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# 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 "~~S467-~~ Exclusive sale prohibited. (a) No real estate  
5 broker shall list or offer the sale or lease of any residential  
6 real estate to a limited or exclusive group of prospective  
7 buyers, real estate brokers, real estate salespersons, or any  
8 combination thereof, unless the real estate is concurrently  
9 offered to the general public and all other real estate brokers  
10 and real estate salespersons, except as reasonably necessary to  
11 protect the health or safety of the owner or occupant.

12 (b) A violation of this section shall be an unfair or  
13 deceptive act or practice in the conduct of trade or commerce  
14 pursuant to section 480-2 and subject to the penalties under  
15 chapter 480."

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



1           **"§467-14 Revocation, suspension, and fine.** In addition to  
2 any other actions authorized by law, the commission may revoke  
3 any license issued under this chapter, suspend the right of the  
4 licensee to use the license, fine any person holding a license,  
5 registration, or certificate issued under this chapter, or  
6 terminate any registration or certificate issued under this  
7 chapter, for any cause authorized by law, including but not  
8 limited to the following:

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



- 1 (5) When the licensee, being a real estate salesperson,  
2 accepts any commission or other compensation for the  
3 performance of any of the acts enumerated in the  
4 definition set forth in section 467-1 of real estate  
5 salesperson from any person other than the real estate  
6 salesperson's employer or the real estate broker with  
7 whom the real estate salesperson associates or, being  
8 a real estate broker or salesperson, compensates one  
9 not licensed under this chapter to perform [~~any such~~  
10 the act;
- 11 (6) When the licensee, being a real estate salesperson,  
12 acts or attempts to act as a real estate broker or  
13 represents, or attempts to represent, any real estate  
14 broker other than the real estate salesperson's  
15 employer or the real estate broker with whom the real  
16 estate salesperson is associated;
- 17 (7) Failing, within a reasonable time, to account for any  
18 moneys belonging to others that may be in the  
19 possession or under the control of the licensee;
- 20 (8) Any other conduct constituting fraudulent or dishonest  
21 dealings;



1           (9) When the licensee, being a partnership, permits any  
2           member of the partnership who does not hold a real  
3           estate broker's license to actively participate in the  
4           real estate brokerage business thereof or permits any  
5           employee thereof who does not hold a real estate  
6           salesperson's license to act as a real estate  
7           salesperson therefor;

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

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



- 1 (12) When the licensee fails to obtain on the contract  
2 between the parties to the real estate transaction  
3 confirmation of who the real estate broker represents;
- 4 (13) Violating this chapter; chapter 484, 514B, 514E, or  
5 515; section 516-71; or the rules adopted pursuant  
6 thereto;
- 7 (14) Splitting fees with or otherwise compensating others  
8 not licensed hereunder for referring business;  
9 provided that notwithstanding paragraph (5), a real  
10 estate broker may pay a commission to:
- 11 (A) A licensed real estate broker of another state,  
12 territory, or possession of the United States if  
13 that real estate broker does not conduct in this  
14 State any of the negotiations for which a  
15 commission is paid;
- 16 (B) A real estate broker lawfully engaged in real  
17 estate brokerage activity under the laws of a  
18 foreign country if that real estate broker does  
19 not conduct in this State any of the negotiations  
20 for which a commission is paid; or



- 1 (C) A travel agency that in the course of business as  
2 a travel agency or sales representative, arranges  
3 for compensation the rental of a transient  
4 vacation rental; provided that for purposes of  
5 this paragraph, "travel agency" means any person  
6 that, for compensation or other consideration,  
7 acts or attempts to act as an intermediary  
8 between a person seeking to purchase travel  
9 services and any person seeking to sell travel  
10 services, including an air or ocean carrier;
- 11 (15) Commingling the money or other property of the  
12 licensee's principal with the licensee's own;
- 13 (16) Converting other people's moneys to the licensee's own  
14 use;
- 15 (17) The licensee is adjudicated insane or incompetent;
- 16 (18) Failing to ascertain and disclose all material facts  
17 concerning every property for which the licensee  
18 accepts the agency, so that the licensee may fulfill  
19 the licensee's obligation to avoid error,  
20 misrepresentation, or concealment of material facts;  
21 provided that for the purposes of this paragraph, the



- 1 fact that an occupant has AIDS or AIDS Related Complex  
2 (ARC) or has been tested for HIV (human  
3 immunodeficiency virus) infection shall not be  
4 considered a material fact;
- 5 (19) When the licensee obtains or causes to be obtained,  
6 directly or indirectly, any licensing examination or  
7 licensing examination question for the purpose of  
8 disseminating the information to future takers of the  
9 examination for the benefit or gain of the licensee;
- 10 (20) Failure to maintain a reputation for or record of  
11 competency, honesty, truthfulness, financial  
12 integrity, and fair dealing;
- 13 (21) Acquiring an ownership interest, directly or  
14 indirectly, or by means of a subsidiary or affiliate,  
15 in any distressed property that is listed with the  
16 licensee or within three hundred sixty-five days after  
17 the licensee's listing agreement for the distressed  
18 property has expired or is terminated; [~~or~~]
- 19 (22) When the licensee, being a real estate broker or a  
20 real estate salesperson, acting on behalf of a seller  
21 or purchaser of real estate, acts in a manner that



1 prohibits a prospective purchaser or prospective  
2 seller of real estate from being able to retain the  
3 services of a real estate broker or real estate  
4 salesperson[-]; or  
5 (23) Listing or offering the sale or lease of any  
6 residential real estate to a limited or exclusive  
7 group of prospective buyers, real estate brokers, or  
8 real estate salespersons, in violation of section  
9 467- .

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

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

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

19 SECTION 3. This Act does not affect rights and duties that  
20 matured, penalties that were incurred, and proceedings that were  
21 begun before its effective date.



1 SECTION 4. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3 SECTION 5. This Act shall take effect on July 1, 2050.



S.B. NO. 2806  
S.D. 1

**Report Title:**

Real Estate; Real Estate Brokers; Public Sale; Exclusive; Unfair Practices

**Description:**

Prohibits real estate brokers from listing or offering the sale or lease of residential real estate to a limited or exclusive group of prospective buyers, real estate brokers, or real estate salespersons, with limited exceptions. Deems the practice an unfair or deceptive trade or practice subject to penalties and grounds for discipline. Effective 7/1/2050. (SD1)

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