

Testimony of the Contractors License Board

**Before the
House Committee on Housing
Wednesday, February 12, 2025
9:00 a.m.**

Conference Room 430 and Videoconference

**On the following measure:
H.B. 421, RELATING TO CONTRACTORS**

Chair Evslin and Members of the Committee:

My name is Candace Ito, and I am the Executive Officer of the Contractors License Board (Board). The Board opposes this bill.

The purposes of this bill are to: (1) repeal the leasing restriction on owner-builders who obtain an owner-builder exemption to act as their own contractor and who build or improve residential or farm buildings or structures on property they own or lease and do not offer the buildings or structures for sale; and (2) require an owner or lessee to provide signed written notice that the structure for lease or sublease was built or improved by an individual who is not a licensed contractor.

The Board opposes this measure as the purpose of the one-year lease restriction and the requirement that the structures be built for the owner builder's own use, or for use by their grandparents, parents, siblings, or children, is to prevent the use of the owner-builder exemption to circumvent contractor licensing requirements. Lifting this limitation conflicts with the Board's objective to protect the health, safety and welfare of persons contracting with the construction industry, and afford the public effective and practical protection against the incompetent, inexperienced, unlawful, and unfair practices of unlicensed contractors.

The owner builder exemption permits an owner or lessee to act as their own general contractor. They are responsible for supervising the construction, ensuring that subcontractors are properly licensed, and ensuring work safety standard are met. The owner-builder is also responsible for ensuring the project passes building codes and building inspections, and that the project complies with employment and tax laws for any persons working on the project who are not licensed. The average homeowner would not have adequate construction knowledge to carry out the responsibilities of a

general contractor. A licensed general building contractor is required to have at least four years of supervisory experience constructing buildings from foundation to roof and possess knowledge of the laws that they are required to follow such as Occupational Health and Safety requirements, building codes, and tax and labor laws.

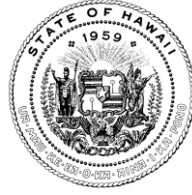
Unlicensed contractors take advantage of owners by convincing them that the owner-builder exemption allows owners to build using unlicensed contractors.

Unlicensed contractors may not have the knowledge, training, and skills which could lead to construction defects. Owner-builders are at a disadvantage because unlicensed contractors do not warranty their workmanship, and substandard workmanship could jeopardize the safety of the occupants.

The owner-builder exemption law has been amended several times since 1974 to narrow the exemption in order to control and abate the unlawful activities of unlicensed contractors. This bill removes a crucial requirement which currently curtails unlicensed contracting. It lessens the restrictions on the owner builder exemption and allows anyone who owns or leases property to be exempt from the contractor licensing requirements. Removing the requirement that the structure be built for use by the owner-builder or their family permits anyone who owns land, including real estate investors, to build without a licensed general contractor. This was never the intent of the owner-builder exemption.

This bill undermines the contractor licensing law and contradicts the intent of the owner builder exemption by removing controls and safeguards that were enacted to protect the public from the dangers of unlicensed contracting activity. The Board respectfully requests that this bill be held.

Thank you for the opportunity to testify on this bill.



STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAI'I
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIR
KA 'OIHANA PILI KĀLEPA

335 MERCHANT STREET, ROOM 310
P.O. BOX 541
HONOLULU, HAWAII 96809
Phone Number: (808) 586-2850
Fax Number: (808) 586-2856
cca.hawaii.gov

NADINE Y. ANDO
DIRECTOR | KA LUNA HO'OKELE

DEAN I. HAZAMA
DEPUTY DIRECTOR | KA HOPE LUNA HO'OKELE

JOSH GREEN, M.D.
GOVERNOR | KE KIA'ĀINA

SYLVIA LUKE
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA

Testimony of the Department of Commerce and Consumer Affairs

Before the
House Committee on Housing
Wednesday, February 12, 2025
9:00 a.m.
Conference Room 430

On the following measure:
H.B. 421, RELATING TO CONTRACTORS

Chair Evslin and Members of the Committee:

My name is Esther Brown, and I am the Complaints and Enforcement Officer of the Department of Commerce and Consumer Affairs (DCCA) Regulated Industries Complaints Office (RICO). RICO offers **comments** on the bill.

By way of background, RICO partners with the DCCA's professional and vocational licensing boards, commissions, and programs (Boards) to regulate specific industries for the health, safety, and welfare of the public, and with due consideration of the State's legitimate, law-abiding professional and vocational licensees. RICO's domain is limited to two independent enforcement responsibilities: performing investigative and prosecutorial functions for the Boards. The Boards set standards for, and have final decision-making authority over, their respective licensees. In the case of this bill, therefore, RICO defers to and supports the Contractors License Board's position because it is the expert, governing body for matters affecting legitimate contracting in our State.

RICO appreciates the intent of the bill and applauds the Legislature's efforts towards creative and immediate solutions for housing kama'āina. The bill amends section 444-2.5, Hawaii Revised Statutes, which is commonly known as the "owner-builder exemption." Currently the exemption allows individual (human) homeowners to engage in general contracting without meeting the rigorous experience, financial, and competency standards that are required of contractors that are vetted and licensed by the Contractors License Board, provided the human owner or their immediate 'ohana occupies the property for a designated period of time.

At page 2, lines 8 - 9, and at page 8, lines 12 - 13, the bill proposes a *repeal* of the foundational requirement that the unlicensed owner-builder general contractor inhabit, and not sell, their structure for at least a year after completion. If adopted, therefore, the proposed amendments will:

(a) Remove a guardrail that has been in place for decades that helped prevent the rapid flipping of potentially poorly-constructed homes;

(b) Place the coinciding risk of defective or substandard construction on the innocent purchaser rather than the unlicensed owner-general contractor who built and supervised the project; and

(c) Cause legitimate and licensed contractors who specialize in remodeling and building homes to lose work to unlicensed contractors.

Finally, the proposed amendments could:

(a) Cause legitimate contractors to consider giving up their license to invest in becoming unlicensed homeowner-developers;

(b) Tempt entities to buy, fix, and flip homes at prices that could be unaffordable for struggling local families; and

(c) In worst-case scenarios involving the immediate flip of a home, lead to litigation against the unlicensed owner-builder contractor, the subcontractors who worked the project, and possibly the realtors for having sold a home constructed by an unvetted and unlicensed general contractor.

Thank you for the opportunity to testify on this bill.

February 12, 2025

The Honorable Luke A. Evslin, Chair

House Committee on Housing

State Capitol, Conference Room 430 & Videoconference

RE: House Bill 421, Relating to Contractors

HEARING: Wednesday, February 12, 2025, at 9:00 a.m.

Aloha Chair Evslin, Vice Chair Miyake, and Members of the Committee:

My name is Lyndsey Garcia, Director of Advocacy, testifying on behalf of the Hawai'i Association of REALTORS® ("HAR"), the voice of real estate in Hawaii and its over 10,000 members. HAR **supports** House Bill 421 which repeals the leasing restriction on owner-builders who obtain an owner-builder exemption to act as their own contractor and who build or improve residential or farm buildings or structures on property they own or lease and do not offer the buildings or structures for sale. Requires an owner or lessee to provide signed written notice that the structure for lease or sublease was built or improved by an individual who is not a licensed contractor.

An owner-builder is a property owner who has an owner-builder permit from the county to build or improve residential structures on a property for personal use or by their immediate family. As an owner-builder, one acts as their own general contractor, ensuring that all applicable laws, building codes, and zoning regulations are followed amongst other requirements. Additionally, a property owner may not apply for another owner-builder permit for three years.

Under current law, an owner-builder cannot sell or lease, or even offer to sell or lease the structure for one year after completion. The current restriction on leasing means that owner-builders that could offer units on Hawaii's rental market are unable to do so in that period. We support eliminating the one-year lease restriction for owner-builders to assist with increasing the supply of homes for Hawaii's rental market.

Mahalo for the opportunity to testify in support of this measure.

Feb. 12, 2025, 9 a.m.
Hawaii State Capitol
Conference Room 430 and Videoconference

To: House Committee on Housing
Rep. Luke Evslin, Chair
Rep. Tyson Miyake, Vice-Chair

From: Grassroot Institute of Hawaii
Ted Kefalas, Director of Strategic Campaigns

RE: HB4 — RELATING TO CONTRACTORS

Aloha Chair Evslin, Vice-Chair Miyake and other members of the Committee,

The Grassroot Institute of Hawaii **supports** [HB421](#), which would allow owner-builders to lease any homes they build within one year of their construction.

Owner-builders currently can build a home for themselves or their families on their own lands, but they cannot either sell or lease the house within a year of its construction.

The state of California allows owner-builders to lease their homes under their owner-builder exemption,¹ so there is already some precedent for this type of change.

Removing this bit of red tape would help Hawaii homeowners seeking to build an extra unit on their land, and would complement many of the strategies being now used to ease the state's housing shortage.

Thank you for the opportunity to testify.

Ted Kefalas
Director of Strategic Campaigns
Grassroot Institute of Hawaii

¹[Cal. Bus. & Prof. Code § 7044. Building or improvement by owner](#), accessed March 25, 2024.

February 11, 2025

TESTIMONY IN OPPOSITION TO H.B. 421,
RELATING TO CONTRACTING

Senate Committee on Housing
The Honorable Luke Evslin, Chair
The Honorable Tyson Miyake, Vice Chair

February 12, 2025 @ 9:00 AM
Conference Room 430
State Capitol 415 South Beretania Street

Chair Evslin, Vice Chair Miyake, and members of the Committee:

The Contractors Association of Kaua`i is a hundred member 68-year-old trade association based on Kaua`i. Our members are made up of 60% licensed general and specialty contractors. The Contractors Association of Kaua`i (CAK) is submitting this testimony in OPPOSITION of H.B. 421, Relating to Contracting.

When the original legislation allowing for owner-builders was enacted, the intent was to allow for the construction by a property owner of a home for personal occupancy. It was never intended to be “flipped” within a year; leased, or rented out in full or by rooms within the house or farm dwelling.

If this bill is enacted, the legislature could well reduce the amount of work a small licensed residential contractor will be able to do. These contractors had to document and show proof of thousands of hours of actual experience in the trades for which he or she is seeking to be licensed in. These contractors would have had to take and pass a battery of tests, invest in insurances, be bonded (in many cases) and have tax clearances. We humbly ask that the legislature respect the holders of contractors licenses who employ your family, friends, neighbors and constituents and who are a big part of Hawai`i’s economic engine. While the current owner-builder law is not perfect, for now there appears to be balance.

Lastly, we would like to suggest that the legislature address the state’s regulatory requirements that make the development and construction of housing so difficult and costly.

Thank you for allowing the Contractors Association of Kaua`i to weigh in on this issue.

Copy: The Honorable Speaker, Nadine Nakamura