

**SUNSET EVALUATION UPDATE
REAL ESTATE BROKERS AND SALESMEN
Chapter 467, Hawaii Revised Statutes**

A Report to the Governor and the Legislature of the State of Hawaii

**Submitted by
Legislative Auditor of the State of Hawaii
Honolulu, Hawaii**

**Report No. 88-22
December 1988**

FOREWORD

Under the "Sunset Law," licensing boards and commissions and regulated programs are terminated at specific times unless they are reestablished by the Legislature. Hawaii's Sunset Law, or the Hawaii Regulatory Licensing Reform Act of 1977, scheduled for termination 38 licensing programs over a six-year period. These programs are repealed unless they are specifically reestablished by the Legislature. In 1979, the Legislature assigned the Office of the Legislative Auditor responsibility for evaluating each program prior to its repeal.

This report updates our sunset evaluation of the practice of real estate brokers and salesmen under Chapter 467, Hawaii Revised Statutes, which was conducted in 1986. It presents our findings as to whether the program complies with the Sunset Law and whether there is a reasonable need to regulate real estate brokers and salesmen to protect public health, safety, or welfare. It includes our recommendation on whether the program should be continued, modified, or repealed. In accordance with Act 136, SLH 1986, draft legislation intended to improve the regulatory program is incorporated in this report as Appendix B.

We acknowledge the cooperation and assistance extended to our staff by the Real Estate Commission, the Department of Commerce and Consumer Affairs, and other officials contacted during the course of our examination. We also appreciate the assistance of the Legislative Reference Bureau which drafted the recommended legislation.

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December 1988

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Sunset Evaluation Update

REAL ESTATE BROKERS AND SALESMEN

This report evaluates the regulation of real estate brokers and salesmen under Chapter 467, Hawaii Revised Statutes, to determine whether the public interest is best served by reenactment, modification or repeal of the statute. An evaluation of the regulation of real estate brokers and salesmen was first conducted by this office in 1983. Our findings and recommendations were reported in the *Sunset Evaluation Report, Real Estate Brokers and Salesmen, Chapter 467, Hawaii Revised Statutes*.¹ This update summarizes the information presented in 1983, reports on subsequent developments, and presents our current findings and recommendations.

Occupational Characteristics

The practice of real estate includes the marketing of property interests and the negotiation of agreements to transfer these interests from one party to another. Brokers manage a real estate business and are responsible to ensure that all real estate transactions are properly carried out. Salespersons are primarily responsible for the marketing function but also assist brokers in all phases of a real estate transaction.

In 1986, brokers and salespersons held about 376,000 jobs in the United States.² In August 1988, there were 5519 brokers with active licenses and 899 with inactive licenses in Hawaii. There were 9214 salespersons with active licenses and 8282 with inactive licenses. Also licensed were 120 branch offices.³

History. In the United States, professional real estate practice emerged in the 1800s in response to a need for individuals with business ability who could negotiate the transfer of property and provide other business services.⁴ The first real estate trade association was organized in New York in 1847, and more than 40 similar associations had formed across the nation by the turn of the century. In 1908, these groups joined together to establish the National Association for Real Estate Exchanges, partly in response to an increasing number of grievances against real estate agents.⁵

By 1913, the new association had developed a code of ethics, and in 1916, it authorized its members to use the term "realtor."⁶ Shortly thereafter, the group began a nationwide campaign

in favor of licensing laws to prevent unscrupulous and inexperienced dealers from practicing. This campaign resulted in the passage of 22 state licensing laws by 1929. Today, all 50 states have licensing laws.⁷

The National Association of Realtors is the dominant trade organization for real estate practitioners in the United States today. It operates through local boards and state associations which promote the interests of real estate practitioners through educational programs and political action. In 1988, the national association had more than 800,000 members.⁸

The National Association of Real Estate Licensing Law Officials, which includes real estate commissioners and officials from the 50 states, is also active in this field. It was formed in 1929 to improve the administration and enforcement of licensing laws.⁹

Real estate in Hawaii. The concept of private property was not part of the traditional Hawaiian social system. Land was held by a number of chiefs who had the authority to distribute and redistribute it at will. When the political fortune of one chief waned, a new chief would take over the land and redistribute it.

In the early nineteenth century, the islands were unified under the rule of King Kamehameha I and lands were divided according to the Hawaiian tradition. Upon his death in 1819, his successor preserved the division of lands made by Kamehameha I with only a few minor adjustments. Thus, although authority over the land remained with the Crown, the custom of hereditary succession to the land came to be recognized.

As land tenure became more secure, there were more transfers of land and an increasing number of land disputes. Coupled with the transition to a constitutional monarchy, it was decided to make a final distribution of land between the Crown and the government, and ultimately, the people. In the Great Mahele of 1848, King Kamehameha III made this distribution and set the stage for the introduction of the concept of private property into the islands.

The real estate business was founded soon after the Great Mahele. In 1850, the king appointed an agent to manage the Crown's lands. The following year, the minister of the interior was authorized to appoint agents for the sale of government lands in fee simple to the people.¹⁰ For the rest of the century, real estate activity escalated.

In the early 1900s, Honolulu businessmen began to discuss establishing a real estate trade association similar to those in other parts of the United States. The Honolulu Realty Board was founded in 1922,¹¹ and was instrumental in obtaining passage of the Hawaii real estate licensing law in 1933.¹²

The real estate industry has boomed in Hawaii since the licensing law was passed, especially in the years since statehood. One index of real estate activity is the number of deeds recorded

at the Bureau of Conveyances. In 1935, slightly under 3,200 deeds were recorded. This number rose to 9,800 in 1960¹³ and to more than 58,500 in 1987.¹⁴

Another indicator of real estate growth in Hawaii is the value of property transferred. In 1935, the value of land conveyed through recorded deeds was slightly over \$6 million. This figure rose to \$108 million in 1960 and reached \$4.5 billion in 1981.¹⁵ By 1987, the approximate value of land conveyed was more than \$7.2 billion.¹⁶

The Hawaii Association of Realtors is the major real estate trade organization in Hawaii today. Its membership includes more than 8000 members of local real estate boards operating in Honolulu, Hilo, Kona, Maui, Molokai, and Kauai.¹⁷ These organizations are chartered by the National Association of Realtors to enforce its code of ethics and to engage in educational and political activities which promote real estate interests in the state.

Real estate practice. The transfer of ownership or possession of real property from one person to another is a complex transaction involving negotiations between two or more parties to settle the terms of the transfer, the development of agreements based upon the settlement terms, and the implementation of these agreements. Property transfers are complicated by local, state, and federal laws and regulations. Most people employ a real estate agent to assist them through this process.

Real estate agents deal with a wide variety of property transactions, including the rental, lease, purchase, sale, and exchange of residential, commercial, industrial, and agricultural property. Brokers are responsible for managing a real estate business, and they may carry out all phases of a real estate transaction. Salespersons are employed by or contract independently with brokers to obtain property listings, locate interested parties, negotiate transfer terms, and draw up agreements. The salesperson must be affiliated with a broker who is ultimately responsible for ensuring that the transaction is carried out properly.

In order to practice real estate effectively, a real estate agent should know real estate laws and regulations, the steps in real estate transactions, the papers and instruments used in these transactions, methods and available sources of financing for property transfers, and methods of assessing the general market value of properties. In addition, the real estate agent must be aware of the laws and standards of conduct governing the relationship among brokers and salespersons and their clients.

Prior Sunset Evaluation

In 1983, we submitted a sunset evaluation report of Chapter 467, HRS (Legislative Auditor, *Sunset Evaluation Report, Real Estate Brokers and Salesmen*, Report No. 83-7, January 1983). In the report, we recommended that Chapter 467 be reenacted with modifications.

Need for regulation. We found that there was a potential for economic injury to consumers in real estate transactions due to incompetence, fraud, misrepresentation, deceit, and the mishandling of client trust funds. Despite numerous state and federal laws regulating the real estate industry, many consumers had been injured. Therefore, we recommended that brokers and salespersons continue to be licensed.

Improvements to the licensing program. Although we recommended that the statute be reenacted, we made several recommendations for improving the regulatory program. Some of these are described below.

Regulation of branch and site offices. We found that commission rules regulating branch and site offices opened by licensed real estate firms did not have a clear statutory basis. Since complaints filed against branch or site offices were the same as complaints filed against their licensed parent firm, their licensing gave no added protection for consumers. We recommended that the commission cease regulating branch and site offices.

Inactive licenses. We found that commission rules on inactive licenses did not conform with statutory intent.

In 1973, Act 142 created an inactive license category to allow brokers and salespersons to place their licenses “on ice” while they worked in fields closely related to real estate. The commission’s rules expanded this by requiring individuals to place their licenses on inactive status when they were not working independently (in the case of a broker), when they were not registered to work under a broker (in the case of a salesperson), and when they left the state. The rules also allowed brokers and salespersons to voluntarily place their licenses on inactive status for any reason.

We found that these rules created a heavy workload for the Department of Commerce and Consumer Affairs (DCCA) since more than 6800 licenses had been placed on inactive status by September 1982. In addition, the statutory fee schedule for inactive licenses was unfair because it required holders of inactive licenses to pay the same fees as active licensees. We recommended that the Legislature repeal the statutory fee schedule for inactive licenses and the commission simplify the process for placing licenses on inactive status.

Reexamination requirements. We found that the commission’s rules on reexamination were arbitrary and unrelated to competency.

For example, one rule required individuals to retake the examination if they failed to submit a license application within 90 days of passing the examination. A second rule allowed the commission to require reexamination when licensees did not pay renewal fees on time. A third rule allowed the commission to require reexamination after a license was suspended. Yet there was no reexamination requirement for individuals who had been on inactive status for many years.

We recommended that the commission permit new applicants to qualify for a license within two years of passing the examination. We also recommended that it eliminate reexamination requirements for delinquent and suspended licensees.

Late applications. We found that commission rules requiring late applicants to retake the examination resulted in license appeals which created an unnecessary and unreasonable workload for DCCA's hearings office. We recommended that the commission allow individuals to file a license application for up to two years after they pass the examination.

Forfeited licenses. We found that commission rules on the restoration of forfeited licenses did not conform with the statutes. Although the law permitted individuals to restore their licenses by filing a written application and paying fees, the rules authorized the commission to impose education and examination requirements as well. This created a potentially enormous workload for DCCA since restoration applications were handled on a case-by-case basis and more than 2300 licenses were delinquent. We recommended that the commission amend its rules to comply with the statute.

Complaints. We found that delays in processing consumer complaints had resulted in a backlog of 231 real estate cases. In addition, deficiencies in the investigation of complaints exposed consumers to financial harm. We noted that the establishment of a compliance resolution fund in 1982 and department reorganization efforts should improve the processing of complaints. And we recommended that department institute a strong case management system for the handling of real estate complaint cases, and improve the training of investigators.

Residential property transfer code. We found that residential property transfers involving a consumer's life savings created the greatest potential for serious economic injury in real estate practice. Therefore, we recommended that the commission consider developing a residential property transfer code, similar to the landlord-tenant code, to strengthen consumer protection.

Real estate recovery fund. We found that access to the real estate recovery fund was overly restrictive, and recommended that the statutes be amended to expand the basis for payments and establish more liberal payment policies.

We also found the balance in the real estate recovery fund to be greater than necessary to meet future needs. We recommended that the department suspend the collection of fees for the recovery fund until its balance dropped to the legally established minimum of \$150,000.

Real estate education fund. We found that the balance in the real estate education fund was sufficient to meet projected future needs and recommended that the statutes be amended to allow interest from the recovery fund to accrue to the recovery fund (rather than the education fund).

Subsequent Developments

In 1983, the Legislature held hearings to determine whether Chapter 467 should be extended or sunsetted. The commission and the Hawaii Association of Realtors supported extension. Legislative concerns about improper or incompetent practices by real estate agents, a desire to set minimum educational standards for entry into the profession, and a desire to provide consumers with a means to seek restitution for financial losses¹⁸ led to passage of Act 21, which extended the repeal date of Chapter 467 to December 31, 1989.

Other major statutory changes enacted since then are summarized below.

Regulation of condominium hotel operators. Condominium hotel operators are now required to register with the commission and provide evidence of bonding if they engage in any activity falling under the definition of real estate, real estate broker, or real estate salesperson.

Regulation of business names. Brokers may not use any trade name, corporate name, or copartnership name containing the name, initials, or nickname of an unlicensed person or licensed salesperson, unless otherwise approved by the commission.

New licensing requirements. All licensees must now complete ten hours of continuing education, or its equivalent, in order to renew their licenses in 1993 and 1995.

The commission may waive all or part of the two-year experience requirement for brokers and impose practical experience requirements on applicants for a broker's license. It may recognize previously used education, examination scores, and experience of applicants whose licenses are revoked or terminated. And it may impose other licensing requirements on applicants who seek restoration of forfeited licenses.

New licensing procedures. A license is automatically forfeited if the recovery fund fee is not paid within 60 days. It is automatically deactivated if continuing education requirements are not met. And the commission may set application deadlines.

Licensing fees are no longer set by statute. Instead, DCCA is authorized to set fees by administrative rule.

New standards of conduct. Brokers are required to disclose who they represent in every real estate transaction. Licensees must ascertain and disclose all material facts concerning property in order to avoid error, misrepresentation, or concealment of material facts. They must not violate state laws relating to uniform land sales, horizontal property regimes, time-sharing plans, and real property discrimination. And they must provide timely notification to prospective buyers, lessees, and tenants when property lies within the boundaries of a flood hazard area, noise exposure area, airport zone or anticipated tsunami (tidal wave) inundation zone.

Disciplinary program. The penalty for violating the statutes and rules is now \$1000 per violation. And anyone whose real estate license is revoked or suspended must reenter the profession as a salesperson.

Recovery fund. The maximum level for payments from the recovery fund is now \$25,000 per transaction, and the maximum recovery fund liability per licensee is \$50,000. DCCA may assess a \$25 license fee whenever the recovery fund falls below \$350,000.

The commission may now settle claims against the recovery fund by a majority vote. A new method for calculating interest on the repayment of recovery fund awards is in effect. And the commission has greater latitude to invest and reinvest recovery fund monies.

Education fund. The portion of license fees going to the education fund is now \$20. A moratorium on contributions to the education fund will be activated when its balance exceeds \$1.2 million. And the commission must consider reducing education fund fees when the fund's balance reaches that level.

The commission and the director of DCCA may now employ personnel using the education fund. And the commission has greater latitude to invest and reinvest education fund resources.

Current Regulation

The Real Estate Commission consists of nine members who are appointed by the Governor and confirmed by the Senate. The commissioners serve without pay but are reimbursed for their expenses. The chairman is designated by the Governor.

All commissioners must be United States citizens who have resided in the state for at least three years preceding appointment. Four commissioners must be licensed real estate brokers who have actively engaged in the real estate business for three years immediately prior to their appointment. Two commissioners must be public members. Four commissioners must be from Honolulu, and one commissioner each must be from the counties of Hawaii, Maui and Kauai.

The commission is empowered to grant licenses to real estate brokers and salespersons; to regulate the professional conduct of brokers and salespersons; to inspect client trust funds; to suspend or revoke licenses; to issue certificates of registration to real estate schools and instructors; and to fine licensees up to \$1000 for violations of the licensing law and rules. The commission also administers the real estate recovery fund and the real estate education fund.

In addition to these broad, general powers, the commission has specific duties, including developing written examinations for broker and salesperson applicants; monitoring the activities of real estate schools; publishing and disseminating reports; and intervening on behalf of defendants in court cases involving the real estate recovery fund.

Licenses issued. The commission issues licenses to salespersons, individual brokers, corporate brokers, copartnership brokers, and branch offices of brokerage firms. Certain persons are exempt from licensing. These include owners of property, or persons acting under a power-of-attorney from owners, who are not engaged in the real estate brokerage or development business; receivers, trustees, and personal representatives acting under a court order or trust agreement; custodians and caretakers of real property who are empowered to lease or rent said property; and persons who manage, rent, or operate a hotel.

Salespersons. A real estate salesperson is any person who buys, sells, leases, rents or lists real property, or who solicits prospective purchasers of real property for others for compensation or valuable consideration. This includes persons who engage in the sale of options on real property. Real estate salespersons may only work under the direction of a licensed broker. They may be employed directly by the broker or they may associate with the broker as an independent contractor.

In order to qualify for a salesperson's license, applicants must meet the following requirements: attain the age of majority; possess a reputation for honesty, truthfulness and fair dealing; satisfactorily complete an approved or accredited course on real estate principles or its equivalent; and pass a written examination.

The law and commission rules establish many other standards for salespersons. For example, salespersons may not accept a commission or compensation from any person other than their broker. They may not be employed by or associated with more than one broker at a time and the name of their broker must be registered with the commission. Salespersons who are not registered with a licensed Hawaii broker must deactivate their licenses. In addition, there are numerous standards governing a salesperson's handling of real estate transactions.

Brokers. A broker is any person who buys, sells, leases, rents or lists real property, or who solicits prospective purchasers of real property on behalf of others for compensation or other valuable consideration. This includes persons who negotiate the exchange of real property or sell options on real property. The definition of a broker includes individuals, corporations, and copartnerships. Separate licenses are issued for each.

Individual brokers. In order to qualify for an individual broker's license, an applicant must attain the age of majority; possess a reputation for honesty, truthfulness and fair dealing; satisfactorily complete an approved or accredited real estate course or its equivalent; and pass a written examination. In addition, the applicant must engage in real estate sales on a full-time basis for two years as a licensed Hawaii salesperson and participate in at least ten written real estate transactions in the state. Education and experience requirements may be waived for applicants who meet certain equivalency standards set by the commission.

The law and commission rules establish many standards of conduct which licensed brokers must follow. For example, the rules prohibit commingling client trust funds with broker funds and regulate the manner in which client trust funds must be handled.

Corporate and copartnership brokers. A broker's license may be issued to a corporation if its real estate business is placed under the direct management control of an officer or employee holding an individual broker's license. This officer or employee is known as a principal broker.

A broker's license may also be issued to a copartnership, provided that every member of the copartnership who actively engages in the real estate business holds a broker's license.

Corporations and copartnerships are required to comply with numerous business practice standards in the statutes and rules that govern the manner in which the real estate business of these entities may be conducted.

Branch offices. Commission rules require branch offices established by licensed brokerage firms to be licensed. Branch offices must be managed by a licensed individual broker who is appointed by the brokerage firm's principal broker. They must adhere to the same business practice standards that apply to the licensed brokerage firm.

Registration of real estate schools and instructors. The commission issues certificates of registration to real estate schools and instructors who meet certain standards. These certificates are intended to qualify the schools to offer real estate courses for broker and salesperson applicants. Currently, there are 14 registered schools and 43 registered instructors.¹⁹

Registered real estate schools are subject to various requirements set forth in the statutes and commission rules. For example, they must employ a sufficient number of qualified instructors and comply with certain advertising standards. Failure to comply with these requirements may result in the suspension or revocation of a school's certificate of registration.

The commission has also established standards for the registration of real estate instructors. For example, applicants must have practiced as a licensed broker in Hawaii for at least three years, or possess equivalent educational qualifications, in order to qualify for registration.

Real estate recovery fund. The real estate recovery fund was established to furnish financial protection to consumers in their dealings with real estate licensees. It is a trust fund built from licensing fees. The recovery fund is tapped when a court judgment is made against any licensee who has committed fraud, misrepresentation or deceit in real estate transactions. No more than \$25,000 may be recovered per transaction, including court costs and attorney fees. In addition, no more than \$50,000 may be paid out of the recovery fund per licensee.

When the recovery fund is tapped for payment, the license of a broker or salesperson is automatically terminated. A new license cannot be issued until the broker or salesperson repays the fund in full plus interest.

The commission, as trustee for the recovery fund, is authorized to invest and reinvest its funds in the same manner as the funds of the state employees retirement system. The interest from these investments must then be deposited to the credit of the real estate education fund.

Real estate education fund. The real estate education fund was created to support educational activities. It is a trust fund built from the interest earned on investments made under the recovery fund and a portion of licensing fees. The commission acts as trustee of the education fund, and it is authorized to invest and reinvest its funds in the same manner as the real estate recovery fund.

The education fund may be used for a wide variety of activities which benefit consumers, licensees, the commission or the commission's staff. These activities include classes, media exposure, participation in national associations, publications, research, seminars and studies. The commission and the director of DCCA may also use the education fund to employ necessary personnel.

Summary of Current Findings

Our current evaluation of the regulation of real estate results in the following findings:

1. There is a need to continue regulating brokers, salespersons and condominium hotel operators in order to protect consumers from economic injury.
2. There is no statutory basis for commission rules requiring branch offices to be licensed.
3. Some licensing requirements are arbitrary, vague, cumbersome or unnecessary.
4. Improvements in the processing of consumer complaints have enhanced consumer protection.

Need for Regulation

Brokers and salespersons. There is a need to continue licensing real estate brokers and salespersons in order to protect consumers from economic injury. Consumers are at a disadvantage in selecting real estate agents to represent them in the complex negotiations surrounding the sale of real property. They are also exposed to potential financial losses if real estate agents are not knowledgeable or ethical in their negotiations or if they misappropriate funds collected during the sale, lease, or rental of property.

The need to regulate the practice of real estate is corroborated by a large number of consumer complaints. Between 1983 and 1987, nearly 1700 complaints were filed against licensed brokers and salespersons or unlicensed persons. Approximately 500 of these complaints were filed during 1987.²⁰

Many consumer complaints have been upheld by the real estate commission. Between 1984 and 1988, the commission took disciplinary action against 188 licenses. These actions included 62 revocations, 30 suspensions, numerous fines, and a variety of other penalties.²¹

In addition to these complaint cases, 88 recovery fund payments totalling \$841,626 were awarded to consumers between 1984 and 1988.²² The largest payment was \$40,000 to 14 partnerships that had invested in undeveloped real property in Las Vegas, Nevada. The Hawaii Nevada Investment Corporation had used client funds for purposes other than the purchase of the property.²³

Since consumers are at a disadvantage in real estate transactions and since there is evidence that consumers have been harmed, real estate brokers and salespersons should continue to be licensed.

Condominium hotel operators. In 1987, the statutes were amended to require condominium hotel operators to register with the commission by providing evidence of bonding and paying fees.

Since condominium hotel operators handle funds entrusted to them by clients, there appears to be a need for regulation. A recent case illustrates this need. In 1987 and 1988, the commission took disciplinary action against three respondents who managed condominiums without registering or posting a bond. The commission found that the respondents had failed to account for monies belonging to others within a reasonable time. It revoked the real estate licenses of two respondents and imposed a \$2000 fine on the third respondent.²⁴

Branch offices. In 1983, we found that commission rules requiring licensed brokerage firms to obtain a separate license for branch offices did not have a clear statutory basis. Then and now, Section 467-4 authorizes the commission to issue licenses only to real estate brokers and salespersons. A broker is defined as an individual, partnership or corporation. Although there was no specific authorization for the commission to license branch offices, there was a provision in Section 467-14 that established a fee of \$50 for branch office licenses.

In 1988, Section 467-14 was amended and the reference to a fee for branch office licenses was deleted. There is now nothing in the statute relating to the licensing of branch offices. Thus, there is no statutory basis for the commission's rule requiring branch offices to be licensed.

We continue to believe that the licensing of branch offices is unnecessary since the commission's rules include numerous standards regulating the conduct of brokers and salespersons. For example, the rules require each licensed brokerage firm to designate a licensed individual broker to serve as its "principal broker." They also specify that the principal broker must be directly in charge of and responsible for the firm's real estate operations. And they require the principal broker to designate a licensed individual broker to serve as the "broker in

charge” of and responsible to the principal broker for the real estate operations of each branch office. The principal broker and the broker in charge are “jointly responsible” for trust properties which the principal broker authorizes the broker in charge to handle.

These and related rules of conduct appear to sufficiently pinpoint responsibility for real estate transactions. The commission should consider repealing its rules on the licensing of branch offices.

If the commission determines that it is not in the best interest of consumers to repeal the branch office licensing rules, it should seek a statutory amendment to specifically authorize the issuance of branch office licenses.

Licensing Requirements

In 1983, we found problems with arbitrary reentry requirements for individuals who gave up or lost their right to practice through failure to apply for a license in a timely fashion, failure to pay renewal fees on time, disciplinary action, and voluntary deactivation of a license. These problems continue to exist. There are also two other licensing requirements which appear to have little relationship to the need for consumer protection.

Reentry requirements. Licensed brokers and salespersons may give up or lose their right to practice real estate under a variety of circumstances. They may (1) forfeit their licenses by failing to pay renewal fees on time, (2) forfeit their licenses by not paying recovery fund assessments on time, (3) place their licenses on inactive status, or (4) lose their licenses as the result of disciplinary action by the commission. In 1994, they may also deactivate their licenses by failing to complete mandatory continuing education requirements.

A wide variety of standards are found in the statutes and rules for reentry into real estate practice. They are based primarily upon the circumstances under which a licensee exits practice and not on the need for ensuring entry-level competency. The commission appears to have a great deal of discretion in what it imposes as reentry requirements. Inconsistencies in these requirements makes the commission vulnerable to charges of unequal treatment and could create confusion for applicants. Some of the standards also result in cumbersome licensing procedures which unnecessarily increase the workload of the licensing program.

The commission should immediately review all the standards for reentry into real estate practice and develop a uniform set of standards which are solely based on the need to ensure entry-level competency.

Forfeited license: failure to pay the biennial renewal fee. The statutes state that licensees who fail to pay the biennial renewal fee on time automatically forfeit their license. The commission is authorized to impose new licensing requirements on individuals who apply for restoration of their forfeited license.

Under its rules, the commission may require applicants to take real estate courses when a license is forfeit for more than one year but less than two years. When a license is forfeit for more than two years, the commission may require applicants to take real estate courses or pass the licensing examination. However, individuals who assume public office or join the military while holding a license in good standing can have their forfeited licenses restored without having to take the examination.

The rule giving the commission the option to require applicants to take real estate courses is vague and has been imposed in a questionable way. The commission has restored the licenses of two individuals on the condition that they “provide 32 hours of research to the Real Estate Research and Education Center.”²⁵ These actions were reportedly taken because the two individuals are said to have great knowledge in the real estate field and can “help” the center. However, the condition does not appear to be directly related to establishing the entry-level competency of the individuals concerned nor does it fall within a reasonable definition of “real estate course.”

The rule which exempts public office-holders and members of the military from the optional examination requirement is also not based on the need to ensure entry-level competency. These individuals should not be excluded from uniform reentry requirements.

These rules force the commission to handle a large number of restoration applications on a case-by-case basis and the minutes indicate that the commission spends a great deal of time on these applications at each meeting. More uniform standards would permit the licensing division to handle restoration applications administratively without commission involvement.

Forfeited license: failure to pay recovery fund assessment. In 1983, the statutes were amended to authorize DCCA to require every licensee to pay a fee of \$25 when the recovery fund’s balance falls below \$350,000. Licensees who fail to pay this fee within 60 days automatically forfeit their license. The commission may impose “other penalties or requirements” as a condition to restoring the forfeited license.

The commission has not yet adopted rules delineating what requirements may be imposed on licensees who do not pay the recovery fund assessment on time. Therefore, it will have no clear basis for acting on applications for restoration of licenses if the department imposes the

assessment. Uniform rules would facilitate the processing of restoration applications and ensure equitable treatment of licensees.

Inactive license. The statutes authorize brokers and salespersons to place their licenses on inactive status by paying a fee. If they are not renewed biennially, they are forfeited.

There are no competency-based requirements for individuals who seek to reenter practice after having been on inactive status. Individuals who have not practiced real estate for many years can regain the right to practice simply by filing an application form and paying a fee. This contrasts sharply with the policy of imposing education and examination requirements on individuals applying for restoration of a license forfeited for nonpayment of renewal fees. It also contrasts with the Legislature's original intent in establishing the inactive category:

“Should the commission determine that a licensee has remained away from the profession for such a length of time that his request for reinstatement may be questioned, its rules and regulations provide for the administration of an examination to evaluate current knowledge.”²⁶

Suspended, revoked and terminated licenses. The statutes permit the commission to suspend or revoke a license as the result of disciplinary proceedings. In addition, a license is automatically terminated when the commission issues an order authorizing payment from the recovery fund against the license. The statutes and rules are inconsistent in setting standards for reentry into practice when a license has been suspended, revoked or terminated.

When a license is *suspended*, the commission may include conditions for its reinstatement in the disciplinary order. By rule, the commission may also require individuals applying for a reinstated license to take the licensing examination. However, the rules do not specify the circumstances under which an examination will be required.

When a license is *revoked*, an individual may apply for a new salesperson's license after two years has elapsed. When a license is *terminated*, individuals must repay the recovery fund with interest before they are eligible to apply for a new salesperson's license. In 1986, the statutes were amended to allow the commission to recognize previously used education, examination scores, and experience in determining whether to issue a new license to these individuals. However, the commission has not yet adopted rules implementing this provision.

Here again, more uniform clearer rules are needed on how applicants may reenter practice.

No waiver of uniform national examination. New applicants must pass a written examination developed and administered by the Educational Testing Service (ETS) in Princeton, New Jersey, in order to qualify for a license. The ETS examination consists of a uniform national examination

which is used by many other states, and a Hawaii State Test which covers local real estate laws, regulations, and other aspects of real estate practice relevant to Hawaii.

The commission requires all applicants to take the uniform national examination immediately before applying for a Hawaii license. This means that applicants who have passed the examination in another jurisdiction must retake the examination. This policy places an artificial barrier to licensing which has no relationship to consumer protection. Since ETS will report test scores directly to the department at an applicant's request,²⁷ the commission should amend its rules to recognize test scores from ETS uniform national examinations taken in other jurisdictions.

Zoning requirements. In order to qualify for a license, commission rules require brokerage firms to establish a place of business or site office that conforms with county zoning codes and county requirements pertaining to temporary land use. The brokerage firm license application form includes a document which must be completed by county officials confirming that a real estate practice is permitted at the firm's proposed place of business. The commission has denied licenses to neighbor island applicants who do not meet the zoning requirements.

Since there does not appear to be any overriding consumer protection rationale for the zoning requirements which create a heavy paperwork burden for applicants, counties and the licensing division, the commission should repeal these rules. This will give the counties the responsibility to enforce their zoning requirements and allow the licensing program to focus on more important issues.

Disciplinary Program

Consumer complaints. In our previous sunset report, we found serious problems in the processing of consumer complaints. The department has corrected these problems by implementing a case management system for the handling of complaints, speeding up the intake process, and improving the training of investigators. There has been an increase in the number of cases sent to the hearings office, and the number of disciplinary orders issued by the commission has increased dramatically. Moreover, the number and amount of recovery fund awards have significantly increased.

Although there continues to be a backlog of real estate cases awaiting legal resolution, we find that the improvements made to date are significant. The department should continue to improve its handling of consumer complaints to further decrease the backlog of real estate cases.

Residential property transfer code. In 1983, we found a need for clearer standards of practice governing residential real estate transactions in order to protect consumers. The

commission has taken steps to establish better standards of practice for all real estate transactions by sponsoring amendments to the statutes and rules. In addition, it has outlined a residential property transfer code which reportedly is used in licensing courses taught by real estate schools. The commission should continue to refine this outline and formally incorporate the code into its approved licensing curriculums.

Gender Neutrality

The statutes refer to a real estate salesperson as a “real estate salesman” instead of using a term that is neutral in gender. In 1988, Act 145 amended Chapter 467 by stating that all references to “real estate salesman” include “real estate salesperson.” This is a rather limited approach to neutralizing the statutory language.

The Revisor of Statutes is currently authorized to change any male or female gender term to a term that is neutral in gender when it is clear that a statute does not apply only to members of one sex. In order to facilitate this process, the Legislature should consider amending Chapter 467 to replace the term “salesman” with “salesperson.” In addition, the commission should consider using neutral gender in its rules.

Recommendations

We recommend as follows:

1. *Chapter 467, Hawaii Revised Statutes, be reenacted. In reenacting the statute, the Legislature should consider using the term “salesperson” instead of “salesman” throughout the text.*
2. *The Real Estate Commission should take the following actions:*
 - *Determine whether there is a legitimate consumer protection rationale for the licensing of branch offices and, if so, sponsor legislation authorizing the issuance of this license.*
 - *Conduct a thorough review of licensing requirements for reentry into the profession and develop uniform, competency-based standards to be implemented through legislative action and/or changes in the rules.*
 - *Amend the rules to recognize uniform national examination scores reported by the Educational Testing Service.*
 - *Amend the rules to delete zoning requirements for brokerage firm licenses.*
 - *Continue to improve the residential property transfer code and formally include this code in approved licensing curriculums.*
3. *The department should continue to make improvements in the management of consumer complaint cases in order to reduce the backlog of real estate cases.*

NOTES

1. Hawaii, Legislative Auditor, *Sunset Evaluation Report, Real Estate Brokers and Salesmen, Chapter 467, Hawaii Revised Statutes*, Report No. 83-7, Honolulu, 1983.
2. U.S., Bureau of Labor Statistics, *Occupational Outlook Handbook*, 1988-89 Edition, April 1988, p. 219.
3. Hawaii, Department of Commerce and Consumer Affairs, *Summary/Geographic Report*, Honolulu, August 10, 1988.
4. Frederick Case, *Real Estate Brokerage*, Prentice-Hall, 1965, p. 250.
5. *Ibid.*
6. Alvin Arnold and Jack Kusnet, *The Arnold Encyclopedia of Real Estate*, Warren, Gorham and Lamont, 1978, p. 540.
7. U.S., Bureau of Labor Statistics, *Occupational Outlook Handbook*, p. 219.
8. "1987 National Association of Realtors Annual Report," *Real Estate Today*, May 1988.
9. Maury Seldin, *The Real Estate Handbook*, Dow-Jones Irwin, p. 419.
10. Robert McTierney, "An Analysis of the Role of Government Agencies and Professional Organizations in the Development and Structure of the Honolulu Real Estate Business (Industry) (1850-1960)," MBA Thesis, University of Hawaii, January 1962.
11. "Annual Report of the Honolulu Realty Board for the Year Ending December 31, 1927," 1928, p. 2.
12. "Protection to Public Seen in Real Estate License Law; Bill for Hawaii Considered," *Honolulu Advertiser*, March 17, 1929.
13. McTierney, p. 261.
14. Hawaii, Department of Business and Economic Development, *The State of Hawaii Data Book: 1988*, Honolulu, 1987, p. 589.
15. Hawaii, Department of Planning and Economic Development, *The State of Hawaii Data Book: 1981*, Honolulu, p. 511.
16. Hawaii, Department of Business and Economic Development, *The State of Hawaii Data Book: 1988*, Honolulu, p. 589.

17. Letter from Peggy Comeau, Executive Vice President, Honolulu Board of Realtors, to Legislative Auditor's Office, July 1, 1988.
18. Senate Standing Committee Report 226 on Senate Bill 41, Twelfth Legislature, 1983, State of Hawaii.
19. "Requested Material," memorandum from Calvin Kimura, Executive Secretary, Real Estate Commission, to Legislative Auditor, September 23, 1988.
20. Hawaii, Department of Commerce and Consumer Affairs, *Fifth Annual Report of the Regulated Industries Complaints Office*, Honolulu, 1988, p. 20.
21. Hawaii, Real Estate Commission, annual reports, Honolulu, 1984-1988.
22. *Ibid.*
23. Hawaii, Real Estate Commission, *Annual Report 1986*, Honolulu, p. 25.
24. Hawaii, Real Estate Commission, 1988 annual report (draft), Honolulu, (no pp.).
25. Hawaii, Real Estate Commission, Minutes of Meeting, Honolulu, July 28, 1988.
26. House Standing Committee Report 63 on House Bill 317, Seventh Legislature, 1973, State of Hawaii.
27. Educational Testing Service, *Real Estate Licensing Examinations, Bulletin of Information for Candidates*, 1986, pp. 11 and 23.

APPENDICES

APPENDIX A

COMMENTS ON AGENCY RESPONSE

A preliminary draft of this Sunset Evaluation Update was transmitted on October 28, 1988, to the Real Estate Commission and the Department of Commerce and Consumer Affairs for their review and comments. A copy of the transmittal letter to the commission is included as Attachment 1 of this Appendix. A similar letter was sent to the department. The department did not comment on the report. The response from the commission is included as Attachment 2.

The commission agrees that Chapter 467, HRS, should be reenacted and that the Legislature should consider using the term “salesperson” instead of “salesman” throughout the text.

The commission would like to continue licensing branch offices to prevent “fly-by-night” operations and to ensure proper supervision of salespersons. It will review reentry requirements for uniformity and competency, and will consider recognizing the uniform section of the national licensing examinations.

The commission is concerned that repeal of zoning requirements will create problems such as “fly-by-night” operations. It also notes that the four counties support the zoning requirements which assist enforcement activities. We continue to believe that the commission should not be in the business of enforcing county ordinances.

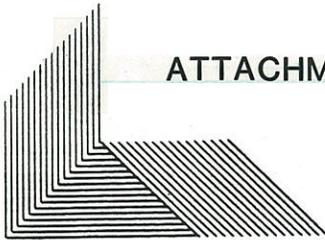
We had acknowledged in our report the commission’s accomplishments in establishing better standards of practice through the residential property transfer code and related amendments to the statutes and rules. The commission should continue to refine and improve the code and formally include it in revised and updated licensing curriculums.

The commission also provided a number to technical corrections to our report. For example, the commission said our report did not mention the regulation of time share and condominium managing agents. However, the report was a sunset review of Chapter 467, HRS, not of other statutes such as Chapter 514A (Horizontal Property Regimes) or Chapter 514E (Time Sharing Plans). Neither did we include issues which are moot such as the licensing of condominium hotel operators which will not be a requirement until June 30, 1989.

We differ with the commission’s interpretation of new licensing requirements. Act 95, SLH 1987, which states that the continuing education requirement applies to the biennium beginning January 1, 1991, (e.g., January 1, 1991 to December 31, 1992). Since real estate licenses are renewed at the end of each even-numbered year, we interpreted this provision as applying to

licenses expiring on December 31, 1992 while the commission interprets this as applying to licenses expiring on December 31, 1990.

Finally, the commission says it does not deny licenses for those who do not meet zoning requirements but merely places them on inactive status. However, since they cannot engage in real estate activity, in effect they are denied a license to practice.



ATTACHMENT 1

THE OFFICE OF THE AUDITOR
STATE OF HAWAII
465 S. KING STREET, RM. 500
HONOLULU, HAWAII 96813

CLINTON T. TANIMURA
AUDITOR

October 28, 1988

COPY

Ms. Gloria J. Damron, Chairperson
Board of Real Estate Brokers and Salesmen
Department of Commerce and Consumer Affairs
State of Hawaii
1010 Richards Street
Honolulu, Hawaii 96813

Dear Ms. Damron:

Enclosed are nine preliminary copies, numbered 4 through 13, of our *Sunset Evaluation Update, Real Estate Brokers and Salesmen, Chapter 467, Hawaii Revised Statutes*. These copies are for review by you, other members of the board, and your executive secretary. This preliminary report has also been transmitted to Robert Alm, Director of the Department of Commerce and Consumer Affairs.

The report contains our recommendations relating to the regulation of real estate brokers and salesmen. If you have any comments on our recommendations, we would appreciate receiving them by November 28, 1988. Any comments we receive will be included as part of the final report which will be submitted to the Legislature.

Since the report is not in final form and changes may possibly be made to it, we request that you limit access to the report to those officials whom you wish to call upon for assistance in your response. Please do not reproduce the report. Should you require additional copies, please contact our office. Public release of the report will be made solely by our office and only after the report is published in its final form.

We appreciate the assistance and cooperation extended to us.

Sincerely,



Clinton T. Tanimura
Legislative Auditor

Enclosures

ATTACHMENT 2



JOHN WAIHEE
GOVERNOR

ROBERT A. ALM
DIRECTOR

NOE NOE TOM
LICENSING ADMINISTRATOR

REAL ESTATE COMMISSION
STATE OF HAWAII
PROFESSIONAL & VOCATIONAL LICENSING DIVISION
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
P. O. BOX 3469
HONOLULU, HAWAII 96801

December 1, 1988

RECEIVED

DEC 2 3 42 PM '88

OFF. OF THE AUDITOR
STATE OF HAWAII

Mr. Clinton Tanimura
Legislative Auditor
465 S. King Street, Room 500
Honolulu, Hawaii 96813

Dear Mr. Tanimura:

We appreciate the opportunity to review and comment on your preliminary Sunset Evaluation of Real Estate Brokers and Salesmen, Chapter 467, Hawaii Revised Statutes.

We comment and provide technical corrections on the body of the report as follows:

Subsequent Developments

Page 6: Regulation of time share sales agents and acquisition agents.

The report does not mention that time share sales agents and acquisition agents under Chapter 514E, HRS, Time Sharing Plans are required to be licensed as real estate salespersons or real estate brokers. This requirement under the time share law reflects its relationship and impact on the regulation of real estate brokers and salespersons.

Page 6: Regulation of condominium managing agents.

The report does not mention that condominium managing agents under Chapter 514A, HRS, Condominium Property Regime are required to be licensed real

estate brokers and registered with the Commission. This requirement under the condominium law reflects its relationship and impact on the regulation of real estate brokers and salespersons.

Page 6 Regulation of condominium hotel operators.

It should read, "Condominium hotel operators are now required to be licensed as real estate brokers, register with the commission and provide evidence of bonding if they engage in any..."

Page 6 New licensing requirements.

It should read, "All licensees must now complete ten hours of continuing education, or its equivalent[,]
by December 31, 1990, 1992, and 1994, in order to renew their licenses to an active status [in 1993 and 1995]. ..."

Page 6 New standards of conduct.

The report does not mention that causes of action for disciplinary action includes the real estate licensee's personal real estate transactions.

Need for Regulation.

Page 11 Condominium hotel operators.

It should read, "In [1987] 1985, the statutes were amended to require condominium hotel operators to be licensed as real estate brokers, register with the commission by providing evidence of bonding and paying fees."

Licensing Requirements

Page 12 Reentry requirements.

It should read, "Licensed brokers and salespersons may give up or lose their right to practice real estate under a variety of circumstances. They may (1) forfeit their licenses by failing to pay renewal fees on time, (2) forfeit their license by not paying additional recovery fund assessments on time, (3) place their license on inactive status, [or] (4) lose their license as the result of disciplinary action by the commission[.], (5) have license

suspended by the commission as a result of disciplinary action, or (6) terminate license due to recovery fund payout. In [1994] 1991, they may also deactivate their licenses by failing to complete mandatory continuing education requirements."

Page 15 Zoning requirements.

It should read, "In order to qualify for a real estate broker license, the statute and commission rules [require] requires brokerage firms to establish a place of business [or site office] that conforms with county zoning codes [and county requirements pertaining to temporary land use]. The brokerage firm license application form includes a document which must be completed by county officials confirming that a real estate practice is permitted at the firm's proposed place of business. The commission has denied [licenses] approval of place of business to [neighbor island] applicants who do not meet the zoning requirements. One of the site office requirements includes conformance with the respective county requirements as to temporary land use." On denials of place of business, the real estate broker's license would be approved but placed on an inactive status.

Disciplinary Program

Pages 15 Residential property transfer code.
and 16

The code has been formally incorporated into the pre-licensing education curriculum as of 1985.

We comment on the recommendations, as follows:

1. We agree that Chapter 467, Hawaii Revised Statutes, should be reenacted to provide for continued regulation of real estate brokers and salespersons and that the Legislature should consider amending the statute to change all references from "salesman" to "salesperson".

2. The licensing of branch offices is of great concern with the commission. The licensing of branch office controls "fly-by-night" real estate offices where consumers, real estate licensees, and government officials are not able to contact, visit or locate the real estate brokers. Since time is of the essence with most real estate contracts, rental or security

deposit payments, other real estate activity, and government enforcement, permanency of and accessibility to the office are required. If time passes in attempting to locate the branch office, a great deal of harm may beset the consumer or stifle any enforcement effort, especially on unannounced visitations for inspections of records. The Commission finds that the licensing of branch offices is not a new concept and a number of other states license and/or regulate branch offices. The licensing of branch offices are part of the regulatory scheme that ensures that the real estate salespersons are properly supervised. In addition, the Commission feels that it has implied authority, at the least, under Chapter 467 and section 467-12 to provide for the licensing of branch offices. Should statutory authority be required for the licensing of branch offices, the Commission recommends an amendment to section 467-9 as follows:

"(c) No branch office shall operate without a license previously obtained under and in compliance with this chapter and the rules of the real estate commission."

3. The Commission has great concerns on competency-based requirements for reentry into the profession for inactive, forfeited, suspended, revoked and terminated licensees. The Commission feels that the mandatory continuing education requirement will provide for some assurance as to the competency level of an inactive licensee's reentry into the profession. The Commission will conduct a review of the requirements for reentry into the profession by inactive, forfeited, suspended, revoked and terminated licensees as to uniformity and if based on competency. The results of the review to follow with proposed legislation and/or rule making.

4. The Commission has initiated a review into recognizing the uniform section of the pre-licensing examinations through its affiliation with the National Real Estate Licensing Law Officials (NARELLO). NARELLO has initiated a review into this area and will be collecting data from the fifty participating states. Simultaneously, the Commission will continue its own review and if decided, with rule making to follow. In addition, the Commission will study the impact such a waiver will have on the staff and the testing service.

5. The Commission has concerns about repealing the zoning requirements for principal place of business, branch offices, and site offices. Again, this requirement controls the "fly-by-night" offices, the mixed-use offices which are incompatible, the inaccessible offices, and the safety of the

office for a real estate type business. As an example, with no zoning requirement, a real estate broker with 50 associating real estate salespersons may set up his office in his personal residence. We understand from the four counties that this would be considered a zoning violation, that the probability of discovery is remote unless a complaint is received, and the "home occupation office" ordinance does not allow visitation from the public or clients. The four counties have expressed positive comments about the zoning requirement as it assists in the enforcement program. The consumer needs some permanency and accessibility to the real estate broker's office to ensure a timely handling of real estate transactions, timely payments for real estate transactions (rents, security deposits, earnest money, etc.), and timely communication. Site office registrations are temporary, normally on the site of a real estate project under construction, and all real estate activity out of such office shall be pertaining only to the initial sales of the project. With the confirmation from the county that the site office meets the temporary land use requirements, it assures safe accessibility by the consumers as heavy construction is progressing, controls "fly-by-night" type offices, and that the county requirement that all real estate activity out of such office shall pertain to only the sales of the project.

6. The Commission has continued to use the residential property transfer code as a foundation in education, examination, legislation, and rule making. The code was formally approved as part of the pre-licensing education curriculum and integrated into the curriculum in 1985. At the time of approval, a number of areas of the code were in Chapter 467 and the Commission rules, as well as part of the existing curriculum through other laws. The code was the basis for legislation in 1985, 1986, 1987, and 1988 for such areas as licensee's personal real estate transactions, conversion of client's monies, disclosure of who the licensee represents in a real estate transaction (agency/subagency), and the licensee's duty to ascertain and disclose all material facts concerning a real estate transaction. The code was the basis for rule making in 1986 and 1987 for such areas as the responsibilities of the principal brokers and brokers-in-charge, client trust account, record keeping, disclosure of interest bearing trust accounts, agency/subagency/dual agency and numerous provisions for licensee conduct.

7. The Department is continuing to improve the management of consumer complaint enforcement. Real estate complaint enforcement continues to be time-consuming, complicated, technical, and costly.

Mr. Clinton Tanimura
Page 6
December 1, 1988

Again, the Commission appreciates the Legislative Auditor's support and recommendations. The Commission shall continue to study this report and use it as a reference in many years to come.

Very truly yours,



GLORIA J. DAMRON
Chairman

APPENDIX B

DIGEST

A BILL FOR AN ACT
RELATING TO REAL ESTATE

Moves repeal of law creating the real estate commission from 12/31/89 to 12/31/95. Amends chapter 467 to make gender neutral.

(To be made one and twelve copies)

THE SENATE

.....FIFTEENTH..... LEGISLATURE, 19 89

STATE OF HAWAII

S.B. NO.

A BILL FOR AN ACT

RELATING TO REAL ESTATE.

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

1 SECTION 1. Section 26H-4, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§26H-4 Repeal dates. (a) The following chapters are
4 hereby repealed effective December 31, 1989:

5 (1) Chapter 444 (Contractors License Board)

6 (2) Chapter 448E (Board of Electricians and Plumbers)

7 (3) Chapter 464 (Board of Registration of Professional
8 Engineers, Architects, Surveyors and Landscape
9 Architects)

10 (4) Chapter 466 (Board of Public Accountancy)

11 [(5) Chapter 467 (Real Estate Commission)

12 (6)] (5) Chapter 439 (Board of Cosmetology)

13 [(7)] (6) Chapter 454 (Mortgage Brokers and Solicitors)

14 [(8)] (7) Chapter 454D (Mortgage and Collection Servicing
15 Agents)

16 (b) The following chapter and sections are hereby repealed

17

18

S.B. NO.

1 effective December 31, 1990:

- 2 (1) Chapter 466J (Board of Radiologic Technology)
- 3 (2) Sections 321-13 to 321-15 (midwives, laboratory
- 4 directors, laboratory technologists, laboratory
- 5 supervisors, laboratory technicians, tattoo artists,
- 6 electrologists, and sanitarians)

7 (c) The following chapters are hereby repealed effective

8 December 31, 1991:

- 9 (1) Chapter 447 (Dental Hygienists)
- 10 (2) Chapter 453 (Board of Medical Examiners)
- 11 (3) Chapter 457 (Board of Nursing)
- 12 (4) Chapter 458 (Board of Dispensing Opticians)
- 13 (5) Chapter 460J (Pest Control Board)
- 14 (6) Chapter 462A (Pilotage)
- 15 (7) Chapter 438 (Board of Barbers)
- 16 (8) Chapter 468K (Travel Agencies)

17 (d) The following chapters are hereby repealed effective

18 December 31, 1992:

- 19 (1) Chapter 448H (Elevator Mechanics Licensing Board)
- 20 (2) Chapter 451A (Board of Hearing Aid Dealers and Fitters)
- 21 (3) Chapter 457B (Board of Examiners of Nursing Home
- 22 Administrators)

S.B. NO.

1 (4) Chapter 460 (Board of Osteopathic Examiners)

2 (5) Chapter 461 (Board of Pharmacy)

3 (6) Chapter 461J (Board of Physical Therapy)

4 (7) Chapter 463E (Podiatry)

5 (e) The following chapters are hereby repealed effective
6 December 31, 1993:

7 (1) Chapter 437 (Motor Vehicle Industry Licensing Board)

8 (2) Chapter 437B (Motor Vehicle Repair Industry Board)

9 (3) Chapter 440 (Boxing Commission)

10 (4) Chapter 446 (Debt Adjusters)

11 (5) Chapter 436E (Board of Acupuncture)

12 (f) The following sections are hereby repealed effective
13 December 31, 1993:

14 (1) Sections 445-21 to 38 (Auctions)

15 (2) Sections 445-131 to 136 (Pawnbrokers)

16 (3) Sections 445-171 to 172 (Secondhand Dealers)

17 (4) Sections 445-231 to 235 (Scrap Dealers)

18 (g) The following chapters are hereby repealed effective
19 December 31, 1994:

20 (1) Chapter 441 (Cemetery and Funeral Trusts)

21 (2) Chapter 443B (Collection Agencies)

22 (3) Chapter 452 (Board of Massage)

S.B. NO.

1 (4) Chapter 455 (Board of Examiners in Naturopathy)

2 (5) Chapter 459 (Board of Examiners in Optometry)

3 (6) Chapter 442 (Board of Chiropractic Examiners)

4 (7) Chapter 373 (Commercial Employment Agencies)

5 (8) Chapter 448 (Board of Dental Examiners)

6 (9) Chapter 465 (Board of Psychology)

7 (10) Chapter 468E (Speech Pathology and Audiology)

8 (h) The following chapter is hereby repealed effective
9 December 31, 1995:

10 (1) Chapter 467 (Real Estate Commission)

11 [(h)] (i) The following chapters are hereby repealed
12 effective December 31, 1997:

13 (1) Chapter 463 (Board of Private Detectives and Guards)

14 (2) Chapter 471 (Board of Veterinary Examiners)."

15 SECTION 2. Sections 467-1, 467-1.5, 467-2, 467-3, 467-4,
16 467-7, 467-8, 467-9, 467-9.5, 467-11.5, 467-15.5, 467-16, 467-18,
17 467-25.5, 467-30, 383-7, 393-5, 485-1, 485-6, 514E-2.5, and
18 514E-10, Hawaii Revised Statutes, are amended by substituting the
19 terms "salesperson", "salesperson's", or "salespersons" for
20 "salesman", "salesman's", or "salesmen", respectively, wherever
21 those terms appear.

S.B. NO.

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

SECTION 4. This Act shall take effect upon its approval.

INTRODUCED BY: _____