

ACT 45

S.B. NO. 1518

A Bill for an Act Relating to Real Estate Brokers and Salespersons.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 467-9, Hawaii Revised Statutes, is amended to read as follows:

“§467-9 License, registration, certificate, and applications. (a) Every applicant for issuance of a real estate license, registration, or certificate under this chapter shall file an application with the commission in a form and setting forth the information as may be prescribed or required by the commission, and shall furnish any additional information bearing upon the issuance of the license, registration, and certificate as it requires. Every application shall be sworn to before an officer authorized to administer oaths. In the case of a partnership or corporation, any general partner or officer thereof may sign the application and verify the same on behalf of the applicant. The commission may prescribe deadlines for the submission of applications.

(b) Unless approved by the commission, no real estate broker’s license shall be issued under or changed [under] to any trade name, corporate name, or partnership name which contains the name, part of the name, initials, or nickname of:

- (1) An unlicensed person;
- (2) A [licensed] real estate salesperson; or
- (3) A real estate broker whose real estate license is not associated with or employed [with] by the subject real estate broker applicant.

A real estate broker’s license name includes any trade name approved by the commission.

(c) A real estate broker’s license shall be placed on an inactive status unless the real estate broker immediately changes its name, trade name, corporate name, or partnership name that contains the name, part of the name, initials, or nickname of [an unlicensed person, licensed real estate salesperson, or real estate broker who is]:

- (1) [No] A real estate licensee who is no longer associated with or employed by the subject real estate broker, [including any association or employment as a real estate broker or salesperson as defined in section 467-1; or] except in the case of incapacitating disability or death of the real estate licensee where written authorization is obtained from the real estate licensee or legal representative of the licensee permitting use of the name; or
- (2) [No] A real estate licensee who is no longer a current active real estate licensee due to revocation, termination, forfeiture, surrender, or [change to] inactive status.

The changes shall comply with this chapter and the rules of the commission.

(d) Notwithstanding subsection (b), a real estate broker’s license name may include the name of a franchise registered with the business registration division of the department of commerce and consumer affairs.”

SECTION 2. Section 467-30, Hawaii Revised Statutes, is amended by amending subsection (b), to read as follows:

“(b) All condominium hotel operators shall register with the commission as a sole proprietor, partnership, or corporation and shall:

- (1) Obtain a license as a real estate broker in compliance with this chapter and the rules of the commission;
- (2) Register on an annual basis on or before December 31 of each year as a condominium hotel operator with the commission; provided that after December 31, 1996, registration shall be on a biennial basis on or before December 31 of each even-numbered year. Registration information shall include but not be limited to the number of apartments managed for others as well as the number of apartments owned by the condominium hotel operator. Any operator failing to register with the commission shall be subject to a fine not exceeding an amount equal to \$25 multiplied by the aggregate number of apartments being utilized as a condominium hotel. Each month or fraction of a month of non-compliance shall be deemed a new and separate violation;
- (3) Provide evidence of a current fidelity [bonding to the commission] bond or a certification statement from an insurance representative of an insurance company registered with the insurance division of the department of commerce and consumer affairs to the commission certifying that the bond is in effect and meets the requirement of this section and the rules adopted by the commission, and that the bond is in an amount equal to \$500 multiplied by the aggregate number of apartments in the condominium hotel operation; provided that the minimum of the bond required by this paragraph shall not be less than \$20,000 nor greater than \$100,000. The aggregate number of apartments excludes the number of apartments owned by the condominium hotel operator either as a sole proprietor, partnership, or corporation or those apartments included in a registered time share plan managed by a registered time share plan manager. The bond shall cover all of the condominium hotel operator’s employees handling or having custody and control of either the condominium hotel operator’s or the apartment owner’s funds, or both. The commission may adopt rules establishing conditions and terms by which it may grant an exemption or bond alternative, or permit deductibles. No fidelity bond exemption shall be granted to a condominium hotel operator who is exempt from paragraph (1); and
- (4) Pay an application fee and [upon approval] an initial registration or a re-registration fee as provided in rules adopted by the director of commerce and consumer affairs pursuant to chapter 91, which fees shall be deposited with the director of finance to the credit of the general fund;

provided that this subsection shall not apply to persons who are subject to section 467-2.”

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved April 22, 1997.)