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## A BILL FOR AN ACT

RELATING TO RELOCATION SERVICES.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. Section 467-14, Hawaii Revised Statutes, is  
2 amended to read as follows:

3           "**§467-14 Revocation, suspension, and fine.** In addition to  
4 any other actions authorized by law, the commission may revoke  
5 any license issued under this chapter, suspend the right of the  
6 licensee to use the license, fine any person holding a license,  
7 registration, or certificate issued under this chapter, or  
8 terminate any registration or certificate issued under this  
9 chapter, for any cause authorized by law, including but not  
10 limited to the following:

- 11           (1) Making any misrepresentation concerning any real  
12           estate transaction;
- 13           (2) Making any false promises concerning any real estate  
14           transaction of a character likely to mislead another;
- 15           (3) Pursuing a continued and flagrant course of  
16           misrepresentation, or making of false promises through  
17           advertising or otherwise;



1 (4) Without first having obtained the written consent to  
2 do so of both parties involved in any real estate  
3 transaction, acting for both the parties in connection  
4 with the transaction, or collecting or attempting to  
5 collect commissions or other compensation for the  
6 licensee's services from both of the parties;

7 (5) When the licensee, being a [~~real~~]:

8 (A) Real estate salesperson, accepts any commission  
9 or other compensation for the performance of any  
10 of the acts enumerated in the definition set  
11 forth in section 467-1 of real estate salesperson  
12 from any person other than the real estate  
13 salesperson's employer or the real estate broker  
14 with whom the real estate salesperson associates;  
15 or [~~, being a real~~]

16 (B) Real estate broker or salesperson, compensates  
17 one not licensed under this chapter to perform  
18 any such act;

19 (6) When the licensee, being a real estate salesperson,  
20 acts or attempts to act as a real estate broker or  
21 represents, or attempts to represent, any real estate  
22 broker other than the real estate salesperson's



- 1           employer or the real estate broker with whom the real  
2           estate salesperson is associated;
- 3           (7) Failing, within a reasonable time, to account for any  
4           moneys belonging to others which may be in the  
5           possession or under the control of the licensee;
- 6           (8) Any other conduct constituting fraudulent or dishonest  
7           dealings;
- 8           (9) When the licensee, being a partnership, permits any  
9           member of the partnership who does not hold a real  
10          estate broker's license to actively participate in the  
11          real estate brokerage business thereof or permits any  
12          employee thereof who does not hold a real estate  
13          salesperson's license to act as a real estate  
14          salesperson therefor;
- 15          (10) When the licensee, being a corporation, permits any  
16          officer or employee of the corporation who does not  
17          hold a real estate broker's license to have the direct  
18          management of the real estate brokerage business  
19          thereof or permits any officer or employee thereof who  
20          does not hold a real estate salesperson's license to  
21          act as a real estate salesperson therefor;



1           (11) When the licensee, being a real estate salesperson,  
2                   fails to file with the commission a written statement  
3                   setting forth the name of the real estate broker by  
4                   whom the licensee is employed or with whom the  
5                   licensee is associated;

6           (12) When the licensee fails to obtain on the contract  
7                   between the parties to the real estate transaction  
8                   confirmation of who the real estate broker represents;

9           (13) Violating this chapter; chapter 484, 514B, 514E, or  
10                   515; section 516-71; or the rules adopted pursuant  
11                   thereto;

12           (14) Splitting fees with or otherwise compensating others  
13                   not licensed hereunder for referring business;  
14                   provided that notwithstanding paragraph (5), a real  
15                   estate broker may pay a commission to:

16                   (A) A licensed real estate broker of another state,  
17                           territory, or possession of the United States if  
18                           that real estate broker does not conduct in this  
19                           State any of the negotiations for which a  
20                           commission is paid;

21                   (B) A real estate broker lawfully engaged in real  
22                           estate brokerage activity under the laws of a



1 foreign country if that real estate broker does  
2 not conduct in this State any of the negotiations  
3 for which a commission is paid; or

4 (C) A travel agency that in the course of business as  
5 a travel agency or sales representative, arranges  
6 for compensation the rental of transient vacation  
7 rental; provided that for purposes of this  
8 paragraph "travel agency" means any person, which  
9 for compensation or other consideration, acts or  
10 attempts to act as an intermediary between a  
11 person seeking to purchase travel services and  
12 any person seeking to sell travel services,  
13 including an air or ocean carrier;

14 (15) Commingling the money or other property of the  
15 licensee's principal with the licensee's own;

16 (16) Converting other people's moneys to the licensee's own  
17 use;

18 (17) The licensee is adjudicated insane or incompetent;

19 (18) Failing to ascertain and disclose all material facts,  
20 including material facts disclosed in statements under  
21 chapter 508D, concerning every property for which the  
22 licensee accepts the agency, so that the licensee may



1 fulfill the licensee's obligation to avoid error,  
2 misrepresentation, or concealment of material facts;  
3 provided that for the purposes of this paragraph, the  
4 fact that an occupant has AIDS or AIDS Related Complex  
5 (ARC) or has been tested for HIV (human  
6 immunodeficiency virus) infection shall not be  
7 considered a material fact;

8 (19) When the licensee obtains or causes to be obtained,  
9 directly or indirectly, any licensing examination or  
10 licensing examination question for the purpose of  
11 disseminating the information to future takers of the  
12 examination for the benefit or gain of the licensee;  
13 [~~or~~]

14 (20) [~~Failure~~] Failing to maintain a reputation for or  
15 record of competency, honesty, truthfulness, financial  
16 integrity, and fair dealing[~~-~~];

17 (21) Failure by a buyer's agent to provide a copy of the  
18 disclosure statement required under chapter 508D to a  
19 buyer on or before the effective date of any contract  
20 that binds the buyer to purchase residential real  
21 property;



1       (22) Failure by a buyer's agent to obtain a signed receipt  
2       from the buyer for the delivery of the disclosure  
3       statement under paragraph (21); or

4       (23) Failing to disclose an error, inaccuracy, or omission  
5       in a disclosure statement under chapter 508D to a  
6       buyer or seller; provided that the disclosure shall be  
7       attached to the disclosure statement under chapter  
8       508D.

9       Disciplinary action may be taken by the commission whether the  
10      licensee is acting as a real estate broker, or real estate  
11      salesperson, or on the licensee's own behalf."

12      SECTION 2. Section 508D-1, Hawaii Revised Statutes, is  
13      amended by amending the definition of "sale of residential real  
14      property" to read as follows:

15      "Sale of residential real property" means the transfer or  
16      disposition of residential real property for consideration  
17      including, without limitation, a sale by exchange (provided that  
18      the transferor to an exchange accommodator but not the exchange  
19      accommodator who has acquired the residential real property for  
20      tax purposes prior to transfer to the buyer is deemed to be the  
21      seller for purposes of this chapter), auction, [~~e~~] lease with



1 option to buy[-], or by quitclaim deed that leads to the sale of  
2 that property within one year of the execution of the deed."

3 SECTION 3. Section 508D-2, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 "**§508D-2 Applicability.** Except as otherwise provided for  
6 in this chapter, this chapter applies to any sale of residential  
7 real property. The failure of the seller or the seller's agent  
8 to comply with this chapter shall not affect the validity of  
9 title to any residential real property sold[-]; provided that  
10 any sale of property made within twelve months of its purchase  
11 shall subject the seller and the previous seller to this  
12 chapter."

13 SECTION 4. This Act does not affect rights and duties that  
14 matured, penalties that were incurred, and proceedings that were  
15 begun, before its effective date.

16 SECTION 5. Statutory material to be repealed is bracketed  
17 and stricken. New statutory material is underscored.

18 SECTION 6. This Act shall take effect upon its approval.

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INTRODUCED BY:

*[Handwritten signature]*  
*[Handwritten signature]*  
*[Handwritten signature]*

*[Handwritten signature: Marilyn B. Lee]*  
*[Handwritten signature: Darbara Mammato]*  
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H.B. NO. 363

*Mr*

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JAN 18 2007



**Report Title:**

Real Property; Seller Disclosure; Relocation Services

**Description:**

Improves the seller disclosure law for residential property by broadening the application of the law to include both the seller and previous seller of property resold within one year; requires greater accountability by real estate agents and brokers with respect to a seller's disclosure; and broadens the application of the law to include quitclaim deed transfers.

