

**SWAT Changes to
Title 16, Chapter 99, Hawaii Administrative Rules
Real Estate Brokers and Salespersons**

On March 29, 2001, the Real Estate Commission held a public hearing on the proposed rules changes. The public hearing was designed to hear all persons interested in the proposed amendments to Title 16, Chapter 99, Hawaii Administrative Rules ("HAR"), entitled "Real Estate Brokers and Salespersons." These proposed rules are the product of a collaborative effort between the Department of Commerce and Consumer Affairs, the Real Estate Commission, and the real estate industry. These groups reviewed rules pursuant to a SWAT (Slice Waste and Tape) initiative of Lt. Governor Mazie Hirono to eliminate null and void or unnecessary rules, and reduce regulatory burdens on real estate licensees.

On May 9, 2001, Governor Benjamin Cayetano signed the rules for adoption. The 10-day statutory wait period ended on May 20, 2001. On May 21, 2001, the amendments to Title 16, Chapter 99, Hawaii Administrative Rules ("HAR"), entitled "Real Estate Brokers and Salespersons" became effective.

The following is a short summary of the amendments. Grammatical and punctuation changes were made throughout the proposed rules.

Section Number & Title	Amendment	Why change made
Subchapter 1: General Provisions Section 16-99-2 Definitions	"Branch office" (1) to delete the reference to "site office" and (2) to change the branch office license requirement ¹ .	<ul style="list-style-type: none"> • Amended to apply only to offices located on an island different from the island on which the principal place of business is located, and to require that only one branch office must be registered per island. • Additional offices located on the same island as a principal place of business or branch office may be operated without registration. • Further, branch office registration is not required for places of business from which no general brokerage activities are conducted, but where real estate activities are conducted exclusively relative to condominium projects, subdivisions, single developer developments, time share projects, shopping centers and other commercial buildings. • The substantive changes will cure the imbalance between the public benefit of office registration and licensing compared to the cost and time to monitor compliance, and will permit the industry to be accountable with its own standards.

¹ Amends Hawaii Revised Statutes (HRS) section 467-12 by eliminating site office registrations and changing branch office licensing to a registration requirement to implement Act 240 (SLH 1999)

Section Number & Title	Amendment	Why change made
	"Brokerage firm" or "firm"	<ul style="list-style-type: none"> • Adds clarification and consistent terminology throughout chapter 16-99 regarding broker licensees that operate as sole proprietors or as entities.
	"Broker in charge"	<ul style="list-style-type: none"> • Allows the registration of multiple brokers in charge for a brokerage firm, registered with the principal place of business. • Allows the principal broker, without notifying the commission, to determine the office locations (branch, principal, or unregistered offices) at which those brokers in charge may be assigned to work, provided that each branch office shall have at least one broker in charge. • Language is clarified that a broker in charge must be an individual broker licensee and may not be an entity. • The substantive changes will minimize the disproportionate impact on a principal broker (or a solitary broker in charge) by allowing designation of additional brokers in charge that may share responsibilities.
	"Broker-salesperson"	<ul style="list-style-type: none"> • Clarifies that a broker-salesperson means an individual licensee and not an entity.
	"Franchise," "Franchise fee," "Franchisee," and "Franchisor"	<ul style="list-style-type: none"> • Deletes since the definitions are not necessary.
	"Inactive"	<ul style="list-style-type: none"> • Removes the requirement that a licensee surrender his license certificate and license identification card when a license is placed on inactive status. • Deletes the incorrect reference to reinstatement of an inactive license (since such licenses are re-activated and suspended licenses are reinstated). • Not requiring inactive licensees to return indicia of licensing will correct the imbalance between the public benefit compared to the cost and time to monitor compliance.
	"Involuntary inactive"	<ul style="list-style-type: none"> • Clarifies the language consistency throughout chapter 16-99.
	"Licensee"	<ul style="list-style-type: none"> • Clarifies the language for consistency throughout chapter 16-99. • Provides consistent use of the terms "person"² and "individual."

² Defined in section 1-19, HRS to include both entities and individuals.

Section Number & Title	Amendment	Why change made
	"Place of business"	<ul style="list-style-type: none"> • Clarifies that each brokerage firm shall have one principal place of business and that home occupation offices are permitted provided they comply with the zoning code and any applicable declaration, bylaws, house rules, recorded restrictions or covenants. • Clarifies the language for consistency throughout chapter 16-99, particularly the use of the term "brokerage firm."
	"Principal broker ³ ," "Site office ⁴ "	<ul style="list-style-type: none"> • Deletes since the definition is unnecessary and duplicative in chapter 16-99.
	"Wall certificate"	<ul style="list-style-type: none"> • Clarifies that wall certificates are issued to entities, as well as to individual licensees. • Provides consistent language throughout chapter 16-99, particularly the use of the term "person"⁵.
Section 16-99-3 Conduct	"Broker in charge"	<ul style="list-style-type: none"> • Provides consistent spelling of the term that replaces "broker-in-charge" throughout chapter 16-99.
	Subsection (f)	<ul style="list-style-type: none"> • Deletes the requirement that the principal broker or broker in charge review all real estate contracts, to allow for delegation of that task at the discretion of the principal broker, with the principal broker, nonetheless, remaining responsible under section 467-1.6, HRS. • This change allows the principal broker greater flexibility in developing policies and procedures for handling the real estate transactions of the brokerage firm without unnecessary regulation.
	Subsection (m)	<ul style="list-style-type: none"> • Clarifies that a principal place of business must have a principal broker or one or more brokers in charge, or both, that are immediately responsible for the real estate operations. • Further, that a branch office must have one or more brokers in charge that are immediately responsible for the real estate operations conducted there. • Allows multiple brokers in charge to be assigned to work at the principal place of business or branch office.

³ This definition already appears in section 467-1.6, HRS

⁴ Amends HRS section 467-12 by eliminating site office registrations through implementation of Act 240 (SLH 1999)

⁵ Defined by section 1-19, HRS.

Section Number & Title	Amendment	Why change made
	Subsection (n)	<ul style="list-style-type: none"> To clarify that a principal place of business shall be maintained at a registered location in this State.
	Subsection (o)	<ul style="list-style-type: none"> To increase from fourteen (14) days to thirty (30) days the period of time a principal broker or broker in charge may be absent from the principal place of business before being required to designate a temporary principal broker or temporary broker in charge. Removes the requirement that a temporary broker be designated, provided that another broker in charge already is registered with that principal place of business. Removes reference to designating a temporary broker in charge for a branch office, since all brokers in charge will be registered with the principal place of business. Pursuant to section 16-99-2 "Broker in charge," it is the responsibility of the principal broker to ensure that each branch office has at least one broker in charge at its location. These amendments remove unnecessary requirements and cure the imbalance between public benefit and the cost and time to monitor compliance.
	Subsection (q)	<ul style="list-style-type: none"> Eliminates the reference to documentary evidence of real estate transactional experience (as part of the broker experience requirement)⁶. By adding the current requirement that the experience certification statement attest to the length of full-time employment or association. Allows a broker in charge to sign the experience certification statement.
16-99-3.1 Disclosure of agency	Entire section	<ul style="list-style-type: none"> Provides consistent language throughout chapter 16-99, particularly the use of the term "brokerage firm." Provides consistent language throughout chapter 16-99, particularly the use of the term "time share" instead of "timeshare."⁷

⁶ Amends HRS section 467-9.5 that does not require evidence of such transactions to be consistent with Act 240 (SLH 1999).

⁷ Amended to conform to the language of chapter 514E, HRS.

Section Number & Title	Amendment	Why change made
16-99-4 Client's account; trust funds; properties other than funds	Subsection (c)	<ul style="list-style-type: none"> Clarifies that client trust funds shall not be commingled with funds belonging to the brokerage firm.
	Subsection (e) and (f)	<ul style="list-style-type: none"> Deletes the unnecessary and redundant phrase "of Hawaii."
	Subsection (g)	<ul style="list-style-type: none"> Replaces "broker salesperson" with "broker-salesperson" to provide consistency of language throughout chapter 16-99.
	Subsection (h)	<ul style="list-style-type: none"> Clarifies that a broker in charge may handle client's funds, and so shall be responsible, like the principal broker, to prevent commingling.
	Subsection (i)	<ul style="list-style-type: none"> Clarifies that a broker in charge may authorize someone else to handle the placement of trust properties (although the broker in charge also will remain responsible for those trust properties). Clarifies that the references to a "salesperson" also include a salesperson that holds a broker's license, otherwise known as "broker-salesperson." Clarifies in the final sentence that the reference to "broker" includes both the "principal broker" and the "broker in charge," as the case may be.
	Subsection (j)	<ul style="list-style-type: none"> Clarifies that a principal broker may allow a broker in charge to handle client's funds, and so the broker in charge shall be responsible, like the principal broker, not to allow someone else to have custody or control of the funds, except as provided in chapter 467, HRS, and this chapter.
	Subsection (k)	<ul style="list-style-type: none"> Allows a principal broker to allow any of the brokerage firm's brokers in charge to have custody and control of trust properties, regardless of whether the particular broker in charge is assigned to work at a branch office, the principal place of business, or other office.

Section Number & Title	Amendment	Why change made
16-99-5 Notification and filing of names, addresses, and changes	Subsections (a) and (b)	<ul style="list-style-type: none"> • Clarifies that the notification requirements are different for individual licensees and brokerage firms, and reflecting the new definition of “Broker in charge.” • Allows registration of multiple brokers in charge with the principal place of business, who may be assigned to any place of business of the brokerage firm, without commission notification. • Deletes the requirements of notification of the name and license number of the broker in charge of a branch office and notification of the particular office in which each licensee is engaged. • Removes unnecessary regulation and permits a principal broker to make personnel assignments with greater flexibility.
	Subsection (b)	<ul style="list-style-type: none"> • Clarifies that a brokerage firm may be a limited liability company.
	Subsection (c)	<ul style="list-style-type: none"> • Clarifies the notification responsibilities of the principal broker or broker in charge when the principal place of business or branch office closes.
	Subsection (f)	<ul style="list-style-type: none"> • Deleted to recognize that the real estate license is a statewide license and to remove the prohibition of licensees working for a brokerage firm on a different island from their residence.
	Former subsection (g)	<ul style="list-style-type: none"> • Allows a licensee who resides out-of-state or in another country to retain an active Hawaii real estate license, provided that the licensee’s associating principal broker or broker in charge shall be subject to receipt of service of process on the licensee’s behalf.
	Former subsection (h)	<ul style="list-style-type: none"> • Conforms to current commission policy and practice regarding the effective date of changes submitted by licensees to the commission.
	New subsection (h)	<ul style="list-style-type: none"> • Allows any broker in charge of a brokerage firm, as well as the principal broker, to sign a change form submitted to the commission.
	New subsection (i)	<ul style="list-style-type: none"> • Clarifies that failure to submit a required notification of a change within the allowed ten day period will subject a licensee to discipline (as provided in section 16-99-3(w)).

Section Number & Title	Amendment	Why change made
16-99-5.1 Involuntary inactive license status	Subsection (a)(6)	<ul style="list-style-type: none"> Deletes the reference to changing residence to another island. Recognizes the statewide license as described at section 16-99-5, above, and section 16-99-5.2, below, herein. Adds a reference to section 16-99-3(o)'s requirement that a temporary principal broker or broker in charge must be designated in order for associated licensees to retain active status if the principal broker is away from the business for more than thirty days. Adds a reference to conform to current practice and policy, which allows appointment of a temporary broker in charge (not just a temporary principal broker), to replace an absent principal broker.
	Subsection (b)	<ul style="list-style-type: none"> Conforms to the new definition of "broker in charge."⁸ Recognizes that all individual licensees will be registered with the principal place of business. Reflects that involuntary inactive license status will not occur due to the license status or absence of the broker in charge of a branch office.⁹
	Subsection (c)	<ul style="list-style-type: none"> Allows any registered broker in charge to place a licensee on involuntary inactive status.
16-99-5.2 Statewide license	New section	<ul style="list-style-type: none"> Provides that a real estate license is a statewide license, so that a licensee's island of residence is not a bar to working with a brokerage firm with a place of business or branch office on a different island, provided that the principal broker and licensee comply with the specified supervisory, place of business, advertising, disclosure, and client communication provisions. This amendment seeks to cure the imbalance between the public benefit and the time and cost spent on compliance, and will provide a more effective and efficient regulatory alternative.
16-99-6 Display of license	Entire section	<ul style="list-style-type: none"> Deletes the requirement that each individual licensee display the license at the place of business.¹⁰

⁸ Described at section 16-99-2 "Broker in charge."

⁹ The subsection is amended since the broker in charge of a branch office (and licensees working there) will not be registered at that particular office, but will be registered with the principal place of business.

¹⁰ Conforms the rule to Act 240 (SLH 1999), which amends section 467-12, HRS.

Section Number & Title	Amendment	Why change made
		<ul style="list-style-type: none"> Deletes as unnecessary the requirement that a licensee carry a current license identification card at all times. Clarifies that section 467-12, HRS, requiring display of the real estate “broker’s license” means the license of the “brokerage firm,” and clarifies that the license shall be displayed at the principal place of business.
16-99-7 Renewal of license	Entire section	<ul style="list-style-type: none"> Requires completed license renewal on or before the commission prescribed deadline, instead of the December 31 license expiration date of an even-numbered year.¹¹
16-99-8 Restoration of forfeited license	Repealed ¹²	<ul style="list-style-type: none">
16-99-9 Reinstatement of suspended license	Entire section	<ul style="list-style-type: none"> Amends the heading to clarify the language to more accurately reflect the substance of the amended section. Deletes the first two sentences as unnecessary, since the final order of suspension must expressly recite specific reinstatement.¹³ Two sentences are added to clarify the commission’s right to suspend a license and that reinstatement must comply with section 92-17(c)(3), HRS.
16-99-10 Revoked license	Entire section	<ul style="list-style-type: none"> Deletes the unnecessary and incorrect reference to an experience requirement¹⁴.
16-99-10.6 Surrender of real estate license	Entire section	<ul style="list-style-type: none"> Corrects a misspelling, to make a punctuation correction, and to delete unnecessary language.
16-99-11 Advertisement	Subsections (a) through (f)	<ul style="list-style-type: none"> Allows a licensee to abbreviate the corporate name. Allows an individual licensee greater flexibility in choosing a license name other than the legal name, and permit advertising to omit a registered trade name or to include only a registered trade name.

¹¹ Implements Act 240 (SLH 1999), which amends section 467-11, HRS.

¹² Conforms to Act 240 (SLH 1999), which amends section 467-11, HRS, by establishing new restoration requirements that supersede and make null and void the provisions of this rule section.

¹³ Section 92-17(c)(3), HRS, sets forth license reinstatement requirements, and section 436B-14, HRS, sets forth restoration requirements for a person whose license has forfeited for failure to timely apply for reinstatement.

¹⁴ Section 467-15.5, HRS, requires that revoked licensees must start over as salespersons, even if they previously held a broker’s license, and there is no experience requirement for the salesperson level of license.

Section Number & Title	Amendment	Why change made
		<ul style="list-style-type: none"> This amendment seeks to clarify the confusion in looking up the different corporate laws for the different corporate entities.
	Subsections (b) and (f)	<ul style="list-style-type: none"> Deletes and removes the requirement that a brokerage firm named in an advertisement must identify the brokerage firm as a “broker” (“B”) or “Realtor” (“R”) and to clarify that only individual licensees must include such designations.
	Former subsection (e) is renumbered as (d)	<ul style="list-style-type: none"> Deletes the requirement that advertisements regarding fee simple property must identify the property as such. Deletes the option of advertising leasehold property with the designation of “(L)” and requires such advertisements to use the word “leasehold,” instead. By requiring only leasehold property to be so identified, the amended rule makes advertisement consistent with current circumstances and needs of the industry, while maintaining appropriate consumer protection disclosures.
	Former subsection (d)	<ul style="list-style-type: none"> Deletes and replaced with new subsection (c), to clarify the language for better understanding.
	Subsections (g) and (h)	<ul style="list-style-type: none"> Removes the advertising requirements specific to franchise operations, as obsolete and unnecessary.
	Subsection (i) is renumbered as subsection (f)	<ul style="list-style-type: none"> Removes the requirement that the telephone number of a registered place of business be included in any advertisement that includes any other telephone number.
16-99-12 Exam site solicitation	Entire section	<ul style="list-style-type: none"> Clarifies that only individual licensees take examinations.
Subchapter 2 Applications 19-99-17 Forms and instructions	Entire section	<ul style="list-style-type: none"> Replaces “non-refundable” with “nonrefundable” to provide consistent language throughout chapter 16-99. This change is made throughout chapter 16-99 for consistency and affects section 16-99-24.
16-99-18 Examination application	Repealed	<ul style="list-style-type: none"> Obsolete and no longer consistent with current practice, in that there is no formal application for examination.
16-99-19 Licenses applications	Subsection (a)	<ul style="list-style-type: none"> Clarifies the language and corrects the grammar.

Section Number & Title	Amendment	Why change made
	Subsections (a)(1) and (b)	<ul style="list-style-type: none"> Deletes the requirement that license applications be submitted fifteen days prior to a commission meeting, since the requirement is not necessary.
	Subsection (a)(2)	<ul style="list-style-type: none"> Obsolete and not consistent with current practice and policy.¹⁵
	Former subsection (3) is renumbered as section (2)	<ul style="list-style-type: none"> Clarifies that certain applications (i.e., broker applications) must include supporting documents regarding experience requirements and that applicants who have received an education equivalency (formerly described as a waiver) must also submit the education equivalency certificate as a supporting document. Rule now consistent with current practice and policy.
	Subsection (b)	<ul style="list-style-type: none"> Changes the branch office license requirement to a registration requirement.¹⁶
16-99-19.1 License name	New section	<ul style="list-style-type: none"> Implements the policy adopted by the commission in its February 25, 2000 memorandum titled "Decisions on Legal and License Names and Advertising." Allows an individual licensee greater flexibility in choosing a license name that is different from the legal name. Clarifies that a licensee's legal surname must be used. Clarifies that the license name of a corporation, limited liability company, or partnership must be in the legal name and may include a registered trade name.
16-99-19.2 Experience certificate application		<ul style="list-style-type: none"> Changes the requirements a licensee must meet in order to satisfy the experience requirements to sit for the broker's license examination.¹⁷
16-99-24 Certification of experience	Repealed	<ul style="list-style-type: none"> Obsolete broker experience requirements.¹⁸ New section 16-99-19.2 has replaced this section and incorporated any non-obsolete provisions.

¹⁵ Statutory authority (in chapter 436B, HRS) was repealed.

¹⁶ Conforms with Act 240 (SLH 1999)

¹⁷ Implements Act 240 (SLH 1999), amending section 467-9.5, HRS

¹⁸ Implements Act 240 (SLH 1999), which amends section 467-9.5, HRS, changing the requirements a licensee must meet in order to satisfy the experience requirements to sit for the broker's license examination.

Section Number & Title	Amendment	Why change made
16-99-25 Falsification of application	Entire section	<ul style="list-style-type: none"> Consistency of language throughout chapter 16-99, regarding the application (not “request”) for experience certificate.
Subchapter 3 Examination 16-99-29 Examination for broker and salesperson license	Subsection (a)	<ul style="list-style-type: none"> Eliminates the requirement that the examination be a written examination. Conforms the subsection consistent with current practice and policy, since the examination is currently administered by electronic means. Removes the requirement that each part of the examination be passed at the same time, and providing, instead, a two-year period during which an individual may pass separate portions of the examination on different occasions.
	Subsection (d)	<ul style="list-style-type: none"> Deletes the requirement that the examination be taken in the State, and permitting the examination to be taken at other locations as determined by the commission and its testing service. Deletes the reference to alternative testing dates for religious reasons, since the examination is offered within the State on each day of the week except Mondays and Tuesday, the reference is unnecessary.
	Subsection (f)	<ul style="list-style-type: none"> Deletes the requirement that a license application be submitted within ninety (90) days after passing the examination. Provides that the license application must be submitted within two years of the individual’s last examination date. (“Last examination date” is a reference to the fact that an individual may pass different parts of the examination on different examination dates, pursuant to amended subsection (a).)
	Subsection (g)	<ul style="list-style-type: none"> Clarifies and conforms to current practice and policy that the experience certificate be current and must be presented at the examination location. Changes the education “waiver” to education “equivalency” certificate, to conform to current practice and policy and to provide consistent terminology throughout chapter 16-99, and affects section 16-99-37.
16-99-30 Examination subject matter	“Applicants” to read “candidates”	<ul style="list-style-type: none"> Consistent use of language throughout chapter 16-99.

Section Number & Title	Amendment	Why change made
Subchapter 4 Education and Experience 16-99-36 Education requirement	Entire section	<ul style="list-style-type: none"> Deletes, as obsolete, the reference to a minimum of forty class hours of education for the salesperson requirement, and replaces it to accurately reflect current practice and policy, whereby the current required course consists of forty-five class hours.
16-99-37 Education waiver	Heading language and section language	<ul style="list-style-type: none"> Replaces the term “waiver” with the term “equivalency,” which more accurately describes the subject of the section and the related policy of the commission.
	Subsection (a)(3)	<ul style="list-style-type: none"> Clarifies that an associate of arts or associate of science degree does not qualify, and to add business as a qualifying major.
	Subsection (a)(4)	<ul style="list-style-type: none"> Reduces the number of qualifying semester credits from twelve to six, and to add four more qualifying subject areas, including business, business law, real estate development and finance.
	Subsection (b)	<ul style="list-style-type: none"> Removes the limitation that an applicant could use each basis for education equivalency only once, for taking either the salesperson or broker examination. Allows the same basis to be used to qualify for education equivalencies for both examinations.
	Subsection (c)	<ul style="list-style-type: none"> Increases from one year to two years the time during which an education equivalency certificate remains valid.
16-99-38 Experience requirement	Repealed	<ul style="list-style-type: none"> Obsolete broker experience requirements.¹⁹ New section 16-99-19.2 has replaced this section and incorporated any non-obsolete provisions.
16-99-39 Equivalent experience	Repealed	<ul style="list-style-type: none"> Obsolete broker experience requirements.²⁰ New section 16-99-19.2 has replaced this section and incorporated any non-obsolete provisions.

¹⁹ Implements Act 240 (SLH 1999), which amends 467-9.5, HRS, changing the requirements a licensee must meet in order to satisfy the experience requirements to sit for the broker’s license examination.

²⁰ Implements Act 240 (SLH 1999), which amend 467-9.5, HRS, changing the requirements a licensee must meet in order to satisfy the experience requirements to sit for the broker’s license examination.

Section Number & Title	Amendment	Why change made
Subchapter 5 Registered Real Estate Schools 16-99-52 Home study courses	Repealed	<ul style="list-style-type: none"> • Unnecessary and overly burdensome provisions, and thereby deleting requirements for: a minimum of ten contact hours and approval based only on hardship and unusual circumstances where a student is unable to attend a course during a six month period. • A new section, 16-99-52.1, is added to provide for more effective, efficient, and flexible alternatives for independent study.
16-99-52.1 Independent study course	New Section	<ul style="list-style-type: none"> • Establishes more flexible provisions for independent study course and to provide a more effective alternative to meet the needs of students and schools.
16-99-53 Application for registration	Subsection (g)	<ul style="list-style-type: none"> • Requires completed license renewal on or before the commission prescribed deadline, instead of the December 31 license expiration date of an even-numbered year.²¹
16-99-53.1 Alternative forms of school bond	Subsections (a) and (b)	<ul style="list-style-type: none"> • Deletes the unnecessary phrase “real estate.”
	Subsection (a)(1)	<ul style="list-style-type: none"> • Deletes “located in this State.”
	Subsections (a)(2) and (b)	<ul style="list-style-type: none"> • Replaces “federally-insured” with “federally insured” to provide consistent language throughout chapter 16-99.
16-99-58 Faculty	Subsection (c)	<ul style="list-style-type: none"> • Changes “pre-license” to “prelicense,” to provide consistent language throughout chapter 16-99.
16-99-60 Books and supplies	Repealed	<ul style="list-style-type: none"> • Unnecessary and cures an imbalance between the public benefit and cost and time spent on compliance.
16-99-61 Certificate of completion	Entire section	<ul style="list-style-type: none"> • Extends from one year to two years the time period during which a school completion certificate shall be valid, allowing issuance of a school completion certificate for completion of an independent study course without attendance of scheduled classes. • Clarifies that a passing grade means passing the final examination
16-99-65 Renewals	Subsection (a)	<ul style="list-style-type: none"> • Requires completed license renewal on or before the commission prescribed deadline, instead of the December 31 license expiration date of an even-numbered year.²²

²¹ Implements Act 240 (SLH 1999), which amends section 467-11, HRS, requiring completed license renewal on or before the commission prescribed deadline.

²² Implement Act 240 (SLH 1999), which amends section 467-11, HRS, requiring completed license renewal on or before the commission prescribed deadline.

Section Number & Title	Amendment	Why change made
16-99-71 Direct management and supervision of real estate activities	Repealed	<ul style="list-style-type: none"> Unnecessary rule.²³
Subchapter 7 Recovery Fund 16-99-79 Recovery fund settlement procedures	Paragraph (5)	<ul style="list-style-type: none"> Changes the term “licensee” instead of “individual’s” because the section could apply to a brokerage firm, as well as to an individual.
Subchapter 9 Continuing Education 16-99-87 Definitions	“Beyond professional entry”	<ul style="list-style-type: none"> Clarifies the requirement that continuing education courses exceed minimum entry level competency.²⁴
	“Certified”	<ul style="list-style-type: none"> Requires that continuing education providers certify to the commission that instructors have met the commission requirements; previously, the commission certified the instructors. This deletion of a reference to a certified instructor is made throughout chapter 16-99 for consistency.²⁵
	“Clock hours”	<ul style="list-style-type: none"> Clarifies which times are excluded and to remove the references to testing.²⁶
	“Core” course	<ul style="list-style-type: none"> Clarification
	“Continuing education”	<ul style="list-style-type: none"> Clarifies the definition and purpose of continuing education.²⁷
	“Course and course offering”	<ul style="list-style-type: none"> Conforms to current policy and practice by reducing the minimum required module of continuing education to three hours, instead of three and one-third hours.
	“Elective”	<ul style="list-style-type: none"> Clarifies that the term may apply to either a course or a course offering and to clarify the language.

²³ Superseded by Act 47 (SLH 1999), which adds section 467-1.6, HRS, statutorily establishing the principal broker responsibilities.

²⁴ Conform the language to that of Act 47 (SLH 1999), which adds section 467-4.5, HRS.

²⁵ Conform to Act 47 (SLH 1999), which adds section 467-4.5, HRS, deleting reference to certified instructor.

²⁶ Conform to Act 47 (SLH 1999), which adds section 467-4.5, HRS, provides that continuing education courses shall not include an examination.

²⁷ Conform the language to that of Act 47 (SLH 1999), adding section 467-4.5, HRS, clarifying the definition and purpose of continuing education.

Section Number & Title	Amendment	Why change made
16-99-88 Continuing education implementation	Repealed	<ul style="list-style-type: none"> • Obsolete provisions for past implementation of continuing education requirements.
16-99-89 Equivalent continuing education	Subsection (a)	<ul style="list-style-type: none"> • Defines continuing education.²⁸
	Former paragraphs (3) through (5)	<ul style="list-style-type: none"> • Deletes paragraph (3) as unnecessary and incorrectly refer to a ten-hour course minimum. • Deletes paragraphs (4) and (5) as obsolete references to initial implementation.
	New paragraph (3)	<ul style="list-style-type: none"> • Allows an equivalency for courses which do not meet all of the requirements of section 16-99-100 (particularly the requirement that courses be offered by a registered Hawaii provider) so long as the courses are taken outside the State and are certified by certain national organizations.
	Subsection (b)	<ul style="list-style-type: none"> • Deletes the requirement for demonstrating by an objective method that the licensee has learned the course information. • Lessen the burden for obtaining an equivalency.
	Subsection c	<ul style="list-style-type: none"> • Adds a commission-determined equivalency to the ten hours of continuing education.²⁹ • The added equivalency will allow licensees who obtain a Hawaii salesperson license during the year immediately prior to license renewal to renew the license without completing ten hours of continuing education. • The amendment seeks to cure the imbalance between the public benefit and the cost and time spent on compliance and will cure the unequal treatment of new licensees.
16-99-90 License renewal procedure	Entire section	<ul style="list-style-type: none"> • Clarifies that only individual licensees are required to complete continuing education courses, that a mandatory core course must be completed if one is specified by the commission for the particular license renewal period, and that course completion must occur before a commission prescribed deadline. • Deletes requirement that course certificates be submitted with the renewal application. • Adds a reference to submission by the provider

²⁸ Conform to Act 47 (SLH 1999), which adds a reference to section 467-4.5, HRS.

²⁹ Required by section 467-11.5, HRS.

Section Number & Title	Amendment	Why change made
		of evidence of the licensee's course completion, since current commission policy and practice is to rely upon the providers to submit the evidence by an electronic method.
16-99-91 Activating an inactive real estate license	Entire section	<ul style="list-style-type: none"> Clarifies that only individual licensees are required to complete continuing education courses.
16-99-92 Continuing education hours in license restoration and reinstatement cases	Entire section	<ul style="list-style-type: none"> Clarifies that completion of continuing education is required for "active" status in restoration and reinstatement cases (as opposed to "inactive" status) except where the commission determines an equivalent. Conforms to current policy and practice that the commissions not impose additional conditions for restoration and reinstatement that are not pursuant to chapter 16-99, chapter 467, HRS, or the order of suspension.
16-99-99 Application for registration as a continuing education provider	Entire section	<ul style="list-style-type: none"> Deletes reference to term "processing fee," and replacing the references with the correct term, "application fee," as used in chapter 16-53.
	Subsection (a)	<ul style="list-style-type: none"> Deletes both the unnecessary reference to the "formation" of the course offering and the obsolete reference to the initial setting of fees, replacing the latter by adding a current reference to fees provided in rules adopted pursuant to chapter 91, HRS. Deletes the requirement of submission of an application forty-five (45) days prior to a course offering, since current practice and policy do not enforce the requirement.
	Former paragraphs from subsection (a): (3), (4), (5), (6), (8), (9), (11), (12), (13), (16), (17), (18), (19), (20), (21), (22), (23), (24), and (25)	<ul style="list-style-type: none"> Repeal provisions as unnecessary and seeks to cure the imbalance between the public benefit and the cost and time spent on compliance.
	Paragraph (1)	<ul style="list-style-type: none"> Clarifies for better understanding and conforms requirements to current practice and procedure.
	Paragraph (2)	<ul style="list-style-type: none"> Clarifies for better understanding. Adds reference to members or managers of a limited liability company.

Section Number & Title	Amendment	Why change made
	Former paragraph (7) (newly numbered as paragraph (4))	<ul style="list-style-type: none"> Deletes the requirement that the statement be notarized, to conform to current practice and procedure (which do not require notarization).
	Former paragraph (10) (newly numbered as paragraph (5))	<ul style="list-style-type: none"> Deletes from the requirement that the actual student attendance policy be submitted, and replacing that with submission of a statement certifying to the existence of the policy. This deletion seeks to cure the imbalance between the public benefit and the cost and time spent on compliance. Changes “three years” to state “four years,” to conform to section 16-99-112 (which requires records to be kept for four years) and to conform to current practice and procedure.
	Former paragraph (14) (newly numbered as paragraph (6))	<ul style="list-style-type: none"> Deletes from the requirement that the actual refund policy be submitted, and replacing that with submission of a statement certifying to the existence of the policy. This amendment seeks to cure the imbalance between the public benefit and the cost and time spent on compliance.
	Former paragraph (15) (newly numbered as paragraph (7))	<ul style="list-style-type: none"> Deletes from the requirement that the provider obtain a surety bond to be calculated using a formula, and replacing that with requirement of a minimum \$2,000 bond, provided that no bond is required if the provider certifies that no advance payments are collected from students. This amendment seeks to cure the imbalance between the public benefit and the cost and time spent on compliance.
	New paragraph (3) to subsection (a)	<ul style="list-style-type: none"> Requires information about the provider’s administrator, in order to incorporate certain requirements being deleted from paragraph (2) into this new paragraph.
16-99-100 Criteria for approving and certifying continuing education courses	Subsection (a)	<ul style="list-style-type: none"> Deletes from the word “offering” to clarify that the section applies to a continuing education “course,” itself, whereas a course “offering” pertains to the course being taught at a particular time and at a particular place. Deletes the requirement that courses must be offered in this State. The amended rule will minimize the disproportionate impact on the regulated industry, strengthen the qualitative benefit of continuing education courses, and facilitate easier compliance for licensees and providers.

Section Number & Title	Amendment	Why change made
	Paragraphs (1), (2), and (3) of subsection (a)	<ul style="list-style-type: none"> Defines continuing education.³⁰
	Former paragraphs (6) and (13) from subsection (a)	<ul style="list-style-type: none"> Conforms to current practice and policy, which do not require such evaluations as criteria for course approval.
16-99-101 Courses not acceptable for continuing education requirements	Heading	<ul style="list-style-type: none"> Refers to course “certification” instead of course “requirements,” to clarify the language and more accurately reflect the subject matter of the section.
	Former paragraph (5)	<ul style="list-style-type: none"> Removes the prohibition against certifying courses consisting of meetings that are a normal part of in-house training, since such training possibly could be designed to meet requirements for certification and is unnecessary.
16-99-102 General processing procedures for a continuing education course offering	Heading	<ul style="list-style-type: none"> Refers to an “application” for course “certification” instead of “general processing procedures,” to clarify the language and more accurately reflect the subject matter of the section.
	Subsection (a)	<ul style="list-style-type: none"> Deletes the requirement that applications for certification of a course or course offering be made not less than forty-five (45) days before the proposed course offering, to conform to current policy and practice (which do not enforce the requirement) and because the requirement is unnecessary. Deletes the application exception for a course that has been designated by the commission as a core course.³¹ Conforms to current practice and policy, which requires application for certification for all courses not developed by the commission.
	Subsection (b)	<ul style="list-style-type: none"> Deletes the reference to a “processing fee,” and replacing the reference with the correct term, “application fee,” as used in chapter 16-53.

³⁰ Conform to Act 47 (SLH 1999), which amends section 467-4.5, HRS, codifying defining continuing education.

³¹ Conform to Act 47 (SLH 1999), adding section 467-4.5, HRS, permitting designation of more than one core course, and so the commission will no longer develop all core courses

Section Number & Title	Amendment	Why change made
		<ul style="list-style-type: none"> Deletes the obsolete reference to the initial setting of fees.³²
	Subsection (c)	<ul style="list-style-type: none"> Delete references to course “offerings,” since references to “offerings” more appropriately belong in section 16-99-103. This amendment will clarify the section and conform it to current policy and practice.
6-99-103 Subsequent offerings of a certified continuing education course	Entire section	<ul style="list-style-type: none"> Clarifies application to all offerings, both initial and subsequent, of certified continuing education courses. Adds references, which were deleted from section 16-99-102 (which applies to initial course certification applications) since they more appropriately belong in section 16-99-103 (which applies to course “offerings”), as the references apply to course “offerings.” The added references from section 16-99-102 include the requirement that the course offering form be submitted at least fourteen (14) days in advance and the requirement regarding information that must be displayed at the course site. Changes the requirement for commission “approval” of each course offering to a notification requirement, since approval is unnecessary and to conform more closely to current policy and practice, since course offering requests are routinely processed by commission staff.

³² Current reference to fees provided in rules adopted pursuant to chapter 91, HRS.

Section Number & Title	Amendment	Why change made
	Subsection (a)(2) through subsection (a)(4)	<ul style="list-style-type: none"> • Deletes the requirements for certifications regarding the classroom compliance with health and safety codes and the course offering compliance with section 16-99-100, as unnecessary, since those certifications are covered in the provider's certification application and in the course certification application, respectively. • Deletes the reference to payment of an additional course offering fee, to conform to current policy and practice, since no course offering fee is required or collected. • Adds the requirement for certification that the instructor has met the commission requirements.³³
16-99-104 Application and criteria for certification of a continuing education instructor	Entire section	<ul style="list-style-type: none"> • Deletes references to the commission certifying an instructor.³⁴
	Subsection (a)	<ul style="list-style-type: none"> • Adds the requirement that providers certify to the commission that instructors have met the commission requirements.³⁵
	Former subsection (c)(7) (new subsection (b)(7))	<ul style="list-style-type: none"> • Deletes the reference to substantial teaching, as unnecessary. • Clarifies that the commission requirements for an instructor's ability to teach consist of only the expressly listed criteria, unless the commission determines additional criteria.
	Former subsection (d)(6) (new subsection (c)(6))	<ul style="list-style-type: none"> • Deletes the reference to a demonstration of command knowledge being made before the commission, as unnecessary and to conform to current practice and policy.
	Subsection (f) (new	<ul style="list-style-type: none"> • Adds "within the biennium" to conform the

³³ Conform to Act 47 (SLH 1999), which adds section 467-4.5, HRS, and requires that continuing education providers certify to the commission that instructors have met the commission requirements.

³⁴ Conform to Act 47 (SLH 1999), which adds section 467-4.5, HRS, and requires that continuing education providers certify to the commission that instructors have met the commission requirements.

³⁵ Conform to Act 47 (SLH 1999), which adds section 467-4.5, HRS.

Section Number & Title	Amendment	Why change made
	subsection (e))	instructor's workshop requirement to current policy and practice.
	Subsection (h)	<ul style="list-style-type: none"> Deletes the advisory committee as unnecessary.³⁶
16-99-105 Biennial provider registration, biennial instructor and course certification	Entire section	<ul style="list-style-type: none"> Deletes the references to instructor certification.³⁷ Replaces renewal deadline references.³⁸
	Subsection (c)	<ul style="list-style-type: none"> Adds a reference to a "course owner" renewing a course certification. Conforms to current practice and policy, since persons who are not also registered providers may own courses.
	Subsection (c)(3)	<ul style="list-style-type: none"> Deletes from the obsolete reference to the fees set forth in section 16-99-107.³⁹
	Subsection (d)	<ul style="list-style-type: none"> Deletes as unnecessary, since the instructor's development workshop requirement is covered in section 16-99-104.⁴⁰
16-99-106 Forfeited registration, certification; reinstatement	Subsection (b)	<ul style="list-style-type: none"> Deletes from the heading and from the incorrect references to "reinstatement" of a forfeited registration or certification, and adding replacement language using the correct terminology of "restoration," thereby conforming the language to section 436B-14, HRS.⁴¹ Deletes obsolete reference to the fees set forth in section 16-99-107 and replacing it by adding

³⁶ Conform to Act 47 (SLH 1999), which adds section 467-4.5, HRS and requires that continuing education providers certify to the commission that instructors have met the commission requirements.

³⁷ Conform to Act 47 (SLH 1999), which adds section 467-4.5, HRS, and requires that continuing education providers certify to the commission that instructors have met the commission requirements.

³⁸ Implement Act 240 (SLH 1999), which amends section 467-11, requiring completed license renewal on or before the commission prescribed deadline, instead of the December 31 license expiration date of an even-numbered year.

³⁹ Current reference to fees provided in rules adopted pursuant to chapter 91, HRS.

⁴⁰ Conform to Act 47 (SLH 1999), which adds section 467-4.5, HRS and requires that continuing education providers certify to the commission that instructors have met the commission requirement.

⁴¹ Conform to Act 47 (SLH 1999), which adds section 467-4.5, HRS, and requires that continuing education providers certify to the commission that instructors have met the commission requirement. Accordingly, the commission no longer certifies instructors, and references to such certification have been superseded by the statutory amendment. For these same reasons, the reference to section 16-99-104 (regarding instructor certification criteria) is deleted from subsection (b)(2).

Section Number & Title	Amendment	Why change made
		a current reference to fees provided in rules adopted pursuant to chapter 91, HRS, and changing the term “sums” to “fees,” for clarity.
16-99-107 Fees; renewal of provider registration, course, instructor, certificate of completion of course, nonrefundable application fees	Entire section	<ul style="list-style-type: none"> • Removes the reference to instructor certification fees.⁴² • Deletes the obsolete reference to the adoption of fees and the obsolete listing of non-current fees, and replacing them by adding a current reference to fees provided in rules adopted pursuant to chapter 91, HRS.
16-99-108 Revocation or suspension of a continuing education course certification	Entire section	<ul style="list-style-type: none"> • Deletes references to a course “offering” to conform to current practice and policy, since course offerings are distinguished from courses, themselves; courses are certified whereas a course “offering” refers to the teaching of a course on a particular date at a particular time.
	Paragraph (3)	<ul style="list-style-type: none"> • Deletes to conform to statutory authority, as described at 16-99-104.
	Paragraph (4)	<ul style="list-style-type: none"> • Deletes as unnecessary, since course certification is completely independent of provider registration.
16-99-109 Revocation or suspension of a continuing education provider registration	Entire section	<ul style="list-style-type: none"> • Deletes references to a course “offering” to conform to current practice and policy, since course offerings are distinguished from courses, themselves; courses are certified whereas a course “offering” refers to the teaching of a course on a particular date at a particular time.
	Paragraph (2)	<ul style="list-style-type: none"> • Deletes from the reference to section 16-99-110(1) because that entire section is repealed herein, and replacing the reference with section 16-99-104, which sets forth guidelines for instructor qualification.
	Paragraph (5)	<ul style="list-style-type: none"> • Deletes as unnecessary and redundant of paragraph (2).
16-99-110 Revocation or suspension of a	Repealed	<ul style="list-style-type: none"> • The commission cannot revoke or suspend a certification it does not convey.⁴³

⁴² Conform to Act 47 (SLH 1999), which adds section 467-4.5, HRS, providing that the commission no longer certifies continuing education instructors.

⁴³ Conform to Act 47 (SLH 1999), which adds section 467-4.5, HRS and requires that continuing education providers certify to the commission that instructors have met the commission requirements.

Section Number & Title	Amendment	Why change made
continuing education instructor certification		
16-99-112 Record keeping information and retention period	Entire section	<ul style="list-style-type: none"> Changes references to the particular information required to be kept in the provider's records, and the particular information required to be submitted to the commission, to conform to current practice and policy. Changes references to courses completed by alternative delivery methods.⁴⁴
	Subsection (c)(3)	<ul style="list-style-type: none"> Deletes since a continuing education course shall not include an examination, pursuant to section 16-99-87, definition of "clock hours."
16-99-113 Advertising	Entire section	<ul style="list-style-type: none"> The section is amended to make nonsubstantive, stylistic, and grammatical changes.
16-99-114 Prohibited advertising practices	Paragraph (2)	<ul style="list-style-type: none"> Conform the rule to the policy adopted by the commission in its February 25, 2000 memorandum titled "Decisions on Legal and License Names and Advertising," to permit provider advertising in either the full license name or a registered trade name, and to make a nonsubstantive punctuation change.
	Paragraph (4)	<ul style="list-style-type: none"> Deletes as obsolete, since a continuing education course shall not include an examination, pursuant to the statutory amendment described, herein, at section 16-99-87, definition of "clock hours."
	Paragraphs (5) through (8)	<ul style="list-style-type: none"> Renumbering former as a result of the deletion of former paragraph (4).
16-99-115 Continuing education course entrance requirements	Entire section	<ul style="list-style-type: none"> Amends the section to conform to current policy and practice, which allows a provider to issue a course completion certificate upon presentation of a commission-issued restoration application, in lieu of a real estate license pocket card.
16-99-116 Discontinuing course offerings	Entire section	<ul style="list-style-type: none"> Deletes provisions allowing cancellation of a provider's registration if the provider fails to schedule any course offerings during a twelve-month period. The amendment removes provisions that are unnecessary, do not protect the public, and may have a disproportionate impact on providers.
16-99-117	Entire section	<ul style="list-style-type: none"> Clarifies that it applies to the substance of a

⁴⁴ Conform to Act 47 (SLH 1999) adding section 467-4.5, HRS, which permits delivery of continuing education courses by alternative delivery methods.

Section Number & Title	Amendment	Why change made
Material change		course, and to clarify that the course owner is responsible for compliance with the rule.
16-99-118 Master continuing education instructors list	Repealed	<ul style="list-style-type: none"> Repeals the requirement that the commission maintain a list of approved, certified instructors, to conform to statutory authority, as described at section 16-99-104, herein, whereby the commission no longer certifies continuing education instructors.
16-99-119 Review, evaluation, and investigation	Entire section	<ul style="list-style-type: none"> Makes section consistent with the language of the heading. Deletes references to instructors, to conform to statutory authority, as described at section 16-99-104, herein, whereby the commission no longer certifies continuing education instructors. Clarifies that the section applies to continuing education providers, by deleting references to an administrator or course offering. Those references are unnecessary, since a provider's operations and performance inherently include the administrator and course offerings.
16-99-120 Continuing education provider disclosure statement	Repealed	<ul style="list-style-type: none"> Repeals as unnecessary since amendment of section 16-99-99 deletes the requirement that a disclosure statement be submitted to the commission with the continuing education provider's registration application. Repeal of this rule seeks to cure the imbalance between the public benefit and the time and cost spent on compliance by the provider.
16-99-121 Faculty	Paragraph (4) of subsection (b)	<ul style="list-style-type: none"> Deletes as unnecessary, since the section already describes the administrator's responsibilities in broad terms, which would include, among other things, advertising.
16-99-122 Display of certificate of registration and instructor's certificate	Entire section	<ul style="list-style-type: none"> Deletes references to instructors, to conform to statutory authority, as described at section 16-99-104, herein, whereby the commission no longer certifies continuing education instructors.
16-99-123 Classrooms	Entire section	<ul style="list-style-type: none"> Make nonsubstantive, stylistic changes.
16-99-124 Classroom compliance	Entire section	<ul style="list-style-type: none"> Makes a nonsubstantive, stylistic change.
16-99-125	Repealed	<ul style="list-style-type: none"> Repeals as unnecessary.

Section Number & Title	Amendment	Why change made
Tuition and other charges		<ul style="list-style-type: none"> • Conforms to the amendment made to section 16-99-99, removing the requirement that a provider submit to the commission a disclosure statement or a student registration form. • Repealing the section seeks to cure an imbalance between the public benefit and cost and time spent on compliance.
16-99-126 Books and supplies	Repealed	<ul style="list-style-type: none"> • Repeals as unnecessary. • Repealing the section seeks to cure an imbalance between the public benefit and cost and time spent on compliance.
16-99-127 Hearings	Heading	<ul style="list-style-type: none"> • Clarifies and simplifies to more accurately reflect the subject matter of the amended section.
	Adding of new subsection (b)	<ul style="list-style-type: none"> • Replaces former subsections (b) and (c). • Deletes reference to instructors, to conform to statutory authority, as described at section 16-99-104, (the commission no longer certifies continuing education instructors). • Includes in the new subsection (b) a reference to the commission's "intent to revoke or suspend," rather than the commission's "action," to conform to due process notice requirements.
16-99-128 Request for a contested case hearing	Entire section	<ul style="list-style-type: none"> • Clarifies that a contested case hearing pursuant to chapter 91, HRS, and chapter 16-201 may be requested by continuing education providers and course owners regarding denied, suspended, or revoked registration or certification.
Subchapter 10 Condominium Hotel Operators 16-99-147 Registration	Subsections (a) and (d)	<ul style="list-style-type: none"> • Clarifies that registrations expire on even-numbered years.⁴⁵
	Subsection (d)	<ul style="list-style-type: none"> • Refers to the commission prescribed deadline.⁴⁶
16-99-148 Fidelity bond	Subsection (a)	<ul style="list-style-type: none"> • Makes nonsubstantive stylistic, punctuation and grammatical changes.
16-99-150 Conduct	Subsections (a) and (d).	<ul style="list-style-type: none"> • Makes grammatical and punctuation corrections.

⁴⁵ Conforms to Act 240 (SLH 1999) amending chapter 514A, HRS, which establishes the expiration date of registrations as occurring at the end of each even-numbered year, not each year.

⁴⁶ Implementing Act 240 (SLH 1999), amending 467-11, HRS, as described herein, at section 16-99-7.