



Regulated Industries Complaints Office
235 S. Beretania Street, Ninth Floor
Honolulu, Hawaii 96813
cca.hawaii.gov/rico

RISKS AND RESPONSIBILITIES OF BEING AN OWNER-BUILDER

Who is an owner-builder? An owner-builder is a property owner who has an owner-builder permit from the county to build or improve residential or farm structures for use either by the owner or his/her grandparents, parents, siblings or children. The owner-builder law applies to people who lease property too. Owner-builder permits are not available for industrial or commercial buildings.

What does an owner-builder permit allow me to do? With an owner-builder permit, you are the general contractor for your project and you can proceed on construction of your project without a licensed general contractor.

YOUR RESPONSIBILITIES...

What does the owner-builder permit require me to do? When you sign the owner-builder permit, like a general contractor, you assume full responsibility for every phase of your project *and* its integrity. In short, the law requires you to comply with all of the laws and rules a licensed contractor must follow.

Among other things, as an owner-builder...

You must supervise the construction yourself

You're responsible for ensuring your project passes codes and building inspections

You're responsible for ensuring any contractors working on your project are properly licensed

You're responsible for complying with employment and tax laws for all of the employees you hire

Can I hire anybody to work on my project? If you enter into contracts with contractors who will act as your subcontractors on the project, it's your responsibility to make sure they're properly licensed. You're also responsible for supervising, scheduling, and paying them. Any person working on your project who is not working as a subcontractor must be your employee. As the employer, you must comply with employment and tax laws, which include deducting Federal Insurance Contributions Act (F.I.C.A.), withholding taxes, and providing workers' compensation. Electrical or plumbing work must be performed by contractors licensed under Chapters 444 and 448E of the Hawaii Revised Statutes.

Can I hire someone to manage my project? Be wary of "consultants," "construction managers," and other unlicensed individuals who may try to talk you into becoming an owner-builder as a way to save money. If they are, in effect, managing your project, you may be aiding and abetting an unlicensed contractor. As the permit holder, you are responsible for the project and must supervise the construction yourself.

What kind of records am I required to keep? Hawaii law requires owner-builders keep and maintain certain records for up to three years after project completion, including copies of building permits and applications, copies of contracts with the names of all persons who performed work on the project, and proof of payment to employees, subcontractors, and the like.

YOUR POSSIBLE RISKS...

Mistakes can be costly. Like anything in life, there's a lot to be said for experience. Unless you're knowledgeable about construction, mistakes can be costly and can result in delays and additional expense.

Avoid liens. Subcontractors or suppliers who don't get paid on time may file mechanics liens against your property. Educate yourself about mechanic's liens and learn how to prevent them.

Ouch that hurts. If an employee is injured, you may be required to pay for medical care and rehabilitation costs. You may also be responsible for any injuries sustained by an employee of an unlicensed subcontractor.

Insurance. Lots of things can happen on a construction project - accidents on the premises, falling objects - not to mention fire, vandalism, malicious mischief, and theft of building items. As an owner-builder, you should be aware of the requirements and legalities involved in properly insuring your project, including injuries to employees and subcontractors working on your job.

You are restricted from selling or leasing the structure for one year. If you build under an owner-builder permit, you cannot sell or lease (or even offer to sell or lease) the structure for one year after it's completed. (You can sell or lease a structure within one year if the estimated value of the work performed was less than \$10,000. You can sell or lease a residential property within one year to your employee. Owner-builders can also apply to the Contractors License Board for an exemption based on unforeseen hardships. For information about the hardship exemption, contact the Contractors License Board at [808] 586-2700.)

Contractors Recovery Fund. The Contractors Recovery Fund helps to compensate homeowners if something goes wrong with their project. The Contractor's Recovery Fund is only available to consumers who have hired a licensed general contractor. The Fund is not available to owner-builders.

Penalties. Owner-builders who fail to comply with owner-builder requirements can be fined up to \$5,000 or 50% of the permit value of the work to be performed, whichever is greater. Subsequent violations could result in a \$10,000 fine or 60% of the permit value of the work to be performed, whichever is greater. Owner-builders who violate the owner-builder requirements are prohibited from applying for new owner-builder permits for three years. If you obtain an owner-builder permit more than once in two years, you are presumed to have violated the owner-builder exemption.

The buck stops with you. If you aren't satisfied with the final product, there's no one to complain to but yourself.

What should you do? Begin by reading the owner-builder permit application carefully and reviewing Chapter 444 of the Hawaii Revised Statutes.

Know the responsibilities and risks of being an owner-builder...

Read the owner-builder permit application and all applicable laws

Talk to your insurance company or agent about coverage for both worker's compensation and general liability issues

Monitor the job and keep required records...remember, you're responsible for every phase of your project and its integrity

Final thoughts: Being a general contractor is more than just getting permits, scheduling suppliers, and moving subcontractors on and off a job site...its experience, competence, an ability to anticipate problems, and a willingness to assume responsibility for the entire project.

Resources: The Department of Commerce and Consumer Affairs (DCCA), and its Regulated Industries Complaints Office (RICO), offer tools, tips, and services you can use to check out an individual or business. Information is available by calling (808) 587-4272 or online at cca.hawaii.gov/business_online. For information about filing a complaint or to report unlicensed activity, call RICO's Consumer Resource Center at (808) 587-4272 or visit us online at cca.hawaii.gov/rico. To call Oahu-RICO, dial the following toll free numbers: Kauai 274-3141, extension 74272; Maui 984-2400, extension 74272; Big Island 974-4000, extension 74272; Molokai and Lanai 1-800-468-4644, extension 74272, followed by the # sign.

This brochure is for informational purposes only and not intended for the purposes of providing legal advice. Information provided is subject to change.