

JAN 17 2013

A BILL FOR AN ACT

RELATING TO REAL ESTATE.

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

1 **PART I**

2 SECTION 1. The legislature finds that pursuant to chapter
3 467, Hawaii Revised Statutes, an unlicensed custodian or
4 caretaker may lease, rent, or manage property for a single
5 owner. Acting on behalf of more than one owner while leasing,
6 renting, or managing property requires licensure under chapter
7 467, Hawaii Revised Statutes.

8 The purpose of this Act is to clarify the activities
9 custodians or caretakers may engage in under chapter 467, Hawaii
10 Revised Statutes.

11 **PART II**

12 SECTION 2. Section 467-1, Hawaii Revised Statutes, is
13 amended by amending the definition of "custodian or caretaker"
14 to read as follows:

15 "Custodian or caretaker" means any individual, who for
16 compensation or valuable consideration, is employed as an
17 employee by a single owner and has the responsibility to manage
18 or care for that real property left in the individual's trust;



1 provided that the term "custodian" or "caretaker" shall not
2 include any individual who leases or offers to lease, [~~or~~] rents
3 or offers to rent, or manages or offers to manage any real
4 estate for more than a single owner, or who acts as a designated
5 agent pursuant to section 521-43(f) or a local contact pursuant
6 to Act 326, Session Laws of Hawaii 2012, for any real estate for
7 more than a single owner; provided further that a single owner
8 shall not include an association of owners of a condominium,
9 cooperative, or planned unit development."

10 SECTION 3. Section 467-2, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "§467-2 **Exceptions.** The provisions requiring licensing as
13 a real estate broker or salesperson shall not apply:

- 14 (1) To any individual who, as owner of any real estate or
15 acting under power of attorney from the owner,
16 performs any of the acts enumerated in the definitions
17 of real estate broker and real estate salesperson with
18 reference to the real estate; provided that the term
19 "owner" as used in this paragraph shall not include
20 any individual engaged in the business of real estate
21 development or brokerage or include an individual who
22 acquires any interest in any real estate for the



1 purpose or as a means of evading the licensing
2 requirements of this chapter; and provided further
3 that the term individual "acting under power of
4 attorney" as used in this paragraph shall not include
5 any individual engaged in the business of real estate
6 development or brokerage or any individual who acts
7 under a power of attorney for the purpose or as a
8 means of evading the licensing requirements of this
9 chapter;

10 (2) To any person acting as a receiver, trustee in
11 bankruptcy, personal representative, or trustee acting
12 under any trust agreement, deed of trust, or will, or
13 otherwise acting under any order of authorization of
14 any court;

15 (3) To any individual who leases, offers to lease, rents,
16 ~~[or]~~ offers to rent, manages, or offers to manage any
17 real estate or the improvements thereon of which the
18 individual is the custodian or caretaker; or who acts
19 as a designated agent pursuant to section 521-43(f) or
20 a local contact pursuant to Act 326, Session Laws of
21 Hawaii 2012, for any real estate or the improvements



1 thereon of which the individual is the custodian or
2 caretaker;

3 (4) To any person who manages, rents, or operates a hotel;
4 or

5 (5) To any provider agency owning, leasing, operating, or
6 managing a homeless facility or any other program for
7 the homeless authorized under part XVII of chapter
8 346."

9 **PART III**

10 SECTION 4. Section 467-1, Hawaii Revised Statutes, is
11 amended by amending the definition of "custodian or caretaker"
12 to read as follows:

13 ""Custodian or caretaker" means any individual, who for
14 compensation or valuable consideration, is employed as an
15 employee by a single owner and has the responsibility to manage
16 or care for that real property left in the individual's trust;
17 provided that the term "custodian" or "caretaker" shall not
18 include any individual who leases or offers to lease, [~~or~~] rents
19 or offers to rent, or manages or offers to manage any real
20 estate for more than a single owner, or who acts as a designated
21 agent pursuant to section 521-43(f) for any real estate for more
22 than a single owner; provided further that a single owner shall



1 not include an association of owners of a condominium,
2 cooperative, or planned unit development."

3 SECTION 5. Section 467-2, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "§467-2 **Exceptions.** The provisions requiring licensing as
6 a real estate broker or salesperson shall not apply:

- 7 (1) To any individual who, as owner of any real estate or
8 acting under power of attorney from the owner,
9 performs any of the acts enumerated in the definitions
10 of real estate broker and real estate salesperson with
11 reference to the real estate; provided that the term
12 "owner" as used in this paragraph shall not include
13 any individual engaged in the business of real estate
14 development or brokerage or include an individual who
15 acquires any interest in any real estate for the
16 purpose or as a means of evading the licensing
17 requirements of this chapter; and provided further
18 that the term individual "acting under power of
19 attorney" as used in this paragraph shall not include
20 any individual engaged in the business of real estate
21 development or brokerage or any individual who acts
22 under a power of attorney for the purpose or as a



- 1 means of evading the licensing requirements of this
2 chapter;
- 3 (2) To any person acting as a receiver, trustee in
4 bankruptcy, personal representative, or trustee acting
5 under any trust agreement, deed of trust, or will, or
6 otherwise acting under any order of authorization of
7 any court;
- 8 (3) To any individual who leases, offers to lease, rents,
9 ~~[or]~~ offers to rent, manages, or offers to manage any
10 real estate or the improvements thereon of which the
11 individual is the custodian or caretaker; or who acts
12 as a designated agent pursuant to section 521-43(f)
13 for any real estate or the improvements thereon of
14 which the individual is the custodian or caretaker;
- 15 (4) To any person who manages, rents, or operates a hotel;
16 or
- 17 (5) To any provider agency owning, leasing, operating, or
18 managing a homeless facility or any other program for
19 the homeless authorized under part XVII of chapter
20 346."

21 **PART IV**



S.B. NO. 41

1 SECTION 6. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 7. This Act shall take effect upon its approval;
4 provided that upon the repeal of Act 326, Session Laws of Hawaii
5 2012, on December 31, 2015, part II of this Act shall be
6 repealed and part III of this Act shall take effect.

7

INTRODUCED BY: *Randy de Bevoise*
By Request



S.B. NO. 41

Report Title:

Real Estate; Custodians or Caretakers; Rental Properties

Description:

Clarifies the activities custodians or caretakers may engage in under chapter 467, Hawaii Revised Statutes.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

