
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 Act 326, Session
3 Laws of Hawaii 2012, requires operators of transient
4 accommodations to provide a local contact whenever an operator
5 is not located on the island where a transient accommodation is
6 located. The role of the local contact is limited, and any
7 services other than those allowed under Act 326, Session Laws of
8 Hawaii 2012, can constitute unlicensed real estate activity.

9 The purpose of this part is to clarify the role of a local
10 contact for operators of transient accommodations.

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

14 "Custodian or caretaker" means any individual, who for
15 compensation or valuable consideration, is employed as an
16 employee by a single owner and has the responsibility to manage
17 or care for that real property left in the individual's trust;
18 provided that the term "custodian" or "caretaker" shall not



1 include any individual who leases or offers to lease, or rents
2 or offers to rent, or who acts as a designated agent pursuant to
3 section 521-43(f) for any real estate for more than a single
4 owner; provided further that a single owner shall not include an
5 association of owners of a condominium, cooperative, or planned
6 unit development."

7 SECTION 3. Act 326, Session Laws of Hawaii 2012, is
8 amended by amending subsection (h) of section 237D- , Hawaii
9 Revised Statutes, in section 2 of the Act, to read as follows:

10 "(h) For the purposes of this section:

11 "Local contact" means an individual residing on the same
12 island as the transient accommodation or [company] entity that
13 has its principal place of business on the same island as the
14 transient accommodation, who is contracted by the operator of
15 the transient accommodation to [~~provide services required by~~
16 ~~this section.~~] serve as the onsite contact for the operator,
17 residing on the same island where the transient accommodation is
18 located, whose name is required to be prominently posted in the
19 transient accommodation and included in any transient
20 accommodation contract or written rental agreement and who:



- 1 (1) Provides local point of contact services in the case
2 of an emergency or natural disaster, including
3 providing and receiving information;
- 4 (2) Transmits to the operator of the transient
5 accommodation onsite questions, concerns, or property
6 issues that arise regarding the transient
7 accommodation; or
- 8 (3) Transmits the operator's responses, at the direction
9 of the operator, to onsite inquiries about the
10 transient accommodation.

11 Any other services provided by a local contact may be
12 subject to licensing requirements under chapter 467. Nothing in
13 this section shall be deemed to create an employer-employee
14 relationship between an operator and [~~its~~] the operator's local
15 contact[-] or to authorize a local contact to engage in activity
16 for which a real estate broker's license or a real estate
17 salesperson's license is required under chapter 467.

18 "Relevant information" means the operator's name, address,
19 contact information, registration identification number issued
20 pursuant to section 237D-4, and website address if advertising
21 or soliciting the transient accommodation on the Internet."



1 PART II

2 SECTION 4. The legislature finds that section 467-9.5,
3 Hawaii Revised Statutes, requires individuals seeking the
4 opportunity to take the real estate licensing examination, to
5 prove, among other things, that the applicant has experience as
6 a full-time Hawaii-licensed real estate salesperson associated
7 with a Hawaii-licensed real estate broker for at least three
8 years of the five-year period immediately prior to submission of
9 the experience certification application. The legislature
10 further finds that Act 245, Session Laws of Hawaii 2001,
11 repealed an exemption that allowed the real estate commission,
12 at its discretion, to exempt an applicant from these licensure
13 requirements, if the commission found that the applicant had
14 other experience that the commission deemed to be equivalent to
15 those requirements. The legislature additionally finds that
16 this repeal has prevented individuals who have real estate
17 experience but who, because of the economic downturn that began
18 shortly after the enactment of Act 245 are unable to fulfill the
19 rigid three out of five years requirement, from being able to
20 take the licensing examination.

21 The purpose of this part is to create a discretionary
22 exemption to the three out of five years requirement to allow



1 for one of the required three years to be substituted with
2 equivalent experience in the real estate field.

3 SECTION 5. Section 467-9.5, Hawaii Revised Statutes, is
4 amended by amending subsection (a) to read as follows:

5 "(a) No individual shall be eligible for the licensing
6 examination unless the individual is:

7 (1) A United States citizen, a United States national, or
8 an alien authorized to work in the United States, and
9 of the age of majority; and

10 (2) Applying for:

11 (A) The real estate salesperson examination and has
12 satisfactorily completed a commission-approved
13 prelicensing course for real estate salesperson
14 candidates, which includes real estate
15 principles, or its equivalent as determined by
16 the commission; or

17 (B) The real estate broker examination and:

18 (i) Holds a current, unencumbered Hawaii real
19 estate salesperson license or a current,
20 unencumbered real estate salesperson or
21 broker license in another state or in a
22 jurisdiction recognized by the Association



1 of Real Estate License Law Officials, with
2 an equivalent real estate licensing law as
3 determined by the commission;

4 (ii) Has satisfactorily completed a commission-
5 approved prelicensing course for real estate
6 broker candidates, or its equivalent as
7 determined by the commission; and

8 (iii) Has experience as a full-time Hawaii-
9 licensed real estate salesperson associated
10 with a Hawaii-licensed real estate broker
11 for at least three years of the five-year
12 period immediately prior to the submission
13 of the experience certification application
14 and has practical real estate salesperson
15 experience, as certified by the principal
16 broker, principal brokers, broker in charge,
17 or brokers in charge, as the case may be,
18 during the subject period. The candidate
19 shall secure commission approval of the
20 candidate's experience certification
21 application prior to the date of the
22 examination. Subject to commission



1 approval, a candidate may request a
2 determination of equivalency for the
3 experience requirement based on real estate
4 salesperson license experience or a current,
5 unencumbered real estate broker license in
6 another state, or in a jurisdiction
7 recognized by the Association of Real Estate
8 License Law Officials, with an equivalent
9 real estate licensing law as determined by
10 the commission. The commission may waive up
11 to one year of the required three years of
12 experience required by this clause, if, by
13 affidavit or other manner adopted by the
14 commission, the individual demonstrates to
15 have maintained through the date of the
16 application at least five years of full-time
17 experience in the real estate field and the
18 commission, in its discretion, determines
19 that experience to be equivalent to the one-
20 year of experience waived."



1 PART III

2 SECTION 6. If any provision of this Act, or the
3 application thereof to any person or circumstance, is held
4 invalid, the invalidity does not affect other provisions or
5 applications of the Act that can be given effect without the
6 invalid provision or application, and to this end the provisions
7 of this Act are severable.

8 SECTION 7. Statutory material to be repealed is bracketed
9 and stricken. New statutory material is underscored.

10 SECTION 8. This Act shall take effect upon its approval;
11 provided that on June 30, 2016, part II of this Act shall be
12 repealed and section 467-9.5(a), Hawaii Revised Statutes, shall
13 be reenacted in the form in which it read on the day before the
14 effective date of this Act.



Report Title:

Real Estate; Licensure

Description:

Clarifies the role of a local contact for operators of transient accommodations under Act 326, Session Laws of Hawaii 2012. For real estate licensure, allows Real Estate Commission to waive one year of the three-year experience as a full-time Hawaii licensed real estate salesperson associated with a Hawaii-licensed real estate broker requirement, with proof of full-time experience in the real estate field for five years up to the time of the experience certification application. (SB41 HD1)

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