

HB 319, HD 1

Measure Title: RELATING TO OWNER-BUILDERS.

Report Title: Contractors; Owner-Builders

Description: Clarifies that owners with open permits are qualified for an exemption for the sale or lease of a property by an owner-builder in the event of hardship. (HB319 HD1)

Companion:

Package: None

Current Referral: CPN

**PRESENTATION OF THE
CONTRACTORS LICENSE BOARD**

TO THE SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

TWENTY-SIXTH LEGISLATURE
Regular Session of 2011

Friday, March 18, 2011
10:15 a.m.

TESTIMONY ON HOUSE BILL NO. 319, H.D. 1, RELATING TO OWNER-BUILDERS.

TO THE HONORABLE ROSALYN H. BAKER, CHAIR,
AND MEMBERS OF THE COMMITTEE:

My name is Denny Sadowski, Legislative Committee Chair of the Contractors License Board ("Board"). The Board appreciates the opportunity to testify in support of House Bill No. 319, H.D. 1, Relating to Owner-Builders.

Section 444-2.5, Hawaii Revised Statutes, allows owner-builders who are experiencing financial hardship to apply to the Board for an exemption to sell or lease the property within one year after completion. This bill amends section 444-2.5, HRS, to clarify that owner-builders with open permits are also eligible for the hardship exemption, and requires applicants for the exemption to submit supporting documentation to verify the nature of their hardship.

The Board initially had concerns about allowing owner-builders with open permits to also be eligible for the hardship exemption because it did not have the time or resources to fully investigate whether the owner-builder is experiencing a legitimate hardship. Therefore, the Board supports requiring the owner-builder to submit documentation detailing the nature of the hardship when applying for the hardship

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exemption, as it will assist the Board in making an informed decision on the application.

Thank you for the opportunity to testify on this bill.

March 18, 2011

The Honorable Rosalyn H. Baker, Chair

Senate Committee on Commerce and Consumer Protection
State Capitol, Room 229
Honolulu, Hawaii 96813

RE: H.B. 319, H.D.1, Relating to Owner-Builders

HEARING: Friday, March 18, 2011, at 2:00 p.m.

Aloha Chair Baker, Vice Chair Taniguchi, and Members of the Committee:

I am Myoung Oh, Government Affairs Director, here to testify on behalf of the Hawai'i Association of REALTORS® ("HAR"), the voice of real estate and its 8,500 members. HAR **supports the intent** of H.B. 319, H.D.1, which clarifies that property owners, who hold owner-builder permits, can qualify for a hardship exemption in order to sell or lease their property with an existing open building permit.

HRS §444-2 defines owner-builders as individual homeowners who act as their own contractor for building or improving their residence for personal use or use by their immediate family. To qualify as an owner-builder, one restriction under the present law is that the residence cannot be sold, leased or offered for sale or lease within one-year after completion of the construction.

Over the past several years, many owner builder permits were obtained to build homes, additions, and to upgrade owner's residences. However, due to recent economic hardships facing these same owners, many of the owner builders have not been able to *complete* the improvements, and have had no viable alternatives but to sell the properties with unfinished work under an open building permit.

In recognition of this problem, the Legislature enacted Act 44 in 2010, so that an owner builder could sell or lease their property before to the one-year prohibition period, in the event of an unforeseen hardship.

This measure seeks to further clarify that owner-builders may qualify for the hardship exemption, notwithstanding any open permits on the property.

HAR would respectfully request the following amendments at page 2, line 18 to page 3, line 4, to allow for flexibility in the type of supporting documentation that would be required to demonstrate a hardship:

The application shall include supporting documentation detailing the hardship, **which may include, but not be limited to, the following:** ~~including:~~

- (A) Unemployment compensation;
- (B) Tax returns;
- (C) Medical records;
- (D) Bank statements;
- (E) Divorce decrees ordering sale of property;
- (F) Mortgage default letters; **or**
- (G) Bankruptcy filings.

Recognizing that intent of the bill is to provide relief to homeowners who continue to face economic hardship, HAR respectfully requests your favorable consideration of this measure.

Mahalo for the opportunity to testify.

March 17, 2011

The Honorable Rosalyn H. Baker, Chair
Senate Committee on Commerce and Consumer Protection
State Capitol, Room 229
Honolulu, Hawaii 96813
RE: H.B. 319 HD1, Relating to Owner-Builders
HEARING: Friday, March 18, 2011 at 10:15 AM.

Dear Chairman Baker and fellow members of the Committee on Commerce and Consumer Protection,

I support the passage of HB 319 HD 1. Most of the homeowners needing the Hardship Exemption have incomplete improvements. This Bill will make it clear that the Hardship Exemption included in Act 44 applies to all owner builder permits.

However, I believe that the Bill needs a minor modification. As currently written all applications for a Hardship Exemption would have to supply every item specified on the list in the Bill which includes Unemployment Compensation, Tax Returns, Medical Records, Bank Statements, Divorce Decrees ordering sale of property, Mortgage default letters, and Bankruptcy filings. Since each individual case will be different, many of those categories will not apply to a specific situation. Therefore, by changing Section 1 (c) (2) to read, "...including but not limited to any of the following that apply:", it will be clear that the applicant should submit pertinent records that apply to their circumstances only. As an example, if an applicant was not getting divorced or receiving unemployment insurance, it would not be possible to submit those items.

Again I strongly support the intent of HB 319 HD 1 and I thank you for this opportunity to submit testimony.

Sincerely,

Robert G. Williams
President, Principal Broker