

ACT 47

H.B. NO. 791

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. The purpose of this Act is to:

- (1) Consider if consumer protection is being compromised in real estate transactions in Hawaii as indicated by the Association of Real Estate License Law Officials (ARELLO) which reported that Hawaii, requiring ten hours per two-year licensing period, is ranked forty-six out of forty-nine states for mandatory continuing education hours based on average hours per year of licensing period, with the number one ranked state requiring thirty hours within a two-year licensing period;
- (2) Combine continuing education provisions applicable to real estate licensees into a new section for easier review and understanding;
- (3) Increase flexibility, range, and the number of options available in the provision of continuing education courses;
- (4) Codify the principal brokers' responsibilities in a new section, including requirements for training and educating associated real estate licensees; and

- (5) Direct the Hawaii Association of Realtors to convene a work study group and discuss continuing education and other administration issues with various interested parties, and submit any proposed consensus-derived legislation to the next legislature.

SECTION 2. Chapter 467, Hawaii Revised Statutes, is amended by adding two new sections to be appropriately designated and to read as follows:

**“§467- Principal brokers.** (a) The principal broker shall have direct management and supervision of the brokerage firm and its real estate licensees.

(b) The principal broker shall be responsible for:

- (1) The client trust accounts, disbursements from those accounts, and the brokerage firm’s accounting practices;
- (2) The brokerage firm’s records, contracts, and documents;
- (3) All real estate contracts of the brokerage firm and its handling by the associated real estate salesperson;
- (4) The proper handling of any commission application, real estate license application, or renewal application that the principal broker or the brokerage firm expressly agrees to handle on behalf of the applicant, including without limitation, verifying for completeness and appropriate fees, and mailing or delivering the appropriate documents to the commission by the required deadline;
- (5) Developing policies and procedures for the brokerage firm concerning the handling of real estate transactions and the conduct of the associated real estate licensees and other staff, including education and enforcement of the policies and procedures;
- (6) Setting a policy on continuing education requirements for all associated real estate licensees in compliance with the statutory requirement;
- (7) Ensuring that the licenses of all associated real estate licensees and the brokerage firm license are current and active;
- (8) Establishing and maintaining a training program for all associated real estate licensees; and
- (9) Ensuring that all associated real estate licensees are provided information and training on the latest amendments to real estate licensing laws and rules as well as other related laws and rules.

**§467- Continuing education.** (a) The commission shall have the authority to:

- (1) Set content and other requirements for continuing education courses, providers, and instructors;
- (2) Determine whether requirements have been met;
- (3) Specify a mandatory core course or courses or equivalencies for a licensing biennium;
- (4) Determine how many hours of a continuing education course will be credited toward the continuing education requirements for real estate licensees;
- (5) Develop its own continuing education courses or approve courses developed by others; and
- (6) Allow the provision of courses taught by alternative delivery methods with interactive instructional techniques. Interactive instructional techniques may include but are not limited to:
  - (A) The opportunity for immediate exchange with an instructor; and
  - (B) Assessment and remediation through the assistance of computer, electronic, audio, or audiovisual interactive instruction designed

to internally measure and evaluate whether students have mastered stated learning objectives.

(b) Continuing education providers shall:

- (1) Certify that instructors have met the commission requirements;
- (2) Ensure that instructors are competent in the subject matter of the course and are current in their knowledge of the subject matter; and
- (3) Ensure that the course is based on current information, laws, and rules.

(c) Continuing education instructors shall ensure that their courses are based on current information, laws, and rules.

(d) Continuing education courses shall be designed to improve a licensee's competency, or professional standards and practice and shall:

- (1) Be offered by a provider approved by the commission and either be:
  - (A) Approved by the commission and delivered by an instructor certified by a commission-approved continuing education provider;
  - (B) A national course delivered by an instructor certified by the National Association of Realtors or its affiliates;
  - (C) A national course delivered by an instructor certified by the Building Owners and Managers Association, the Community Associations Institute, or any other national organization approved by the commission; or
  - (D) Certified by the Association of Real Estate License Law Officials;
- (2) Be designed to allow students to exceed minimal entry level competency in the subject matter of the course including consumer protection in real estate transactions; and
- (3) Not require an examination."

SECTION 3. Section 467-11.5, Hawaii Revised Statutes, is amended to read as follows:

**"§467-11.5 Prerequisites for license renewal.** (a) Prior to the license renewal of a real estate broker or real estate salesperson, the licensee shall provide the commission with proof of having attended ten hours of continuing education or its equivalent as determined by the commission during the two-year period preceding the application for renewal. Failure to satisfy the continuing education requirement by the license expiration date shall result in the license being automatically placed on an "inactive" status.

(b) To reactivate a license which has been placed on an "inactive" status, the licensee shall submit to the commission proof of having satisfied the continuing education requirement of this section, a complete application setting forth the information as may be prescribed or required by the commission, and payment of the proper fee.

(c) Courses offered by alternative delivery methods with interactive instructional techniques may be approved by the commission. Interactive instructional techniques may include but are not limited to:

- (1) The opportunity for immediate exchange with an instructor; and
- (2) Assessment and remediation through the assistance of computer, electronic, audio, or audiovisual interactive instruction designed to internally measure and evaluate whether students have mastered stated learning objectives.

(d) (c) No license shall be renewed if the license trade name, partnership, or corporation is not currently registered with the department of commerce and consumer affairs."

SECTION 4. Section 467-1, Hawaii Revised Statutes, is amended by deleting the definition of “continuing education”.

[““Continuing education” means a course:

- (1) With a curriculum level above the current minimal competency entry level in any of the following areas:
  - (A) Protection of the general public in its real estate transactions;
  - (B) Consumer protection; or
  - (C) Improvement of the licensee’s competency and professional standards and practice; and
- (2) That is:
  - (A) Approved by the commission and delivered by an approved continuing education instructor;
  - (B) A national course taught by a nationally certified instructor certified by the National Association of Realtors or its affiliates; or
  - (C) A national course taught by a nationally certified instructor certified by, including but not limited to, the Building Owners and Managers Association, the Community Associations Institute, or other national organization approved by the commission;

provided that the continuing education course is offered by an approved continuing education provider. Continuing education courses shall not require an examination.”]

SECTION 5. The Hawaii Association of Realtors shall initiate a work study group during the legislative interim to discuss continuing education and administration issues with the real estate commission, the department of commerce and consumer affairs, and other interested parties. The work study group’s consensus recommendations on proposed legislation to address consumer protection and licensee concerns shall be submitted to the president of the senate, the speaker of the house, the co-chairs of the senate committee on commerce and consumer protection and the chair of the house committee on consumer protection and commerce prior to the convening of the regular session of 2000.

SECTION 6. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>1</sup>

SECTION 7. This Act shall take effect upon its approval.

(Approved April 26, 1999.)

**Note**

1. Edited pursuant to HRS §23G-16.5.