

Honolulu, Hawaii  
Feb 29, 2008

RE: H.B. No. 3107  
H.D. 2

Honorable Calvin K.Y. Say  
Speaker, House of Representatives  
Twenty-Fourth State Legislature  
Regular Session of 2008  
State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred H.B. No. 3107, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO OWNER-BUILDER PERMITS,"

begs leave to report as follows:

The purpose of this bill is to protect Hawaii's real estate consumers by:

- (1) Requiring sellers to disclose whether a building or structure was built or improved under an owner-builder permit;
- (2) Clarifying that owner-builders must use licensed subcontractors; and
- (3) Establishing penalties for owner-builders who fail to comply with the owner-builder permit requirements.

The Contractors License Board and Subcontractors Association of Hawaii supported this bill. The Hawaii Association of Realtors and Building Industry Association - Hawaii supported the intent of this measure. The General Contractors Association of Hawaii and several concerned individuals submitted comments.

Your Committee is in agreement with the main purpose of this measure, which is to require sellers of real estate to disclose to potential buyers if the seller has benefited from owner-builder



status pursuant to section 444-2(7), Hawaii Revised Statutes (HRS). However, your Committee notes that the language in H.D. 1 of this bill effectively changes the scope of that exemption, and the resulting disclosure requirements, to include, in addition to all construction and structural improvements, all alterations, improvements, and repairs made to the property. The consequence of this broadening of the language is that a person who has performed even some relatively minor non-structural alterations, repairs, or changes to their home, including those for the purpose of selling the home within a one-year period, would potentially subject the owner-builder to the severe sanctions imposed by section 444-23, HRS, as specified in the original section 3 of this measure.

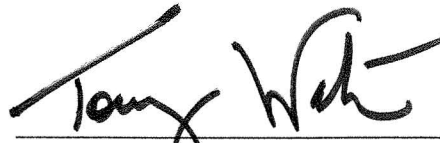
After receiving a thorough presentation of oral testimony by the Contractors License Board that the owner-builder exemption under section 444-2(7), HRS, is intended only to apply to building a structure or making improvements that affect the structure of a building, and with prior concurrence from your Committee on Consumer Protection and Commerce, your Committee has amended this measure by:

- (1) Clarifying that the exemption provided under section 444-2(7), HRS, for owners or lessees of a building who "improve" a building, pertains to structural improvements that would require a building permit from the appropriate county agency;
- (2) Requiring an owner-builder to disclose to a potential purchaser that building or structural improvements were made under an owner-builder exemption;
- (3) Revising the language for the form used by the county to apprise an owner-builder of possible restrictions in the resale of a property, and sanctions for violations thereof, to reflect that the owner-builder status only applies to building and structural improvements;
- (4) Changing the effective date to January 1, 2112, to encourage further discussion; and
- (5) Making technical, nonsubstantive changes for clarity, consistency, and style.



As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3107, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3107, H.D. 2.

Respectfully submitted on  
behalf of the members of the  
Committee on Judiciary,

  
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TOMMY WATERS, Chair



