

Owner-Builders in Hawaii

A Guide to State Regulations

Before you sign on the dotted line...

Chapter 444 of the Hawaii Revised Statutes (HRS) requires that a licensed contractor be hired for any construction work which is more than \$1,000 or for which a building permit is required. This contractor is considered the responsible and liable party of record for the construction described in the permit.

Property owners who are building or improving their own home or business site, however, can register as an Owner-Builder with their county building department. This exempts owners from the requirements to be licensed as contractors, yet still allows them to obtain building permits.

In order to protect and inform consumers about the legal consequences of being an Owner-Builder, the law requires that each applicant must sign a Disclosure Statement provided by the county building departments.

This page discusses some of the major responsibilities and potential liabilities of being an Owner-Builder.

What is the definition of owner-builder?

Chapter 444, Hawaii Revised Statutes (HRS) defines owner-builders as owners or lessees of property who build or improve structures on property for their own use, or for use by their immediate family.

How do I qualify as a builder-owner?

You must register for a permit as an owner-builder at the Building Permit department in your County Building office and comply with the laws defining your responsibilities.

Are there any restrictions on owner-builder exemption permits?

As an owner-builder, a homeowner acts as its own contractor. However, all electrical and plumbing work must be performed by contractors licensed to perform that work.

The structure cannot be sold or leased or offered for sale or lease within one (1) year after completion of the construction.

If a person obtains an owner-builder exemption more than once within a two year period, that person is presumed under the law to be in violation of the exemption requirements.

What are the major responsibilities of an owner-builder?

As an owner-builder, you are acting as your own general contractor overseeing that the work complies with all applicable laws, building codes and zoning regulations. It is your responsibility to insure that all subcontractors hired by you have the appropriate licenses required by state laws and county ordinances.

As a general contractor, you may be acting as the employer of a worker or unlicensed contractors you hire. As an employer, you must comply with all

employer requirements such as deducting and paying the State, FICA, and withholding taxes, and providing unemployment, temporary disability and workers' compensation insurance for those workers.

What are the risks of hiring an unlicensed contractor?

You may be sued by an unlicensed individual who is injured while working on your project or be required to pay workers' compensation or other insurance coverage if a claim is filed and an employer-employee relationship is determined.

How do owner-builders find themselves liable for these claims?

An unlicensed contractor may persuade a property owner to obtain an owner-builder permit, and then have that unlicensed contractor do the work. The owner is considered the actual employer of any workers hired by an unlicensed contractor.

Licensed contractors or subcontractors are only qualified to do specified types of construction. A licensed contractor working outside its company contracting license classification is considered an unlicensed contractor on the job.

Does everyone engaging in contracting activity need to be licensed?

The most frequently used and abused exemption in the contractor law is the \$1,000 exemption, commonly referred to as the "handyman" exemption. The handyman exemption permits the hiring of a person not licensed as a contractor if the total cost of the project including labor, materials, taxes, and all other items if equal to, or less than \$1,000.

This exemption does not apply in any case where:

1. a building permit is required no matter what the total contract price is;
2. for electrical and plumbing work;
3. where the work is parceled out into multiple projects.

Are there penalties for owner-builder violations?

Depending on the type of infraction, a first offense may result in a fine of up to \$5,000 or 40% of the appraised value of the building, whichever is greater. Subsequent violations may result in a fine of \$10,000 or 50% of the building's appraised value.

How can a property owner be protected?

Hire contractors that you have confirmed are properly licensed and current in all employer withholdings and insurances.

Contact the Professional and Vocational Licensing Division of the Department of Commerce and Consumer Affairs (586-3000) for licensing information.

You may call the Regulated Industries Complaints Office's (RICO) complaints history line (808) 586-2677 to check if there are any complaints against a contractor.

If I am having problems with my contractor and want to file a complaint, who do I call?

You may call the Regulated Industries Complaints Office, Consumer Resource Center, at (808) 587-3222.

Government Agencies Ready to Assist You

The state Regulated Industries Complaints Office (RICO) has jurisdiction over complaints relating to licensed or unlicensed contractors. Call the Consumer Resource Center at (808) 587-3222 if you have a consumer complaint. From the neighbor islands, call the state toll-free telephone number listed below. (You will then be asked to dial the last five digits of the state phone number you want to call, then press the # sign.):

Kauai 274-3141
Hawaii 974-4000
Maui 984-2400
Molokai/Lanai (800)468-4644

Call (808) 586-2677 for complaint history information.

To check if a contractor is licensed, contact the state Professional and Vocational Licensing Division at (808) 586-3000.

For Building Permit or Owner-Builder information contact:	
ON OAHU	ON MAUI
Building Department City & County of Honolulu Ground Floor, Municipal Office Building 650 South King Street Phone (808) 523-4505	Building Permits Section County Land Use & Code Administration 250 South High Street Wailuku, Maui, HI 96793 Phone (808) 243-7250
ON KAUAI	ON THE BIG ISLAND
Building Division County Department of Public Works 4444 Rice Street, Suite 175 Lihue, Kauai, HI 96766 Phone (808) 241-6655	Building Division County Department of Public Works 25 Aupuni Street, Room 106 Hilo, HI 96720 Phone (808) 961-8331

This information is provided as a public service by the Pacific Resource Partnership in cooperation with the State of Hawaii Department of Commerce and Consumer Affairs and the County Building Department on your island. It is for informational purposes only, as a reference on certain matters pertaining to Owner-Builder exemption permits. It should not be construed as legal advice, and all information is subject to change.

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