

H.B. NO. 2331

A BILL FOR AN ACT

RELATING TO AN INACTIVE STATUS FOR PROFESSIONAL AND VOCATIONAL
LICENSES.

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

1 SECTION 1. Chapter 436B, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§436B- Inactive license; reactivation of inactive
5 license. (a) Unless otherwise provided by law, each licensing
6 authority may allow a licensee to place its license on inactive
7 status and provide conditions for the reactivation of the
8 license.

9 (b) If a licensing authority desires to authorize an
10 inactive license status, the licensing authority may decide to
11 accept in total the provisions in subsection (c) to immediately
12 effectuate an inactive license status. If a licensing authority
13 desires to establish provisions for an inactive license status
14 that differ from the provisions in subsection (c), the licensing
15 authority may establish those alternative provisions by rules
16 adopted pursuant to chapter 91.

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1 (c) The following general provisions shall be applied by
2 the licensing authority:

3 (1) Upon written request by a licensee during the
4 licensure period or at renewal, and upon payment of an
5 inactive license fee, the licensing authority shall
6 place that licensee's active license on an inactive
7 status;

8 (2) A licensee may continue on inactive status for the
9 biennial or triennial period, whichever is applicable;

10 (3) A licensee on inactive status shall be considered as
11 unlicensed and shall not engage in the practice of the
12 licensed profession or vocation. Any person who
13 violates this prohibition shall be subject to
14 discipline under this chapter and the laws and rules
15 of the licensing authority for that license;

16 (4) It shall be the responsibility of each licensee on
17 inactive status to maintain knowledge of current
18 licensing and renewal requirements; and

19 (5) A licensee may request to reactivate the license at
20 any time during the licensure period or at renewal by
21 completing an application for reactivation and
22 fulfilling all requirements in effect at the time of

1 application to return the license to active status,
2 including the payment of an activation fee and other
3 fees that may be required. The licensing authority
4 may require information from the applicant to ensure
5 the applicant is fit to engage in the profession,
6 including but not limited to reporting license
7 sanctions, pending disciplinary actions, or conviction
8 of a crime in which the conviction has not been
9 annulled or expunged.

10 (d) The licensing authority may deny an application for
11 reactivation if the applicant does not fulfill all requirements
12 or for the bases set forth in section 436B-19 or in the laws and
13 rules of the licensing authority for that license. If the
14 licensing authority denies the application, written notice of
15 the denial shall state specifically the reason for denying the
16 reactivation and shall inform the applicant of the right to a
17 hearing under chapter 91. The applicant shall be required to
18 reapply for licensure and comply with the licensing requirements
19 in effect at the time of reapplication."

20 SECTION 2. New statutory material is underscored.

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1 SECTION 3. This Act shall take effect on January 1, 2007.

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INTRODUCED BY: Calvin K. Y. Ong

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BY REQUEST

JAN 23 2006

JUSTIFICATION SHEET

DEPARTMENT: Commerce and Consumer Affairs

TITLE: A BILL FOR AN ACT RELATING TO AN INACTIVE STATUS FOR PROFESSIONAL AND VOCATIONAL LICENSES.

PURPOSE: To authorize affected licensing authorities to allow licensees to go on inactive status when they are currently not engaged in the practice of their profession or vocation and to allow licensees to reactivate their licenses at any time during the licensure period or at renewal.

MEANS: Add a new section to chapter 436B, Hawaii Revised Statutes (HRS).

JUSTIFICATION: Currently, only 11 of 45 licensing boards and programs statutorily provide the option for licensees to go on inactive status. Of the remaining 34 licensing authorities, a fair number would like to provide for inactive status. Rather than amend various licensing laws, amendments can be made to chapter 436B, HRS, the Professional and Vocational Licensing Division's "Model Act". The Model Act was established in 1991 to ensure that consumers of services provided by members of various professions and vocations would be protected by a uniform licensing process. A uniform licensing process is necessary to ensure consistency and reasonableness in the regulation of professions and vocations.

This bill is not to mandate inactive license status for all licensing boards and programs but it is a means to offer them the option to implement an inactive license category.

This bill will allow licensing authorities to provide inactivation and reactivation opportunities for their licensees as follows:

Section 436B- (a): Licensing authorities that currently do not allow by law for inactive status and conditions for reactivation may now provide for this form of license status by opting to implement the parameters set forth in this statute.

Section 436B- (b): If the licensing authority decides to allow inactive status, it can do so by following the general provisions listed in subsection (c). If the licensing authority wishes to develop its own provisions for inactive status, this bill will allow an authority to make these changes by rules.

Section 436B- (c): The criteria for inactivation and reactivation that are set forth in this subsection are based on criteria that currently exist in licensing laws that provide for inactive status. The criteria include when a licensee may place the license on inactive status and reactivate, and the procedures related thereto; application and fee requirements; and clear notice to the licensee that while on inactive status the licensee shall maintain current knowledge of the licensing law and rules and shall be precluded from practicing in the licensee's profession.

Section 436B- (d): This subsection sets forth the criteria for the licensing authority to deny an application for reactivation of a license. Such criteria include the failure to comply with sections 436B- (c)(5) and 436B-19, HRS, ("Grounds for refusal to renew, reinstate, or restore and for revocation, suspension, denial, or condition of licenses"). It also includes notice requirements and appeal rights for the denied applicant, consistent with chapter 91, HRS. Lastly, consistent with the practices of licensing authorities when an application is denied, the applicant must

reapply for licensure and fulfill all licensing requirements.

The effective date of the bill, January 1, 2007, was selected to provide the lead time necessary for the Professional and Vocational Licensing Division to prepare, set up, and efficiently and smoothly implement this new provision.

Impact on the public: We do not envision an impact on the public.

Impact on the department and other agencies:
We see no adverse impact to the department. No impact on any other agency is foreseen.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: CCA-105-Professional and Vocational Personal Services.

OTHER AFFECTED AGENCIES: None.

EFFECTIVE DATE: January 1, 2007.