
A BILL FOR AN ACT

RELATING TO OWNER-BUILDERS.

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

1 SECTION 1. Section 444-9.1, Hawaii Revised Statutes, is
2 amended to read as follows:

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



1 or local subdivision of the State shall maintain an owner-
2 builder registration list which shall contain the following
3 information:

4 (1) [~~the~~] The name of any owner or lessee who claims an
5 exemption from this chapter as provided in section
6 444-2(7);

7 (2) [~~the~~] The address of the property where exempt
8 building or improvement activity is to occur;

9 (3) [~~a~~] A description of the type of building or
10 improvement activity to occur;

11 (4) [~~the~~] The approximate dates of construction activity;
12 and

13 (5) [~~whether~~] Whether any electrical or plumbing work is
14 to be performed and if so, the name and license number
15 of the person or entity who will do the work.

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

18 (b) The county shall verify the license against a list of
19 licensed contractors provided by the state contractors licensing
20 board, which list shall be updated at least quarterly. The
21 county shall also verify that the applicant is in fact the



1 contractor so licensed or the contractor's duly authorized
2 agent.

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

6 "Disclosure Statement

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



1 plumbing work must be performed by contractors licensed
2 under chapters 448E and 444, Hawaii Revised Statutes. Any
3 person working on your building who is not licensed must be
4 your employee which means that you must deduct F.I.C.A. and
5 withholding taxes and provide workers' compensation for
6 that employee, all as prescribed by law. You must submit
7 your federal and state tax identification numbers, federal
8 and state tax clearances, and certificate of workers'
9 compensation insurance with your permit application. Your
10 construction must comply with all applicable laws,
11 ordinances, building codes, and zoning regulations. If you
12 violate section 444-2(7) or fail to comply with the
13 requirements set forth in this disclosure statement, you
14 may be fined \$5,000 or forty per cent of the appraised
15 value of the building as determined by the county tax
16 appraiser, whichever is greater, for the first offense; and
17 \$10,000 or fifty per cent of the appraised value of the
18 building as determined by the county tax appraiser,
19 whichever is greater for any subsequent offense."
20 The county shall not issue a building permit to the owner-
21 applicant until the applicant signs a statement that the



1 applicant has read and understands the disclosure [~~form~~]
2 statement.

3 (d) A county building inspector or other building official
4 shall report to the regulated industries complaints office the
5 name and address of any person, who, in the opinion of the
6 building inspector or official, has violated this chapter by
7 accepting or contracting to accomplish work which would classify
8 the person as a contractor under this chapter.

9 (e) Any person who applies for a permit under section 444-
10 2(7) shall submit the person's federal and state tax
11 identification numbers, federal and state tax clearances, and
12 certificate of workers' compensation insurance with the permit
13 application.

14 (f) Any person who obtains a permit under section 444-2(7)
15 shall comply with all of the requirements specified in the
16 disclosure statement in subsection (c). Failure to comply is a
17 violation of section 444-2(7)."

18 SECTION 2. Statutory material to be repealed is bracketed
19 and stricken. New statutory material is underscored.

20 SECTION 3. This Act shall take effect on January 1, 2090.



Report Title:

Contractors; Owner-Builders

Description:

Specifies the application of fines under the contractor licensing law for failing to comply with the terms of the owner-builder exemption. Requires applicants for county building permits under the owner-builder exemption to submit their state and federal tax identification numbers, federal and state tax clearances, and certificate of workers' compensation insurance. Effective 1/1/2090. (SB205 HD2)

