exemption provided in section 444-2(7), Hawaii Revised
6 Statutes, allows you, as the owner or lessee of your
7 property, to act as your own general contractor even though
8 you do not have a license. You must supervise the
9 [~~construction~~] building or structural improvement yourself.
10 You must also hire licensed subcontractors. The building
11 must be for your own use and occupancy. It may not be
12 built for sale or lease. If you sell or lease a building
13 you have built yourself or made a structural improvement to
14 within one year after the [~~construction~~] building or
15 structural improvement is complete, the law will presume
16 that you built it or made the structural improvement for
17 sale or lease, which is a violation of the exemption, and
18 you may be prosecuted for this. It is your responsibility
19 to make sure that subcontractors hired by you have licenses
20 required by state law and by county licensing ordinances.
21 Electrical or plumbing work must be performed by
22 contractors licensed under chapters 448E and 444, Hawaii



1 Revised Statutes. Any person working on your building or
2 structural improvement who is not licensed must be your
3 employee, which means that you must deduct F.I.C.A. and
4 withholding taxes and provide workers' compensation for
5 that employee, all as prescribed by law. Your
6 [~~construction~~] building or structural improvement must
7 comply with all applicable laws, ordinances, building
8 codes, and zoning regulations. If you violate section 444-
9 2(7), or fail to comply with the requirements set forth in
10 this disclosure statement, you may be fined \$5,000 or forty
11 per cent of the [~~appraised~~] value of the building [~~as~~
12 ~~determined by the county tax appraiser,~~] specified by the
13 county or other local subdivision on the permit application
14 of the building or structural improvement of the structure,
15 whichever is greater, for the first offense; and \$10,000 or
16 fifty per cent of the [~~appraised~~] value of the building [~~as~~
17 ~~determined by the county tax appraiser,~~] specified by the
18 county or other local subdivision on the permit application
19 of the building or structural improvement of the building
20 or structure, whichever is greater, for any subsequent
21 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 (d) A county building inspector or other building official
5 shall report to the regulated industries complaints office the
6 name and address of any person, who, in the opinion of the
7 building inspector or official, has violated this chapter by
8 accepting or contracting to accomplish work which would classify
9 the person as a contractor under this chapter.

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

13 SECTION 4. Section 444-23, Hawaii Revised Statutes, is
14 amended by amending subsection (e) to read as follows:

15 "(e) Any person who violates section 444-2(7) [~~7~~] or 444-
16 9.1(e) shall be fined:

17 (1) \$5,000 or forty per cent of the [~~appraised~~] value of
18 the building [~~as determined by the county tax~~
19 ~~appraiser,~~] specified by the county or other local
20 subdivision on the permit application of the building
21 or structural improvement of the building or



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

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

12 SECTION 6. This Act shall take effect on January 1, 2112



Report Title:

Owner-builder Permits; Disclosure

Description:

Requires sellers to disclose whether building or structure improvement was done under an owner-builder permit. Clarifies owner-builder exemption under section 444-2(7) applies only to the building of, or structural improvement to, a building or structure. Establishes penalties for owner-builders who fail to comply with the terms of section 444-2(7), including restriction on resale of property. Effective January 1, 2112. (HB3107 HD2)

