

A Bill for an Act Relating to Real Estate.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The purpose of this Act is to clarify and disclose the relationship of a real estate broker to the buyer and seller of real estate in the State of Hawaii.

The question of whether the broker represents the buyer or the seller in a real estate transaction has numerous answers, depending upon the particular situation. It is the further intent of this Act to require the real estate commission to educate the consumer and the licensee on the "disclosure" requirements by delaying until July 1, 1987 the effective date of disciplinary action for failure to disclose agency relationship to a buyer or seller.

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

"§467-14 Revocation and suspension of licenses. The real estate commission may revoke any license issued hereunder, or suspend the right of the licensee to use the license, for any of the following causes:

- (1) Making any misinterpretation¹ 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 so to do of both parties involved in any real estate transaction, acting for both the parties in connection with the transaction, or collecting or attempting to collect commissions or other compensation for his services from both of such parties;
- (5) When licensee, being a real estate salesman, accepts any commission or other compensation for the performance of any of the acts hereinabove enumerated in the definition of real estate salesman from any person, copartnership, or corporation other than his employer or the broker with whom he associates or, being a real estate broker or salesman, compensates one not licensed under this chapter to perform any such act;
- (6) When the licensee, being a real estate salesman, acts or attempts to act as a real estate broker or represents, or attempts to represent, any real estate broker other than his employer or the broker with whom he is associated;
- (7) Failing, within a reasonable time, to account for any moneys belonging to others which may be in the possession or under the control of the licensee;
- (8) Any other conduct constituting fraudulent or dishonest dealings;
- (9) When the licensee, being a copartnership, permits any member of the copartnership who does not hold a real estate broker's license to actively participate in the real estate brokerage business thereof or permits any employee thereof who does not hold a real estate salesman's license to act as a real estate salesman therefor;
- (10) When the licensee, being a corporation, permits any officer or employee of the corporation who does not hold a real estate broker's license to have the direct management of the real estate brokerage business thereof or permits any officer or employee thereof who does not hold a real estate salesman's license to act as a real estate salesman therefor;

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- (11) When the licensee, being a real estate salesman, fails to file with the commission a written statement setting forth the name of the real estate broker by whom he is employed or with whom he is associated;
- (12) When the licensee fails to obtain on the contract between the parties to the real estate transaction confirmation of who the broker represents;¹
- [(12)] (13) Violating this chapter, chapter 484, 514A, 514E, or 515, or the rules adopted pursuant thereto;
- [(13)] (14) Splitting fees with or otherwise compensating others not licensed hereunder for referring business; provided that a licensed broker may pay a commission to:
- (A) A licensed broker for¹ another state, territory, or possession of the United States; or
- (B) A broker lawfully engaged in brokerage activity under the laws of a foreign country¹ if such broker does not conduct in this State any of the negotiations for which a commission is paid;
- [(14)] (15) Commingling the money or other property of his principal with his own;
- [(15)] (16) Adjudicated insane or incompetent.
- No license shall be suspended for longer than two years and no person who¹ license has been revoked shall be eligible to apply for a new license until the expiration of two years.”

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect on July 1, 1987.

(Approved May 28, 1985.)

Note

1. So in original.