

ACT 208

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H.B. NO. 1521

A Bill for an Act Relating to Real Estate.

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

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SECTION 1. Section 467-22, Hawaii Revised Statutes, is amended to read as follows:

“§467-22 Subrogation of rights. When, upon the order of the court, or upon the commission’s settlement of a claim, the real estate commission has paid from the real estate recovery fund any sum to the judgement creditor, the commission shall be subrogated to all of the rights of the judgement creditor and the judgement creditor shall assign all the creditor’s right, title, and interest in the judgement or settlement to the commission and any amount and interest so recovered by the commission on the judgement or settlement shall be deposited to the fund.”

SECTION 2. Section 467-16, Hawaii Revised Statutes, is amended to read as follows:

“§467-16 Real estate recovery fund; use of fund; fees. The real estate commission shall establish and maintain a real estate recovery fund from which any person aggrieved by an act, representation, transaction, or conduct of a duly licensed real estate broker, or real estate salesman, upon the grounds of fraud, misrepresentation, or deceit, may recover upon the commission’s settlement of a claim or by order of the circuit court or district court of the county where the violation occurred, an amount of not more than \$25,000 per transaction for damages sustained by the fraud, misrepresentation, or deceit, including court costs and fees as set by law, and reasonable attorney fees as determined by the court.

When any person makes application for an original license to practice as a real estate broker or salesman the person shall pay, in addition to the person’s original license fee, a fee of \$50 for deposit in the real estate recovery fund. If the commission does not issue the license, this fee shall be returned to the applicant.”

SECTION 3. The Hawaii Revised Statutes is amended by adding a new chapter¹ to be appropriately designated and to read as follows:

“§ -1 Notification required; ambiguity; penalty. (a) When real property lies 1) within the boundaries of a special flood hazard area as officially designated on Flood Insurance Administration (FIA) maps promulgated by the United States Department of Housing and Urban Development for the purposes of determining eligibility for emergency flood insurance programs; 2) within the boundaries of the noise exposure area shown on maps prepared by the department of transportation in accordance with Federal Aviation Regulation Part 150—Airport Noise Compatibility Planning (14 C.F.R. Part 150) for any public airport; 3) within the boundaries of the Air Installation Compatibility Use Zone (AICUZ) of any Air Force, Army, Navy, or Marine Corps airport as officially designated by military authorities; or 4) within the anticipated inundation areas designated on the department of defense’s Civil Defense Tsunami Inundation Maps:

- (1) Any licensee shall provide timely notification to prospective buyers, lessees, and tenants prior to any sale, lease, transfer, or any other transaction relating to the real property, that the property is situated within any of the zones, maps, or areas designated in this subsection pursuant to maps which designate the four areas by tax map key number (zone, section, parcel); provided that notification shall not be required in the case of a rental lease or rental agreement, the term of which is one year or less. The real estate commission shall provide guidelines as to the method and timing of the required notification; and

- (2) Each county shall provide, where available, maps of its jurisdiction detailing the four designated areas specified in this subsection. The maps shall identify the properties situated within the four designated areas by tax map key number (zone, section, parcel) and shall be of a size sufficient to provide information necessary to serve the purposes of this section. Each county shall provide legible copies of the maps to licensees and may charge a reasonable fee therefor.

(b) When it is questionable whether real property lies within any of the designated areas referred to in subsection (a) due to the inherent ambiguity of boundary lines drawn on maps of large scale, the ambiguity shall be construed in favor of the licensee provided a good faith effort has been made to determine the applicability of subsection (a) to the subject real property.

(c) Any person who violates this section shall be fined not less than \$100 nor more than \$500. Nothing in this section shall affect the validity of title to real property transferred, based solely on the reason that any licensee failed to conform to the provisions of this section.”

SECTION 4. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

SECTION 5. New statutory material is underscored.²

SECTION 6. This Act shall take effect upon its approval; provided that section 3 shall take effect upon the notification by the Commission to licensees of the completion and availability of county maps detailing the four designated areas.

(Approved June 7, 1987.)

Notes

1. So in original.
2. Edited pursuant to HRS §23G-16.5.