
A BILL FOR AN ACT

RELATING TO REAL ESTATE.

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

1 SECTION 1. Chapter 467, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§467- Disclosure required for private residential real
5 estate listings. A licensed real estate broker or real estate
6 salesperson who markets, advertises, or otherwise offers a
7 seller's residential real property for sale through a private
8 listing, off-market listing, or any listing not made available
9 to the general public shall provide the seller with a written
10 disclosure stating that the property is being offered as a
11 private listing and may not be made available to all prospective
12 buyers or brokers."

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

15 "§467-14 Revocation, suspension, and fine. In addition to
16 any other actions authorized by law, the commission may revoke
17 any license issued under this chapter, suspend the right of the



1 licensee to use the license, fine any person holding a license,
2 registration, or certificate issued under this chapter, or
3 terminate any registration or certificate issued under this
4 chapter, for any cause authorized by law, including but not
5 limited to the following:

- 6 (1) Making any misrepresentation concerning any real
7 estate transaction;
- 8 (2) Making any false promises concerning any real estate
9 transaction of a character likely to mislead another;
- 10 (3) Pursuing a continued and flagrant course of
11 misrepresentation, or making of false promises through
12 advertising or otherwise;
- 13 (4) Without first having obtained the written consent to
14 do so of both parties involved in any real estate
15 transaction, acting for both the parties in connection
16 with the transaction, or collecting or attempting to
17 collect commissions or other compensation for the
18 licensee's services from both of the parties;
- 19 (5) When the licensee, being a real estate salesperson,
20 accepts any commission or other compensation for the
21 performance of any of the acts enumerated in the



1 definition set forth in section 467-1 of real estate
2 salesperson from any person other than the real estate
3 salesperson's employer or the real estate broker with
4 whom the real estate salesperson associates or, being
5 a real estate broker or salesperson, compensates one
6 not licensed under this chapter to perform any such
7 act;

8 (6) When the licensee, being a real estate salesperson,
9 acts or attempts to act as a real estate broker or
10 represents, or attempts to represent, any real estate
11 broker other than the real estate salesperson's
12 employer or the real estate broker with whom the real
13 estate salesperson is associated;

14 (7) Failing, within a reasonable time, to account for any
15 moneys belonging to others that may be in the
16 possession or under the control of the licensee;

17 (8) Any other conduct constituting fraudulent or dishonest
18 dealings;

19 (9) When the licensee, being a partnership, permits any
20 member of the partnership who does not hold a real
21 estate broker's license to actively participate in the



1 real estate brokerage business thereof or permits any
2 employee thereof who does not hold a real estate
3 salesperson's license to act as a real estate
4 salesperson therefor;

5 (10) When the licensee, being a corporation, permits any
6 officer or employee of the corporation who does not
7 hold a real estate broker's license to have the direct
8 management of the real estate brokerage business
9 thereof or permits any officer or employee thereof who
10 does not hold a real estate salesperson's license to
11 act as a real estate salesperson therefor;

12 (11) When the licensee, being a real estate salesperson,
13 fails to file with the commission a written statement
14 setting forth the name of the real estate broker by
15 whom the licensee is employed or with whom the
16 licensee is associated;

17 (12) When the licensee fails to obtain on the contract
18 between the parties to the real estate transaction
19 confirmation of who the real estate broker represents;



1 (13) Violating this chapter; chapter 484, 514B, 514E, or
2 515; section 516-71; or the rules adopted pursuant
3 thereto;

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

8 (A) A licensed real estate broker of another state,
9 territory, or possession of the United States if
10 that real estate broker does not conduct in this
11 State any of the negotiations for which a
12 commission is paid;

13 (B) A real estate broker lawfully engaged in real
14 estate brokerage activity under the laws of a
15 foreign country if that real estate broker does
16 not conduct in this State any of the negotiations
17 for which a commission is paid; or

18 (C) A travel agency that in the course of business as
19 a travel agency or sales representative, arranges
20 for compensation the rental of a transient
21 vacation rental; provided that for purposes of



1 this paragraph, "travel agency" means any person
 2 that, for compensation or other consideration,
 3 acts or attempts to act as an intermediary
 4 between a person seeking to purchase travel
 5 services and any person seeking to sell travel
 6 services, including an air or ocean carrier;

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

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

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

12 (18) Failing to ascertain and disclose all material facts
 13 concerning every property for which the licensee
 14 accepts the agency, so that the licensee may fulfill
 15 the licensee's obligation to avoid error,
 16 misrepresentation, or concealment of material facts;
 17 provided that for the purposes of this paragraph, the
 18 fact that an occupant has AIDS or AIDS Related Complex
 19 (ARC) or has been tested for HIV (human
 20 immunodeficiency virus) infection shall not be
 21 considered a material fact;



- 1 (19) When the licensee obtains or causes to be obtained,
2 directly or indirectly, any licensing examination or
3 licensing examination question for the purpose of
4 disseminating the information to future takers of the
5 examination for the benefit or gain of the licensee;
- 6 (20) Failure to maintain a reputation for or record of
7 competency, honesty, truthfulness, financial
8 integrity, and fair dealing;
- 9 (21) Acquiring an ownership interest, directly or
10 indirectly, or by means of a subsidiary or affiliate,
11 in any distressed property that is listed with the
12 licensee or within three hundred sixty-five days after
13 the licensee's listing agreement for the distressed
14 property has expired or is terminated; [~~or~~]
- 15 (22) When the licensee, being a real estate broker or a
16 real estate salesperson, acting on behalf of a seller
17 or purchaser of real estate, acts in a manner that
18 prohibits a prospective purchaser or prospective
19 seller of real estate from being able to retain the
20 services of a real estate broker or real estate
21 salesperson[~~-~~]; or



1 (23) Failure to provide a seller with the disclosure
2 required for private residential real estate listings
3 pursuant to section 467- .

4 For the purposes of paragraphs (1) and (18), the real
5 estate commission shall consider whether the licensee relied in
6 good faith on information provided by other persons or third
7 parties.

8 As used in this section, "distressed property" has the same
9 meaning as set forth in section 480E-2.

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

13 SECTION 3. Statutory material to be repealed is bracketed
14 and stricken. New statutory material is underscored.

15 SECTION 4. This Act shall take effect on July 1, 3000.



Report Title:

Real Estate Brokers; Private Listing; Off-Market Listing;
Sellers; Disclosure; Disciplinary Action

Description:

Requires a licensed real estate broker or salesperson to provide written disclosure to the seller when marketing residential real property through a private or off-market listing. Includes failure to provide the written disclosure as grounds for disciplinary action against a licensed real estate broker or salesperson. Effective 7/1/3000. (HD1)

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