

# S.B. NO. 2707

JAN 25 2010

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## A BILL FOR AN ACT

RELATING TO CONTRACTORS.

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

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

3 "**§444-2 Exemptions.** This chapter shall not apply to:

4 (1) Officers and employees of the United States, the  
5 State, or any county while in the performance of their  
6 governmental duties;

7 (2) Any person acting as a receiver, trustee in  
8 bankruptcy, personal representative, or any other  
9 person acting under any order or authorization of any  
10 court;

11 (3) A person who sells or installs any finished products,  
12 materials, or articles of merchandise that are not  
13 actually fabricated into and do not become a permanent  
14 fixed part of the structure, or to the construction,  
15 alteration, improvement, or repair of personal  
16 property;

17 (4) Any project or operation for which the aggregate  
18 contract price for labor, materials, taxes, and all

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1 other items is not more than [~~\$1,000~~] \$2,500. This  
2 exemption shall not apply in any case where a building  
3 permit is required regardless of the aggregate  
4 contract price, nor where the undertaking is only a  
5 part of a larger or major project or operation,  
6 whether undertaken by the same or a different  
7 contractor or in which a division of the project or  
8 operation is made in contracts of amounts not more  
9 than [~~\$1,000~~] \$2,500 for the purpose of evading this  
10 chapter or otherwise;

11 (5) A registered architect or professional engineer acting  
12 solely in the person's professional capacity;

13 (6) Any person who engages in the activities regulated in  
14 this chapter as an employee with wages as the person's  
15 sole compensation;

16 (7) Owners or lessees of property who build or improve  
17 residential, farm, industrial, or commercial buildings  
18 or structures on property for their own use, or for  
19 use by their grandparents, parents, siblings, or  
20 children and who do not offer the buildings or  
21 structures for sale or lease; provided that this  
22 exemption shall not apply to electrical or plumbing

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1 work that must be performed only by persons or  
2 entities licensed under this chapter, or to the owner  
3 or lessee of the property if the owner or lessee is  
4 licensed under chapter 448E. In all actions brought  
5 under this paragraph, proof of the sale or lease, or  
6 offering for sale or lease, of the structure not more  
7 than one year after completion is prima facie evidence  
8 that the construction or improvement of the structure  
9 was undertaken for the purpose of sale or lease;  
10 provided that this provision shall not apply to  
11 residential properties sold or leased to employees of  
12 the owner or lessee; provided further that in order to  
13 qualify for this exemption the owner or lessee [~~must~~]  
14 shall register for the exemptions as provided in  
15 section 444-9.1. Any owner or lessee of property  
16 found to have violated this paragraph shall not be  
17 permitted to engage in any activities pursuant to this  
18 paragraph or to register under section 444-9.1 for a  
19 period of three years. There is a presumption that an  
20 owner or lessee has violated this section, when the  
21 owner or lessee obtains an exemption from the



**Report Title:**

Contractors; Exemption

**Description:**

Raises the threshold under the contractor licensing law's "handyman" exemption from \$1,000 to \$2,500.

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## JUSTIFICATION SHEET

DEPARTMENT: Attorney General

TITLE: A BILL FOR AN ACT RELATING TO CONTRACTORS.

PURPOSE: To raise the threshold under the contractor licensing law's "handyman" exemption from \$1,000 to \$2,500.

MEANS: Amend section 444-2, Hawaii Revised Statutes (HRS).

JUSTIFICATION: Act 195, Session Laws of Hawaii 2009, increased the monetary sanctions for engaging in contracting without the required license in violation of the contractors licensing law (HRS chapter 444). Fines were increased from \$500 to \$2,500 for the first offense and from \$1,000 to \$3,500 for the second offense. Fines for the third tier remained at \$5,000. This represents a five fold increase in the amount of the first offense fine and over a three fold increase in the second offense fine.

This increase in penalties has the potential to unnecessarily hurt persons who should fall under the "handyman" exemption. HRS section 444-2 lists several exemptions from HRS chapter 444, including the so-called handyman exemption, which provides that chapter 444 does not apply to any project or operation for which the aggregate contract price for labor, materials, taxes, and all other items is not more than \$1,000. The purpose of this \$1,000 threshold exemption is to allow the undertaking of minor projects by a paid handyman without the need for a licensed contractor. In theory, this reduces the cost of these minor projects, and in fact many licensed contractors will not even take these smaller jobs. However, the \$1,000 contractual ceiling was last raised in 1992, from \$100 to its present \$1,000, and has not kept pace with the

rising cost of living. From 1992 to 2008, the Honolulu Consumer Price Index for All Urban Consumers (Honolulu CPI-U) rose almost 48 percent.

It is necessary to raise the handyman exemption from \$1,000 to \$2,500 for several reasons. First, increasing the exemption threshold brings the exemption more in line with the increased fines imposed by Act 195 and reduces that law's potential impact on handymen. Second, raising the handyman exemption will help realtors, developers, and homeowners reduce the costs of maintaining a home. Third, raising the exemption threshold will improve the economic prospects of handymen in Hawaii. Finally, in rural parts of the State, it is often difficult to find licensed contractors because the job is either too small or contractors are not available.

Additionally, despite the presumably higher overall costs for projects in Hawaii in comparison to other areas of the country, several states have handyman exemptions with higher threshold amounts. For example, Georgia's exemption threshold for residential contractors is \$2,500.

Impact on the public: The economic benefits of this bill to realtors, developers, and homeowners will help reduce the costs of doing business and owning a home in Hawaii. The impact on licensed contractors should be minimal, since the vast majority of their revenues come from jobs outside the scope of the handyman exemption. Also, jobs for \$2,500 or less that require a building permit will still fall outside of the handyman exemption and will need to be performed by a licensed contractor.

Impact on the department and other agencies: This change in the law should not have any significant impact on DCCA or the Contractors License Board.

GENERAL FUND: None.  
OTHER FUNDS: None.  
PPBS PROGRAM DESIGNATION: None.  
OTHER AFFECTED AGENCIES: DCCA.  
EFFECTIVE DATE: Upon approval.