
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 illegal transient
2 vacation units and whole-home short-term rentals adversely
3 affect housing availability and affordability for Hawaii
4 residents. In recent years, thousands of dwelling units have
5 been taken out of residential use and converted into visitor
6 accommodations. The vast majority of these accommodations are
7 operating illegally, and many residential communities have been
8 adversely impacted.

9 The legislature further finds that some real estate agents
10 in Hawaii are involved directly or indirectly with transient
11 vacation rentals that are operating illegally.

12 Accordingly, the purpose of this Act is to prohibit real
13 estate brokers and agents licensed in the State from
14 advertising, promoting, representing, receiving any remuneration
15 for, or offering for rent any illegal transient vacation units
16 or whole-home short-term rentals.



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

"§467-14 Revocation, suspension, and fine. In addition to any other actions authorized by law, the commission may revoke any license issued under this chapter, suspend the right of the licensee to use the license, fine any person holding a license, registration, or certificate issued under this chapter, or terminate any registration or certificate issued under this chapter, for any cause authorized by law, including but not limited to the following:

- (1) Making any misrepresentation concerning any real estate transaction;
- (2) Making any false promises concerning any real estate transaction of a character likely to mislead another;
- (3) Pursuing a continued and flagrant course of misrepresentation, or making of false promises through advertising or otherwise;
- (4) Without first having obtained the written consent to do so of both parties involved in any real estate transaction, acting for both the parties in connection with the transaction, or collecting or attempting to



1 collect commissions or other compensation for the
2 licensee's services from both of the parties;

3 (5) When the licensee, being a real estate salesperson,
4 accepts any commission or other compensation for the
5 performance of any of the acts enumerated in the
6 definition set forth in section 467-1 of real estate
7 salesperson from any person other than the real estate
8 salesperson's employer or the real estate broker with
9 whom the real estate salesperson associates or, being
10 a real estate broker or salesperson, compensates one
11 not licensed under this chapter to perform any such
12 act;

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

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



1 (8) Any other conduct constituting fraudulent or dishonest
2 dealings;

3 (9) When the licensee, being a partnership, permits any
4 member of the partnership who does not hold a real
5 estate broker's license to actively participate in the
6 real estate brokerage business thereof or permits any
7 employee thereof who does not hold a real estate
8 salesperson's license to act as a real estate
9 salesperson therefor;

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

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



1 (12) When the licensee fails to obtain on the contract
2 between the parties to the real estate transaction
3 confirmation of who the real estate broker represents;

4 (13) Violating this chapter; chapter 484, 514B, 514E, or
5 515; section 516-71; or the rules adopted pursuant
6 thereto;

7 (14) Splitting fees with or otherwise compensating others
8 not licensed hereunder for referring business;
9 provided that notwithstanding paragraph (5), a real
10 estate broker may pay a commission to:

11 (A) A licensed real estate broker of another state,
12 territory, or possession of the United States if
13 that real estate broker does not conduct in this
14 State any of the negotiations for which a
15 commission is paid;

16 (B) A real estate broker lawfully engaged in real
17 estate brokerage activity under the laws of a
18 foreign country if that real estate broker does
19 not conduct in this State any of the negotiations
20 for which a commission is paid; or



1 (C) A travel agency that in the course of business as
2 a travel agency or sales representative, arranges
3 for compensation the rental of a transient
4 vacation rental; provided that for purposes of
5 this paragraph, "travel agency" means any person
6 that, for compensation or other consideration,
7 acts or attempts to act as an intermediary
8 between a person seeking to purchase travel
9 services and any person seeking to sell travel
10 services, including an air or ocean carrier;

11 (15) Commingling the money or other property of the
12 licensee's principal with the licensee's own;

13 (16) Converting other people's moneys to the licensee's own
14 use;

15 (17) The licensee is adjudicated insane or incompetent;

16 (18) Failing to ascertain and disclose all material facts
17 concerning every property for which the licensee
18 accepts the agency, so that the licensee may fulfill
19 the licensee's obligation to avoid error,
20 misrepresentation, or concealment of material facts;
21 provided that for the purposes of this paragraph, the



fact that an occupant has AIDS or AIDS Related Complex (ARC) or has been tested for HIV (human immunodeficiency virus) infection shall not be considered a material fact;

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

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

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

(22) When the licensee, being a real estate broker or a real estate salesperson, acting on behalf of a seller or purchaser of real estate, acts in a manner that



1 prohibits a prospective purchaser or prospective
2 seller of real estate from being able to retain the
3 services of a real estate broker or real estate
4 salesperson[-]; or

5 (23) In any way advertising, promoting, representing,
6 receiving remuneration for, or offering for rent any
7 transient vacation unit or whole-home short-term
8 rental unless the unit or rental is permitted by the
9 relevant county.

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

14 As used in this section[, "~~distressed~~"]:

15 "Distressed property" has the same meaning as set forth in
16 section 480E-2.

17 "Transient vacation unit" means a condominium or cottage
18 rental unit offered for rent for no longer than thirty days, if
19 allowable under ordinances of the county in which the rental
20 unit is located.



1 "Whole-home short-term rental" means a property of up to
2 six bedrooms located in an area zoned for residential use and
3 rented for no more than one hundred eighty days, if allowable
4 under ordinances of the county in which the whole-home short-
5 term rental is located.

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

9 SECTION 3. Statutory material to be repealed is bracketed
10 and stricken. New statutory material is underscored.

11 SECTION 4. This Act shall take effect on December 31,
12 2050.



Report Title:

Real Estate Brokers; Real Estate Commission; Illegal Transient
Vacation Units; Whole-Home Short-Term Rentals; Prohibition

Description:

Allows the Real Estate Commission to revoke or suspend a
license, or fine a licensee, for advertising, promoting,
representing, receiving any remuneration for, or offering for
rent any transient vacation units and whole-home short-term
rentals unless the unit or rental is permitted by the relevant
county. Effective 12/31/2050. (SD1)

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not legislation or evidence of legislative intent.*

