



DAVID Y. IGE  
GOVERNOR

JOSH GREEN  
LT. GOVERNOR

**STATE OF HAWAII  
OFFICE OF THE DIRECTOR  
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS**

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CATHERINE P. AWAKUNI COLÓN  
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JO ANN M. UCHIDA TAKEUCHI  
DEPUTY DIRECTOR

**Testimony of the Department of Commerce and Consumer Affairs**

**Before the  
House Committee on Intrastate Commerce  
Tuesday, February 5, 2019  
9:30 a.m.  
State Capitol, Conference Room 430**

**On the following measure:  
H.B. 1154, RELATING TO THE OWNER-BUILDER EXEMPTION**

Chair Ohno and Members of the Committee:

My name is Daria A. Loy-Goto, and I am the Complaints and Enforcement Officer for the Department of Commerce and Consumer Affairs' Regulated Industries Complaints Office (RICO). RICO supports this bill.

H.B. 1154 amends Hawaii Revised Statutes chapter 444 by requiring that proof of withholding of taxes and workers' compensation insurance be made available for inspection by owner-builders. The bill also increases the fines that can be imposed upon owner-builders who fail to comply with the owner-builder requirements. RICO concurs with the Contractors License Board's testimony that this bill is needed to discourage unlicensed contracting performed under owner-builder permits. This bill will strengthen RICO's ability to monitor and prosecute violations.

Thank you for the opportunity to testify on this bill.

**Testimony of the Contractors License Board**

**Before the  
House Committee on Intrastate Commerce  
Tuesday, February 5, 2019  
9:30 a.m.  
State Capitol, Conference Room 430**

**On the following measure:  
H.B. 1154, RELATING TO THE OWNER-BUILDER EXEMPTION**

Chair Ohno and Members of the Committee:

My name is Candace Ito, and I am the Executive Officer of the Contractors License Board (Board). The Board offers comments on this bill, as it has not had an opportunity to review and discuss this bill at a publicly noticed Board meeting. However, the Board has appreciated the intent of similar measures in the past.

The purposes of this bill are to: (1) require owner-builders to provide proof of withholding taxes and workers' compensation insurance; and (2) increase fines for failure to comply with statute.

The Board supports additional restrictions on owner-builders to prevent abuses of the permit process which foster unlicensed contractor activity.

Thank you for the opportunity to testify on this bill.

**HB-1154**

Submitted on: 2/3/2019 12:41:19 PM

Testimony for IAC on 2/5/2019 9:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Kim Jorgensen	Individual	Support	No

Comments:

This testimony is in SUPPORT of HB1154.

Thank you for considering all the merits it proposes and the benefits that will be provided to employees should it be passed.

Sincerely,

Kim Jorgensen

**HB-1154**

Submitted on: 2/3/2019 12:51:50 PM

Testimony for IAC on 2/5/2019 9:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Denise Boisvert	Individual	Support	No

Comments:

Dear Representatives,

Please consider this testimony as SUPPORT for House Bill 1154.

Sincerely,

Denise Boisvert

Waikiki



February 3, 2019

The Honorable Takashi Ohno, Chair  
The Honorable Dale T. Kobayashi, Vice Chair  
and members  
House Committee on Intrastate Commerce  
415 South Beretania Street  
Honolulu, Hawai'i 96813

Dear Chair Ohno, Vice Chair Kobayashi, and Members:

HI Good Neighbor is a group of concerned citizens from around the island who are strongly opposed to the proliferation of large detached dwellings, also called “monster homes,” throughout Oahu’s residential neighborhoods.

We have been deeply concerned with the proliferation of monster homes and have been extremely troubled by how many of these homes have been built without regard to the building code, zoning code, construction safety, licensure, and tax laws. Our research has found that many monster home builders utilize the owner-builder exemption to avoid taxes and workers’ compensation requirements.

Therefore, we write to **strongly support HB1154**, relating to the owner-builder exemption. We feel that this bill will help to clarify recordkeeping requirements for those that utilize the owner-builder exemption, cut down on those who fraudulently utilize the exemption, and help investigative agencies to determine who is correctly following the law.

HB1154 has two parts:

Section 1 amends HRS 444-2.5(a)(4) to add a requirement about withholding of taxes and workers’ compensation coverage. HRS 444-2.5(a)(3) already requires owner-builders to provide such taxes and provide workers comp, but there’s no requirement to maintain records of such in 444-2.5(a)(4) or (5), hence the need for this clarification.

Section 2 amends HRS 444-9.1 so that the existing disclosure statement which owner-builders are required to sign conforms with the existing fine structure in HRS 444-23(e). When the fine structure was increased back in 2013 (Act 176, 2013), these associated housekeeping changes weren’t made, and as a result, the disclosure is out of sync with existing law. Section 2 would correct this omission as a housekeeping matter.

We thank you for the opportunity to express our opinion and ask for your favorable action on this bill.

Mahalo nui loa,

HI Good Neighbor  
Tyler Dos Santos-Tam | Sarah Chinen | Melissa Mai'i  
Aurora Muir | Christine Otto Zaa | Reyna Sueoka  
Pat Watson | Trisha Kehaulani Watson | Steven Yamashiro

## IACtestimony

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**From:** David G. Choy <Lkchoy1@hawaiiintel.net>  
**Sent:** Monday, February 4, 2019 8:38 AM  
**To:** IACtestimony  
**Cc:** Lkchoy1@hawaiiintel.net  
**Subject:** HB-1154 SUPPORT - IAC 2/5/2019 9:30AM

### **HB-1154 SUPPORT - IAC 2/5/2019 9:30AM**

#### **Testimony for IAC on 2/5/2019 9:30AM**

Dear Chair Ohno, Vice Chair Kobayashi, and Members:

I support HB1154. HB1154 would require owner-builders to provide proof of withholding taxes and workers' compensation insurance. Throughout the island, there have been many instances of monster home builders abusing the owner-builder process to hastily construct large dwellings that are inappropriate for the surrounding neighborhood. Many of the owner-builders then hire disreputable contractors and subcontractors who work without regard for basic safety and common sense standards. Requiring owner-builders to provide proof of withholding taxes and workers' compensation insurance for anyone hired to build these structures will help to cut down on fraud, tax evasion, and improve worker safety.

Mahalo,  
David G. Choy

*I agree to submit this testimony and understand that all public hearing transcripts and testimony are public documents. Therefore, any testimony that is submitted verbally or in writing, electronically or in person, for use in the legislative hearing process is public information.*

IAC 02/05/2019 HB1154 - Relating to the Owner-Builder Exemption - IN SUPPORT

<b>Testifier Name</b>
David G. Choy
Reyna Sueoka
Thomas J. Bena
Eric Wong
Michael Abe
Roy Imai
Sharon Rowe
Anne Towey Joyer
Sharon K. Ouchi
Pat Watson
Jeannie Lum
Jean Zaa
Tasha Nakata-Nagao
Erin Isa Donle
Maris Fukuya
Lane Nagano
Rhonda Mikani
Kathy Shimata
Doss Tannehill
John Sato
Lorraine Leslie
Kathleen Sato
Sarah Chinen
Geraldine Ralston
Shari S. Yamashiro
Russel Kong
Chris Asao
Leighton Wong
Liz Lau
Daron Lau
Lori Nagata
Brett Iwanuma
Joy Higa

IAC 02/05/2019 HB1154 - Relating to the Owner-Builder Exemption - IN SUPPORT

Elizabeth Uehara
Karen Oeda
Glenn Oeda
Karen Tsukiyama
Craig Tsukiyama
K. Saiki
Debbie Starr
Sharon Rahe
Joe Dollinger
Judy Takasane
Steven Aoki
Kory Wong
Dan Shimabuku
Donna Shimabuku
Michelle Matson
Sharon Schneider
Mark Shertzer
Gregg Hutchings
John Otto
Bree Blake
Anthony Kuehnert
Rey Ann Ka'auamo
Tami Nakasone
Lane Muraoka
Jamie Robinson
Kiyomi Ka'awa
Celeste Yamanaka
Gayle Shizumura
Colleen Chun
Torie Nakata-Nagao
Shawn Zaa
Steven
Christine Otto Zaa



DAVID Y. IGE  
GOVERNOR  
  
JOSH GREEN M.D.  
LIEUTENANT GOVERNOR



LINDA CHU TAKAYAMA  
DIRECTOR  
  
DAMIEN A. ELEFANTE  
DEPUTY DIRECTOR

**STATE OF HAWAII**  
**DEPARTMENT OF TAXATION**  
830 PUNCHBOWL STREET, ROOM 221  
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<http://tax.hawaii.gov/>  
Phone: (808) 587-1540 / Fax: (808) 587-1560  
Email: Tax.Directors.Office@hawaii.gov

**LATE**

To: The Honorable Takashi Ohno, Chair  
and Members of the House Committee on Intrastate Commerce

Date: Tuesday, February 5, 2019  
Time: 9:30 A.M.  
Place: Conference Room 430, State Capitol

From: Linda Chu Takayama, Director  
Department of Taxation

Re: H.B. 1154, Relating to the Owner-Builder Exemption

The Department of Taxation (Department) provides the following comments regarding H.B. 1154 for your consideration. H.B. 1154 requires owner-builders to provide proof of withholding taxes and workers' compensation insurance, and amends fines for failure to comply with the statute. The measure is effective July 1, 2019.

The Department believes that this measure places a burden on an owner-builder that cannot be met in most cases. The owner-builder will only be able to prove that the relevant taxes and premiums are paid if the owner-builder is the employer. When the owner-builder is not the employer, disclosure of the social security numbers and other confidential information of the employees would be unlawful.

In addition, withholding and worker's compensation returns are generally filed quarterly, for the previous period. A determination of compliance may not be made until several months beyond the period worked.

Thank you for the opportunity to provide comments.

# ***SAH - Subcontractors Association of Hawaii***

*1188 Bishop St., Ste. 1003\*\*Honolulu, Hawaii 96813-2938*

*Phone: (808) 537-5619 ✦ Fax: (808) 533-2739*

**LATE**

February 5, 2019

Testimony To: House Committee in Intrastate Commerce  
Representative Takashi Ohno, Chair

Presented By: Tim Lyons, President

Subject: H.B. 1154 – RELATNG TO THE OWNER-BUILDER EXEMPTION

Chair Ohno and Members of the Committee:

I am Tim Lyons, President of the Subcontractors Association of Hawaii. The SAH represents the following nine separate and distinct contracting trade organizations.

HAWAII FLOORING ASSOCIATION

ROOFING CONTRACTORS ASSOCIATION OF HAWAII

HAWAII WALL AND CEILING INDUSTRIES ASSOCIATION

ELECTRICAL CONTRACTORS ASSOCIATION OF HAWAII

TILE CONTRACTORS PROMOTIONAL PROGRAM

PLUMBING AND MECHANICAL CONTRACTORS ASSOCIATION OF HAWAII

SHEETMETAL CONTRACTORS ASSOCIATION OF HAWAII

PAINTING AND DECORATING CONTRACTORS ASSOCIATION

PACIFIC INSULATION CONTRACTORS ASSOCIATION

We have some concerns relating to this bill. We are not opposed to requiring further documentation from an owner-builder to be sure that they have met with all of the provisions of the many laws that affect contractors. Owner-builders are often unaware of the total responsibilities that they take on when they become a "contractor". After all, when they do so they become an employer. As an example we find that even the wording in this bill under Section 1(a)(4)(E) on page 3 is misworded inasmuch as it is asking for proof of workers' compensation and FICA contributions for subcontractors and "independent contractors".

That is truly incorrect language inasmuch as individuals on the job are either 1) subcontractors or 2) employees. There is no such thing as independent contractors. Individuals are someone's employee. It is either the subcontractor's or the owner-builder's.

As to the increase in the penalties, we have no particular problem with that inasmuch as we think a bigger deterrent must be established in consideration of the large amount of owner-builder activities that go on.

Thank you.

February 6, 2019

**The Honorable Takashi Ohno, Chair**  
House Committee on Intrastate Commerce  
State Capitol, Room 430  
Honolulu, Hawaii 96813

**LATE**

**RE: H.B. 1154, Relating to the Owner-Builder Exemption**

**HEARING: Tuesday, February 5, 2019, at 9:30 a.m.**

Aloha Chair Ohno, Vice Chair Kobayashi, and Members of the Committee:

I am Ken Hiraki Government Affairs Director, testifying on behalf of the Hawai'i Association of REALTORS® (“HAR”), the voice of real estate in Hawai'i, and its over 9,500 members. HAR **opposes** H.B. 1154, which requires owner-builders to provide proof of withholding taxes and workers' compensation insurance. Amends fines for failure to comply with statute.

The purpose of the owner-builder exemption at Hawai'i Revised Statutes § 444-2 is to allow an individual homeowner to act as his/her own contractor for building or improving their residence.

Under the existing law, an owner-builder has a broad range of responsibilities of supervising the construction activity and must deduct Federal Insurance Contributions Act (FICA) and withholding taxes and provide worker's compensation for persons working on the construction activity who are not licensed, which they are treated as employees.

However, this measure requires an owner-builder to keep on file for inspection purposes proof of withholding of applicable taxes under FICA and proof of workers' compensation insurance for all persons contracted to work on the exempt building and structure, including licensed contractors. This should be the responsibility of the contractor and not the owner-builder.

This would be an extremely burdensome requirement for an owner-builder that goes over and above the existing requirement of FICA, withholding taxes and providing worker's compensation for only persons who are not licensed.

Mahalo for the opportunity to testify.



**LATE**

**TESTIMONY TO THE HOUSE COMMITTEE ON INTRASTATE COMMERCE  
State Capitol, Conference Room 430  
415 South Beretania Street  
9:30 AM**

February 5, 2019

RE: HB 1154 - RELATING TO THE OWNER-BUILDER EXEMPTION

Chair Ohno, Vice Chair Kobayashi, and members of the committee:

My name is Gladys Quinto-Marrone, CEO of the Building Industry Association of Hawaii (BIA-Hawaii). Chartered in 1955, the Building Industry Association of Hawaii is a professional trade organization affiliated with the National Association of Home Builders, representing the building industry and its associates. BIA-Hawaii takes a leadership role in unifying and promoting the interests of the industry to enhance the quality of life for the people of Hawaii. Our members build the communities that people call home.

BIA-Hawaii is in **strong support** of H.B. 1154 which proposes to require owner-builders to provide proof of with-holding taxes and workers' compensation insurance. The bill also amends fines for failure to comply with statute.

BIA-Hawaii has always been a strong proponent of strengthening the "owner-builder" laws to discourage work being done by "unlicensed persons". As the construction market tightens, homeowners may be tempted by "unlicensed persons" acting as contractors to go the owner-builder route in securing their building permit. Many homeowners are unaware of the responsibility that comes with being an owner-builder, and this bill addresses some of these issues. Homeowners should also be made aware that they will be liable if any of the unlicensed workers get injured on their property.

We are in strong support of H.B. 1154, and appreciate the opportunity to express our views on this matter.

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# Chamber of Commerce HAWAII

*The Voice of Business*

## TESTIMONY TO THE HOUSE COMMITTEE ON INTRASTATE COMMERCE

Tuesday, February 5, 2019 at 9:30 A.M.  
Conference Room 430, State Capitol

**LATE**

**RE: HOUSE BILL NO. 1154, RELATING TO THE OWNER-BUILDER EXEMPTION**

Chair Ohno, Vice Chair Kobayashi, and members of the Committee:

The Chamber is in support of H.B. 1154 which proposes to require owner-builders to provide proof of with-holding taxes and workers' compensation insurance. The bill also amends fines for failure to comply with statute.

The Chamber is the largest business organization in Hawaii, representing more than 1,000 businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of its members, which employ more than 200,000 individuals, to improve the state's economic climate and to foster positive action on issues of common concern.

We have always been a strong proponent of strengthening the "Owner-Builder" laws to discourage work being done by "Unlicensed Contractors." As the construction market tightens with contractors busy with many jobs in a high demand market, homeowners may be tempted by "Unlicensed Contractors" to go the Owner-Builder route in securing their building permit. Many homeowners are unaware of the responsibility that comes with being an Owner-Builder. The addresses some of these issues. Homeowners should also be made aware that they will be liable if any of the unlicensed contractor workers get injured on their property.

Thank you for the opportunity to testify.

## IACtestimony

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**LATE**

**From:** Nelson Lindsay <nlindsay@hawaii.rr.com>  
**Sent:** Monday, February 4, 2019 10:17 AM  
**To:** IACtestimony  
**Cc:** nlindsay@hawaii.rr.com  
**Subject:** HB-1154 SUPPORT - IAC 2/5/2019 9:30AM

### **HB-1154 SUPPORT - IAC 2/5/2019 9:30AM**

#### **Testimony for IAC on 2/5/2019 9:30AM**

Dear Chair Ohno, Vice Chair Kobayashi, and Members:

I support HB1154. HB1154 would require owner-builders to provide proof of withholding taxes and workers' compensation insurance. Throughout the island, there have been many instances of monster home builders abusing the owner-builder process to hastily construct large dwellings that are inappropriate for the surrounding neighborhood. Many of the owner-builders then hire disreputable contractors and subcontractors who work without regard for basic safety and common sense standards. Requiring owner-builders to provide proof of withholding taxes and workers' compensation insurance for anyone hired to build these structures will help to cut down on fraud, tax evasion, and improve worker safety.

Mahalo,  
Nelson Lindsay

*I agree to submit this testimony and understand that all public hearing transcripts and testimony are public documents. Therefore, any testimony that is submitted verbally or in writing, electronically or in person, for use in the legislative hearing process is public information.*



Testifier Name
Nelson Lindsay
Rodney Kawagoe
Danielle Taketa
Keith Watanabe
Karyl Garland
Collette Okubo

**LATE**