

ACT 115

H.B. NO. 319

A Bill for an Act Relating to Owner-Builders.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 444-2.5, Hawaii Revised Statutes, is amended by amending subsections (b) and (c) to read as follows:

“(b) Proof of the sale or lease, or offering for sale or lease, of the structure ~~[not more than]~~ within one year after completion~~[- unless the sale or lease was caused by an eligible unforeseen hardship as determined by the board pursuant to subsection (c).]~~ shall be prima facie evidence that the construction or improvement of the structure was undertaken for the purpose of sale or lease; provided that this subsection shall not apply to:

- (1) Residential properties sold or leased to employees of the owner or lessee; ~~[or]~~
- (2) Construction or improvements performed pursuant to an approved building permit where the estimated valuation of work to be performed, as reflected in the building permit, is less than \$10,000~~[-];~~
or
- (3) Any sale or lease caused by an eligible unforeseen hardship as determined by the board pursuant to subsection (c).

(c) The board shall determine the eligibility of an unforeseen hardship claimed by an owner under subsection (b); provided that an alleged unforeseen hardship shall not be deemed eligible if the board determines that the construction or improvement of the structure was undertaken for the purpose of sale or lease. An exemption for an unforeseen hardship shall not be denied solely because of lack of completion, as the term is defined in subsection (e). An owner seeking a determination of eligibility of an unforeseen hardship shall:

- (1) Be in compliance with the requirements set forth in the disclosure statement required to be provided under section 444-9.1; and
- (2) ~~[Apply in writing]~~ Submit a written application to the board at any time prior to selling, leasing, or offering to sell or lease the property[-] describing the nature of the applicant’s unforeseen hardship. The application shall include supporting documentation detailing the hardship, such as:
 - (A) Evidence of receipt of unemployment compensation;
 - (B) Tax returns;
 - (C) Medical records;
 - (D) Bank statements;
 - (E) Divorce decrees ordering sale of property;
 - (F) Mortgage default letters; or

ACT 115

(G) Bankruptcy filings.

The board shall communicate its determination to the owner in writing within ninety days of receiving a completed application under this subsection.”

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

SECTION 3. This Act shall take effect July 1, 2011.

(Approved June 14, 2011.)