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# A BILL FOR AN ACT

RELATING TO REAL ESTATE BROKERS.

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

1           SECTION 1. The legislature finds that existing law does  
2 not specifically permit licensed real estate brokers to have  
3 their commissions paid to a corporation or partnership. This  
4 can cause issues for real estate brokers, as these corporations  
5 and partnerships often pay for all associated business expenses,  
6 such as rent and salaries.

7           Accordingly, the purpose of this Act is to permit a  
8 licensed real estate broker to pay a commission to a corporation  
9 or partnership; provided that the licensed real estate broker:

10           (1) Earned the commission on behalf of the corporation or  
11           partnership; and

12           (2) Is a member, officer, shareholder, or partner of the  
13           corporation or partnership.

14           SECTION 2. Section 467-14, Hawaii Revised Statutes, is  
15 amended to read as follows:

16           "§467-14 Revocation, suspension, and fine. In addition to  
17 any other actions authorized by law, the commission may revoke



1 any license issued under this chapter, suspend the right of the  
2 licensee to use the license, fine any person holding a license,  
3 registration, or certificate issued under this chapter, or  
4 terminate any registration or certificate issued under this  
5 chapter, for any cause authorized by law, including but not  
6 limited to the following:

- 7 (1) Making any misrepresentation concerning any real  
8 estate transaction;
- 9 (2) Making any false promises concerning any real estate  
10 transaction of a character likely to mislead another;
- 11 (3) Pursuing a continued and flagrant course of  
12 misrepresentation, or making of false promises through  
13 advertising or otherwise;
- 14 (4) Without first having obtained the written consent to  
15 do so of both parties involved in any real estate  
16 transaction, acting for both the parties in connection  
17 with the transaction, or collecting or attempting to  
18 collect commissions or other compensation for the  
19 licensee's services from both of the parties;
- 20 (5) When the licensee, being a real estate salesperson,  
21 accepts any commission or other compensation for the



1 performance of any of the acts enumerated in the  
 2 definition set forth in section 467-1 of real estate  
 3 salesperson from any person other than the real estate  
 4 salesperson's employer or the real estate broker with  
 5 whom the real estate salesperson associates or, being  
 6 a real estate broker or salesperson, compensates one  
 7 not licensed under this chapter to perform any such  
 8 act;

9 (6) When the licensee, being a real estate salesperson,  
 10 acts or attempts to act as a real estate broker or  
 11 represents, or attempts to represent, any real estate  
 12 broker other than the real estate salesperson's  
 13 employer or the real estate broker with whom the real  
 14 estate salesperson is associated;

15 (7) Failing, within a reasonable time, to account for any  
 16 moneys belonging to others that may be in the  
 17 possession or under the control of the licensee;

18 (8) Any other conduct constituting fraudulent or dishonest  
 19 dealings;

20 (9) When the licensee, being a partnership, permits any  
 21 member of the partnership who does not hold a real



1 estate broker's license to actively participate in the  
2 real estate brokerage business thereof or permits any  
3 employee thereof who does not hold a real estate  
4 salesperson's license to act as a real estate  
5 salesperson therefor;

6 (10) When the licensee, being a corporation, permits any  
7 officer or employee of the corporation who does not  
8 hold a real estate broker's license to have the direct  
9 management of the real estate brokerage business  
10 thereof or permits any officer or employee thereof who  
11 does not hold a real estate salesperson's license to  
12 act as a real estate salesperson therefor;

13 (11) When the licensee, being a real estate salesperson,  
14 fails to file with the commission a written statement  
15 setting forth the name of the real estate broker by  
16 whom the licensee is employed or with whom the  
17 licensee is associated;

18 (12) When the licensee fails to obtain on the contract  
19 between the parties to the real estate transaction  
20 confirmation of who the real estate broker represents;



- 1 (13) Violating this chapter; chapter 484, 514A, 514B, 514E,  
2 or 515; section 516-71; or the rules adopted pursuant  
3 thereto;
- 4 (14) Splitting fees with or otherwise compensating others  
5 not licensed hereunder for referring business;  
6 provided that notwithstanding paragraph (5), a real  
7 estate broker may pay a commission to:
- 8 (A) A licensed real estate broker of another state,  
9 territory, or possession of the United States if  
10 that real estate broker does not conduct in this  
11 State any of the negotiations for which a  
12 commission is paid;
- 13 (B) A real estate broker lawfully engaged in real  
14 estate brokerage activity under the laws of a  
15 foreign country if that real estate broker does  
16 not conduct in this State any of the negotiations  
17 for which a commission is paid; [~~or~~]
- 18 (C) A travel agency that in the course of business as  
19 a travel agency or sales representative, arranges  
20 for compensation the rental of a transient  
21 vacation rental; provided that for purposes of



1           this paragraph, "travel agency" means any person  
2           that, for compensation or other consideration,  
3           acts or attempts to act as an intermediary  
4           between a person seeking to purchase travel  
5           services and any person seeking to sell travel  
6           services, including an air or ocean carrier; or  
7           (D) A corporation or partnership; provided that the  
8           licensed real estate broker:  
9           (i) Earned the commission on behalf of the  
10           corporation or partnership; and  
11           (ii) Is a member, officer, shareholder, or  
12           partner of the corporation or partnership;  
13           (15) Commingling the money or other property of the  
14           licensee's principal with the licensee's own;  
15           (16) Converting other people's moneys to the licensee's own  
16           use;  
17           (17) The licensee is adjudicated insane or incompetent;  
18           (18) Failing to ascertain and disclose all material facts  
19           concerning every property for which the licensee  
20           accepts the agency, so that the licensee may fulfill  
21           the licensee's obligation to avoid error,



1           misrepresentation, or concealment of material facts;  
2           provided that for the purposes of this paragraph, the  
3           fact that an occupant has AIDS or AIDS Related Complex  
4           (ARC) or has been tested for HIV (human  
5           immunodeficiency virus) infection shall not be  
6           considered a material fact;

7       (19) When the licensee obtains or causes to be obtained,  
8           directly or indirectly, any licensing examination or  
9           licensing examination question for the purpose of  
10          disseminating the information to future takers of the  
11          examination for the benefit or gain of the licensee;

12       (20) Failure to maintain a reputation for or record of  
13          competency, honesty, truthfulness, financial  
14          integrity, and fair dealing;

15       (21) Acquiring an ownership interest, directly or  
16          indirectly, or by means of a subsidiary or affiliate,  
17          in any distressed property that is listed with the  
18          licensee or within three hundred sixty-five days after  
19          the licensee's listing agreement for the distressed  
20          property has expired or is terminated; or



1           (22) When the licensee, being a real estate broker or a  
2           real estate salesperson, acting on behalf of a seller  
3           or purchaser of real estate, acts in a manner that  
4           prohibits a prospective purchaser or prospective  
5           seller of real estate from being able to retain the  
6           services of a real estate broker or real estate  
7           salesperson.

8           For the purposes of paragraphs (1) and (18), the real  
9           estate commission shall consider whether the licensee relied in  
10          good faith on information provided by other persons or third  
11          parties.

12          As used in this section, "distressed property" has the same  
13          meaning as set forth in section 480E-2.

14          Disciplinary action may be taken by the commission whether  
15          the licensee is acting as a real estate broker, or real estate  
16          salesperson, or on the licensee's own behalf."

17          SECTION 3. Statutory material to be repealed is bracketed  
18          and stricken. New statutory material is underscored.

19          SECTION 4. This Act shall take effect on July 1, 2099.





**Report Title:**

Real Estate Brokers; Commissions; Corporations; Partnerships

**Description:**

Permits a licensed real estate broker to pay a commission to a corporation or partnership; provided that the licensed real estate broker earned the commission on behalf of the corporation or partnership and is a member, officer, shareholder, or partner of the corporation or partnership. (HB51 HD1)

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

