

# BIA-HAWAII

## BUILDING INDUSTRY ASSOCIATION

*"Building Better Communities"*

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Castle & Cooke Homes Hawaii, Inc.

## Testimony to the House Committees on Water and Land and Agriculture Wednesday, February 13, 2013

**8:15 a.m.**

**Capitol, Room 325**

### RE: H.B. 846, RELATING TO THE OWNER-BUILDER EXEMPTION

Dear Chairs Evans and Wooley, Vice-Chairs Lowen and Onishi, and members of the Committees,

My name is Gladys Marrone, Government Relations Director for the Building Industry Association of Hawaii (BIA-Hawaii), the voice of the construction industry. We promote our members through advocacy and education, and provide community outreach programs to enhance the quality of life for the people of Hawaii. BIA-Hawaii is a not-for-profit professional trade organization chartered in 1955, affiliated with the National Association of Home Builders.

BIA-Hawaii **strongly supports** H.B. 846, which proposes to set forth specific responsibilities of, and protections for, owner-builders exempted under Chapter 444, Hawaii Revised Statutes (HRS). S.B. 1077 will: 1) strengthen RICO's ability to monitor and prosecute violations involving owner-builder construction projects; 2) increase protections for owner-builders as well as workers; and 3) ensure that appropriate taxes, including the GET, are paid to the State.

Currently, Chapter 444 – 2.5, HRS, allows owners or lessees of real property to qualify for an owner-builder exemption from the licensing requirements of Hawaii's Contractor law if the owners or lessees build or improve residential, farm, industrial, or commercial buildings for their own use and do not offer the buildings for sale or lease within one year. With the rising cost of construction and the industry's high unemployment, many homeowners are choosing to be their own contractors under Chapter 444-2.5.

The owner-builder exemption was established, and intended, for legitimate circumstances where homeowners had the requisite ability, time, and inclination to save money by performing their own home improvements and construction.

An owner-builder becomes the general contractor responsible for compliance with the regulations of federal, state, and county laws that govern construction: OSHA, EPA, taxes, insurance, etc. Violations of these regulations result in heavy fines levied by the respective agencies. The owner-builder is also liable for all persons who enter their project site. However, Many homeowners are ill-advised by unlicensed contractors to obtain an owner-builder permit so the owner can hire or contract with an unlicensed contractor.

The hiring of an unlicensed contractor results in millions of dollars in lost GET because payment is almost always made in cash. At Honolulu's Department of Planning and Permitting, between 2010 and 2012, over 5,200 owner-builder permits were issued, totaling over \$250 million. Workers who are hired for cash wages are not provided mandated employee benefits, such as workers compensation and insurance. This is both a disservice to the State and to homeowners, who become extremely vulnerable in the event anything adverse occurs to a worker on their property during the project. Legitimate businesses that comply with the legal cost of doing business are at a disadvantage because their costs are higher.

BIA-Hawaii supports an amendment by the DCCA that would ensure that non-residential, accessory farm structures exempted in Act 114, SLH 2012, will not be impacted.

BIA-Hawaii would also recommend that a filing fee of ½% of the value of the proposed improvement, be instituted to directly support the Department's inspection efforts.

For the preceding reasons, BIA-Hawaii **strongly supports** H.B. 846.

Thank you for the opportunity to share with you our views.



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February 12, 2013

**Testimony to the House Committee on Water & Land and to the House  
Committee on Agriculture  
Wednesday, February 13, 2013  
8:15am  
Capitol, Room 325**

**RE: H.B.846, RELATING TO THE OWNER-BUILDER EXEMPTION**

Dear Chairs Evans and Wooley, Vice-Chairs Lowen and Onishi and members of the Committees,

I am Greg Thielen, President and RME of Complete Construction Services. I am a Small Business Owner and have over 20 years experience in the Construction Industry. I am also the 2013 President of BIA Hawaii.

I am here to strongly support HB846. I have been working in the construction industry in Hawaii for my whole life. I have seen a destructive evolution occur in our industry over the last 30 years. There was a time when a side job was just that. A way for a tradesman to pick up a few extra dollars doing weekend work. Today we have individuals acting as full time cash contractors without a license. These individuals encourage home owners to pull permits as Owner Builders and to hire them to perform the work. Owners are often happy to do so as the unlicensed cash contractor can offer substantially lower prices. Since that is the case, who is the victim?

The owner is in many cases an accessory, but they can also be a victim. Since they are not an expert in monitoring construction they can unwittingly be the victim of shoddy workmanship. More importantly the State of Hawaii is a victim in lost revenue that cash contractors don't pay. This includes GET as well as income tax lost in cash wage transactions. Most importantly the workers are the victims. They are working without State mandated benefits including workers compensation insurance, health insurance,

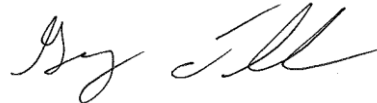
TDI and unemployment insurance. The simple fact is that the abuse of the Owner/Builder exemption profits a few, while hurting many.

So how big is the problem? For the last two years in the C&C of Honolulu there have been approximately 2,600 permits/ year with an estimated value of approximately 130 Million Dollars per year. Keep in mind these estimate values are commonly understated to reduce permit fees.

In addition to strongly supporting HB846 I also support an amendment to add a fee structure to fund the review and field investigation process. The fee should not be punitive to the small scale honest owner builder, but it is critical to provide this component. Without it the DCCA will be unable to keep up with the processing of the permits and investigating owner builder compliance.

Thank you for the opportunity to provide this testimony.

Sincerely,

A handwritten signature in black ink, appearing to read "Greg Thielen". The signature is fluid and cursive, with the first name "Greg" being more prominent than the last name "Thielen".

Greg Thielen  
President/RME



**Hawaii Farm Bureau**  
F E D E R A T I O N

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FEBRUARY 12, 2013

HEARING BEFORE THE  
SENATE COMMITTEE ON COMMERCE AND CONSUMER AFFAIRS

TESTIMONY ON HB 846  
RELATING TO THE OWNER-BUILDER EXEMPTION

Conference Room 325  
8:15 AM

Chairs Wooley and Evans, Vice Chairs Onishi and Lowen, and Members of the Committees:

I am sending this testimony to express the **strong opposition of the Hawaii Farm Bureau Federation to HB 846**, “Relating to the Owner-Builder Exemption.” The additional restrictions imposed upon owner-builders by HB 846 would make it more difficult and expensive to build necessary agricultural structures such as sheds, greenhouses, and shade houses. It could negate the beneficial effects of legislation passed just last year to relieve the regulatory burden on farmers and ranchers.

In 2012 the Legislature passed, and the Governor signed Act 114, which provided relief from county building permit requirements for certain low-risk, nonresidential agricultural buildings and structures. In doing so, the legislature recognized the substantial burden of time and cost that these requirements imposed upon farmers and ranchers. HB 846, in contrast, requires owner-builders to apply for and receive a building permit. This requirement would set up a direct conflict with the exemptions Act 114 provided. Low-risk structures like sheds, fish tanks, greenhouses, and shade houses on agricultural lands should not be subject to the same time-consuming and expensive permit process as residential structures in congested urban areas.

In addition, subsection (B) of HB 846's proposed language appears to require that an owner-builder hire licensed subcontractors to perform at least part of any construction

activity. This requirement would greatly increase the cost of any structure that the agricultural owner-builder could otherwise build by himself or herself, or with the assistance of farm workers.

HFBF is currently supporting bills that would further reduce the cost and construction time of low-risk farm structures by exempting these structures from county building code requirements. We feel that this exemption is necessary to encourage the development of much-needed agricultural infrastructure. HB 846, with its requirement that every structure “comply with all applicable laws, ordinances, building codes, and zoning regulations” would prohibit the relief that such an exemption would provide for Hawaii’s farmers and ranchers, and would interfere with the State’s efforts towards greater food self-sufficiency. HFBF therefore opposes HB 846, and respectfully asks that it not be passed.

The drafters of HB 846 and its companion bill, SB 1077, have assured us that the intent of this legislation is not to impose additional burdens upon farmers and ranchers seeking to build farm structures. We have proposed alternative language that assures us that our needs will be met, but BIA has not yet agreed to our proposed language. Therefore, we must continue to oppose the bill as it is written.

Thank you for the opportunity to testify.

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# GCA of Hawaii

GENERAL CONTRACTORS ASSOCIATION OF HAWAII

Quality People. Quality Projects.

Uploaded via Capitol Website

February 13, 2013

TO: HONORABLE CINDY EVANS, CHAIR, HONORABLE NICOLE LOWEN,  
VICE CHAIR AND MEMBERS OF THE HOUSE COMMITTEE ON WATER  
AND LAND

HONORABLE JESSICA WOOLEY, CHAIR, HONORABLE RICHARD  
ONISHI, VICE CHAIR AND MEMBERS OF THE HOUSE COMMITTEE ON  
AGRICULTURE

SUBJECT: **SUPPORT H.B. 846, RELATING TO THE OWNER BUILDER  
EXEMPTION.** Sets forth specific responsibilities of and protections for owner-  
builders exempted under chapter 444, Hawaii Revised Statutes.

### HEARING

DATE: Wednesday, February 13, 2013

TIME: 8:15 a.m.

PLACE: Conference Room 325

Dear Chairs Evans and Wooley, Vice Chairs Lowen and Onishi and Members:

The General Contractors Association (GCA) is an organization comprised of over six hundred (600) general contractors, subcontractors, and construction related firms. The GCA was established in 1932 is the largest construction association in the State of Hawaii. The GCA's mission is to represent its members in all matters related to the construction industry, while improving the quality of construction and protecting the public interest.

GCA is **in support** of H.B. 846, Relating to the Owner Builder Exemption, because it will further clarify the requirements under Chapter 444, Hawaii Revised Statutes. The purpose of this bill is to limit the application of the owner-builder exemption to residential or farm property only, to improve the ability of the regulated industries complaints office to investigate possible violations of the owner-builder law, and to offer additional disclosures for owner-builders when they enter into agreements with licensed subcontractors.

Currently, owners or lessees of real property may qualify for an owner-builder exemption under from the licensing requirements of Hawaii's Contractor law in chapter 444, HRS, if the owners or lessees build or improve residential, farm, industrial, or commercial buildings for their own use and do not offer the buildings for sale or lease. Owners or lessees who seek to qualify for an owner builder exemption must register for the exemption and sign a disclosure statement that sets forth the responsibilities of the owner-builder. This bill proposes to increase fines for any violations and require additional record-keeping for any homeowner claiming the exemption.

This bill hopes to curb any abuse by contractors who may utilize the exemption beyond its intended use.

In regards to the use of this exemption for commercial and industrial buildings, it would be of interest to know whether the use of the owner builder exemption is occasionally used by commercial or industrial owners, and if no problems exist, why the need to eliminate the use of such?

Thank you for the opportunity to present our views on this bill.