

SB 2699

JAN 25 2010

A BILL FOR AN ACT

RELATING TO RESTORATION OF CERTAIN FORFEITED PROFESSIONAL AND VOCATIONAL LICENSES.

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

1 SECTION 1. Section 442-11, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§442-11 Biennial renewal; fees; failure to renew.** Every
4 person holding a license to practice chiropractic in the State
5 shall submit a renewal application with the board of
6 chiropractic examiners on or before December 31 of each odd-
7 numbered year and shall pay a renewal fee. If the board has
8 established continuing education requirements for renewal, the
9 license shall not be renewed unless proof of compliance with the
10 requirements is submitted. A renewal notice shall be mailed to
11 the last known address of all licensed chiropractors on or
12 before November 30 of each odd-numbered year.

13 The failure, neglect, or refusal of any person holding a
14 license to practice chiropractic to renew the license or to pay
15 the renewal fee[~~, after thirty days of delinquency, constitutes~~]
16 on or before December 31 of each odd-numbered year shall
17 constitute a forfeiture of the license[~~, provided that the~~

1 ~~license shall be restored upon written application therefor~~
2 ~~together with proof of compliance with the continuing education~~
3 ~~requirements, if any, and a payment of all delinquent fees and a~~
4 ~~penalty fee, if the application and payments are made within a~~
5 ~~period of one year from the date of the inception of the~~
6 ~~forfeiture. In the event, however, the forfeiture is permitted~~
7 ~~to continue over a period of one year, in addition to the~~
8 ~~foregoing requirements, the person may be required to submit to~~
9 ~~reexamination and successfully pass the reexamination]. A~~
10 license that has been forfeited may be restored by the board
11 within two years after the date of forfeiture upon compliance
12 with the licensing renewal requirements provided by law and upon
13 written application and payment of all applicable renewal fees,
14 penalty fees, and compliance resolution fund fees. The license
15 of any person who fails to apply for restoration of a forfeited
16 license within two years from the date of forfeiture shall be
17 automatically terminated. If a person whose license has been
18 terminated desires to practice chiropractic again, the person
19 shall be required to apply for a new license pursuant to and
20 subject to all applicable laws and rules in effect at the time
21 of that application."

1 SECTION 2. Section 467-11, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"§467-11 Fees; original license and biennial renewals.**

4 (a) All fees for applications, registrations, certificates, and
5 any license prescribed by this chapter shall be deposited to the
6 credit of the compliance resolution fund established pursuant to
7 section 26-9(o), and all fees allocated to the real estate
8 education fund shall be as provided in rules adopted by the
9 director of commerce and consumer affairs pursuant to chapter
10 91.

11 (b) The biennial renewal fee and completed renewal
12 application shall be submitted to the department of commerce and
13 consumer affairs on or before the commission prescribed deadline
14 prior to the expiration date of the license. All real estate
15 licenses expire on December 31 of an even-numbered year.

16 Failure, neglect, or refusal of any duly licensed real estate
17 broker or real estate salesperson to pay the biennial renewal
18 fee and to submit a completed renewal application shall
19 constitute a forfeiture of the license as of January 1 of the
20 subsequent odd-numbered year.

21 (c) The forfeited license of an individual real estate
22 broker or real estate salesperson may be restored [~~upon approval~~

1 ~~of a completed application; payment of the delinquent fees and~~
2 ~~the penalty fees as provided in the rules adopted by the~~
3 ~~director of commerce and consumer affairs pursuant to chapter~~
4 ~~917] upon compliance with the licensing renewal requirements~~
5 ~~provided by law and upon complete written application and~~
6 ~~payment of all applicable renewal fees, penalty fees, compliance~~
7 ~~resolution fund fees, and, if applicable, recovery fund~~
8 ~~assessments; satisfaction of the applicable requirements in~~
9 ~~sections 467-8[7] and 467-9, [467-9.5,] and submission of~~
10 ~~written documentation demonstrating compliance with section~~
11 ~~467-11.5; and [prior to submission of the completed application,~~
12 ~~and], for individual licensees, satisfaction of one of the~~
13 following as applicable:

14 (1) For a license forfeited for more than one year but
15 less than four years, the successful completion of the
16 commission-approved course or courses or passage of
17 the commission-approved examination; or

18 (2) For a license forfeited for more than four years[7]
19 but less than five years, the successful passage of
20 the commission-approved examination.

21 (d) The license of any individual licensed as a real
22 estate broker or a real estate salesperson who fails to apply

1 for restoration of a forfeited license within five years from
2 the date of forfeiture shall be automatically terminated. If an
3 individual whose license has been terminated desires to practice
4 real estate again, the individual shall apply for a new
5 salesperson license pursuant to and subject to all applicable
6 laws and rules in effect at the time of that application.

7 (e) The license of any real estate broker, that is not a
8 natural person and that fails to apply for restoration of a
9 forfeited license within one year from the date of forfeiture,
10 shall be automatically terminated. If an entity with a
11 terminated real estate broker license desires to practice real
12 estate again, the entity shall be required to apply for a new
13 license pursuant to and subject to all applicable laws and rules
14 in effect at the time of that application.

15 [~~e~~] (f) A real estate broker or real estate salesperson
16 may place that person's license on an inactive status by filing
17 an application and setting forth such information as may be
18 prescribed or required by the commission, and such license shall
19 be renewed on or before the commission prescribed deadline prior
20 to the expiration date of the license by payment of the biennial
21 renewal fee and submission of a completed renewal application.
22 A real estate broker or real estate salesperson may reactivate

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1 that person's inactive license by satisfying section 467-11.5,
2 filing an application, and setting forth such information as may
3 be prescribed or required by the commission, and paying the
4 proper fee.

5 ~~[(d)]~~ (g) The commission may refund any fee erroneously
6 paid to it under this section when the commission deems it just
7 and equitable.

8 ~~[(e)]~~ (h) If beginning on July 1, 1987, the education fund
9 balance at the end of any fiscal biennium exceeds \$1,200,000,
10 there shall be a moratorium on such renewal contributions and
11 the commission shall review and consider a reduction in the same
12 amount in license fees."

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 upon its approval.

16

17

INTRODUCED BY: _____

18

BY REQUEST

Report Title:

Restoration Time Limits; Forfeited Licenses; Chiropractic Examiners; Individual Real Estate Brokers and Salespersons

Description:

Establishes times limits to restore forfeited chiropractic examiner licenses and individual real estate broker and salesperson licenses.

JUSTIFICATION SHEET

DEPARTMENT: Commerce and Consumer Affairs

TITLE: A BILL FOR AN ACT RELATING TO RESTORATION OF CERTAIN FORFEITED PROFESSIONAL AND VOCATIONAL LICENSES.

PURPOSE: All Professional and Vocational Licensing Division ("PVL D") licensees are responsible for the timely renewal of their licenses and for satisfying the renewal requirements provided by law. Failure to timely renew a license causes the license to be automatically forfeited. A period of time is provided either by statute or rule to allow for the restoration of a forfeited license. In the majority of cases, professional and vocational licensing laws set forth specific time periods to restore licenses. However, currently, the restoration periods for chiropractic examiner licenses and individual real estate broker and salesperson licenses are open ended. This bill establishes time limits to restore forfeited chiropractic examiner licenses of a period of two years after the date of forfeiture, and to restore forfeited real estate broker and salesperson licenses of a period of five years after the date of forfeiture. The bill also includes a one year restoration period for forfeited real estate brokers other than individuals (i.e., entities). Further, this bill provides that if the licensee fails to apply for the restoration of a forfeited license within the applicable restoration period, the license will be automatically terminated and the person will be required to apply for licensure as a new applicant.

MEANS: Amend sections 442-11 and 467-11, Hawaii Revised Statutes.

JUSTIFICATION: A majority of the Professional and Vocational Licensing Division's licensing

areas already have set time limits to restore forfeited licenses in their laws and or rules. The restoration periods range from sixty days to five years.

At present, there are no set time limits for restoring chiropractic examiner licenses and licenses of individual real estate brokers and salespersons. For both licensing areas, the restoration period is open ended. (Note that real estate brokers other than individuals are required to restore a forfeited license within one year. This one-year restoration period has been followed as a past practice for more than ten years. The text in the proposal is to codify this in the law so there is consolidation and clarity of all forfeiture and restoration provisions.)

This bill proposes that the restoration period for chiropractic examiner licenses be set at two years. This bill also proposes that the restoration period for individual real estate broker and salesperson licenses be set at five years.

It is the position of the Board of Chiropractic Examiners and the Real Estate Commission, which is consistent with the position of the PVL D, that limiting the number of years that a licensee may restore a forfeited license, rather than allowing for open ended restoration periods, protects consumers. Industries evolve in such a way that allowing for restoration periods past these proposed time limits may allow for restoring less than competent and able practitioners. If licenses are not restored within these time limits, applying as a new applicant will assure minimal competency based on licensure requirements including passage of licensure examinations in effect at the time of the new application.

This bill will also provide for consistency among PVL D's other licensing areas since a

majority of the licensing authorities have set restoration periods instead of allowing open ended restoration periods.

The Board of Chiropractic Examiners feels that a two-year time limit to restore a forfeited chiropractic examiner license is consistent with other health-related licensing areas. It also coincides with the renewal of chiropractic examiner licenses.

The Real Estate Commission supports the five-year time limit to restore forfeited individual real estate broker and salesperson licenses because the law currently provides different pathways for restoration that allow licensees to fulfill some of the requirements for licensure, but not all requirements, within a period of four years. To allow more leniency, the Commission set the restoration period at five years, after which to ensure minimal competency and consumer protection, licensure would require that all requirements be met.

Impact on the public: This bill will protect consumers by ensuring that licensees are knowledgeable about the industry's current practices and standards, especially since technologies and techniques are constantly evolving.

Impact on the department and other agencies: It is not anticipated that this bill will negatively impact the department or impact other governmental agencies.

GENERAL FUND:	None.
OTHER FUNDS:	None.
PPBS PROGRAM DESIGNATION:	CCA-105.
OTHER AFFECTED AGENCIES:	None anticipated.

EFFECTIVE DATE: Upon approval.



LINDA LINGLE
GOVERNOR
JAMES R. AIONA, JR.
LT. GOVERNOR

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LAWRENCE M. REIFURTH
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RONALD BOYER
DEPUTY DIRECTOR

**PRESENTATION OF THE
PROFESSIONAL AND VOCATIONAL LICENSING DIVISION**

TO THE SENATE COMMITTEE ON
COMMERCE AND CONSUMER PROTECTION

TWENTY-FIFTH LEGISLATURE
Regular Session of 2010

Friday, February 5, 2010
9:00 a.m.

**TESTIMONY ON SENATE BILL NO. 2699, RELATING TO RESTORATION OF
CERTAIN FORFEITED PROFESSIONAL AND VOCATIONAL LICENSES.**

TO THE HONORABLE ROSALYN H. BAKER, CHAIR,
AND MEMBERS OF THE COMMITTEE:

My name is Celia Suzuki, Acting Licensing Administrator of the Professional and Vocational Licensing Division ("PVLD") of the Department of Commerce and Consumer Affairs ("Department"). We thank you for the opportunity to testify on Senate Bill No. 2699. The Department strongly supports this Administration proposal relating to restoration of certain forfeited professional and vocational licenses.

PVLD licensees are responsible for the timely renewal of their licenses and for satisfying the renewal requirements provided by law. Failure to timely renew a license would cause the license to be automatically forfeited. A set period of time is provided

either by statute or rule to allow for the restoration of a forfeited license. Currently, however, the restoration periods for chiropractic examiner licenses and individual real estate broker and salesperson licenses are open ended.

The purpose of this bill is to establish time limits to restore forfeited chiropractic examiner licenses and individual real estate broker and salesperson licenses. The proposed time limit to restore chiropractic examiner licenses after the date of forfeiture is two years. The proposed time limit to restore individual real estate broker and salesperson licenses after the date of forfeiture is five years. The bill also codifies a one year restoration period for forfeited real estate brokers other than individuals, such as entities. The bill further provides that if the licensee fails to apply for the restoration of a forfeited license within the applicable proposed restoration period, the license will be automatically terminated and if the person wishes to practice in this state after the license is terminated, then the person will be required to apply for licensure as a new applicant.

The Board of Chiropractic Examiners, the Real Estate Commission, and the PVLD agree that limiting the number of years that a licensee may restore a forfeited license, rather than allowing for open ended restoration periods, is for the protection of consumers. Industries continually evolve in such a way that allowing for restoration periods past the proposed set time limits may allow for restoring less than competent and able practitioners. If licenses are not restored within these time limits, then applying as a new applicant will ensure minimal competency based on current licensure

requirements including the passage of licensure examinations in effect at the time of the new application.

The Board of Chiropractic Examiners agreed to a two year time limit to restore forfeited chiropractic examiners licenses because this is consistent with other health related licensing areas. The two year time frame also coincides with the renewal of chiropractic examiner licenses.

The Real Estate Commission agreed to a five year time limit to restore forfeited individual real estate broker and salesperson licenses because the law currently provides different pathways for restoration that allow licensees to fulfill some of the requirements for licensure, but not all of the requirements, within a period of four years. The Commission set the restoration period at five years, after which to ensure minimal competency and consumer protection, licensure would require that all requirements be met.

The Department asks for your favorable consideration of this Administration bill. Thank you for the opportunity to testify in strong support of Senate Bill No. 2699.

**PRESENTATION OF THE
BOARD OF CHIROPRACTIC EXAMINERS**

TO THE SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

TWENTY-FIFTH LEGISLATURE
Regular Session of 2010

Friday, February 5, 2010
9:00 a.m.

**TESTIMONY ON SENATE BILL NO. 2699, RELATING TO RESTORATION OF
CERTAIN FORFEITED PROFESSIONAL AND VOCATIONAL LICENSES.**

TO THE HONORABLE ROSALYN H. BAKER, CHAIR,
AND MEMBERS OF THE COMMITTEE:

My name is Lynn Bhanot and I am the Executive Officer for the Board of Chiropractic Examiners ("Board"). I appreciate the opportunity to present testimony on behalf of Dr. Francis Brewer, Chair of the Board of Chiropractic Examiners ("Board"). The Board is in strong support of Administration bill Senate Bill No. 2699, Relating to Restoration of Certain Forfeited Professional and Vocational Licenses.

The Board agrees that a restoration time limit of two (2) years is for the protection of consumers. If licenses are not restored within these time limits, then applying as a new applicant will ensure minimal competency based on current licensure requirements including the passage of licensure examinations in effect at the time of the new application.

The Board further supports Senate Bill No. 2699, as it is consistent with other health related licensing areas and it also coincides with the renewal of chiropractic examiner licenses. In addition, there will be a cost savings to chiropractic examiners who apply anew under this proposal. A chiropractic examiner pays \$360 to restore a

Testimony on Senate Bill No. 2699
Friday, February 5, 2010
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license within the forfeiture period. However, under this proposal a chiropractic examiner would pay \$310 when applying for a new license.

The Board respectfully requests your Committee's approval and passage of this measure. Thank you for this opportunity to testify in support of Senate Bill No. 2699.

**PRESENTATION OF THE
REAL ESTATE COMMISSION**

**TO THE SENATE COMMITTEE ON
COMMERCE AND CONSUMER PROTECTION**

**TWENTY-FIFTH LEGISLATURE
Regular Session of 2010**

Friday, February 5, 2010
9:00 a.m.

**TESTIMONY ON SENATE BILL NO. 2699, RELATING TO RESTORATION OF
CERTAIN FORFEITED PROFESSIONAL AND VOCATIONAL LICENSES.**

TO THE HONORABLE ROSALYN H. BAKER, CHAIR,
AND MEMBERS OF THE COMMITTEE:

My name is Trudy Nishihara, Chairperson of the Hawaii Real Estate Commission ("Commission"). I thank you for the opportunity to testify on Senate Bill No. 2699. The Commission supports this Administration proposal relating to restoration of certain forfeited professional and vocational licenses.

The purposes of this bill, among other things, are to establish a five-year time limit to restore forfeited individual real estate broker and salesperson licenses; a one year restoration period for forfeited real estate brokers other than individuals, such as entities; and an automatic termination of a forfeited license if the licensee fails to restore within the applicable proposed restoration period.

Hawaii real estate licensees are responsible for the timely renewal of their licenses and for satisfying the renewal requirements provided by law. Currently, however, the restoration period for individual real estate licensees is open ended.

Because the real estate industry continually evolves, numerous changes to the practice of real estate occur of which the licensee must be aware and knowledgeable. However, the current open ended restoration period does not ensure current minimal competency, which the Commission believes should be verified at a particular point in time. As proposed in this measure, if an individual real estate license is not restored within five years, the forfeited licensee must apply as a new applicant. The Commission believes that setting five years as the limit for individual licensee restoration, rather than allowing for an open ended restoration period, ensures the licensee has knowledge of current industry practices and the laws that affect the practice and ensures the consumer is protected through the proven competency of the licensee.

Thank you for the opportunity to testify in support of Senate Bill No. 2699.



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February 4, 2010

The Honorable Rosalyn H. Baker, Chair
Senate Committee on Commerce and Consumer Protection
State Capitol, Room 229
Honolulu, Hawaii 96813

RE: S.B. 2699 Relating to Restoration of Certain Forfeited Professional and Vocational Licenses

HEARING: Friday, February 5, 2010 at 9:00 a.m.

Aloha Chair Baker, Vice Chair Ige and Members of the Committee:

I am Myoung Oh, Government Affairs Director, here to testify on behalf of the Hawai'i Association of REALTORS® ("HAR"), the voice of real estate in Hawai'i, and its 8,800 members in Hawai'i. HAR supports S.B. 2699, which establishes a five-year period to restore forfeited licenses for individual real estate broker and salesperson licenses, and a one year period to restore forfeited licenses for non-individual real estate brokers.

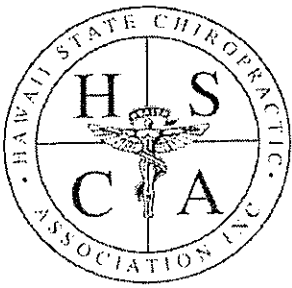
Real estate licensees are required to engage in continuing education as a condition of maintaining their license. With the constant changes that occur in the real estate industry, it is extremely important that all licensees become up-to-date on laws and standards of practice for the protection of consumers.

HAR believes that this measure is helpful because it establishes a time limit for a forfeited licensee to return to the practice of real estate. The five-year limit to restore individual licensees, rather than an open-ended restoration period, will ensure that licensees have knowledge of current laws and industry practices.

HAR looks forward to working with our state lawmakers in building better communities by supporting quality growth, seeking sustainable economies and housing opportunities, embracing the cultural and environmental qualities we cherish, and protecting the rights of property owners.

Mahalo for the opportunity to testify.





Hawaii State Chiropractic Association

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January 3, 2010

THE SENATE
THE TWENTY-FIFTH LEGISLATURE
REGULAR SESSION OF 2010

COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

Senator Rosalyn H. Baker, Chair

Senator David Y. Ige, Vice Chair

DATE: Friday, February 05, 2010
TIME: 9:00 a.m.
PLACE: Conference Room 229
State Capitol
415 South Beretania Street

Dear Chair Baker & members of the committees:

My name is Dr. Gary Saito, DC and I represent the Hawaii State Chiropractic Association. We have worked closely with the Board of Chiropractic Examiners on this issue and it was with our support that the DCCA wrote this bill for your consideration.

We believe that limiting the time a chiropractic license can be restored after failure to renew for two consecutive years is consistent with requirements of other professions and assures the public that their safety is preserved by terminating a license that had been forfeited for those years.

We recommend that your committees support HB2546.

Sincerely,

Dr. Gary Saito, DC
President & Executive Director
HSCA