

# School Files

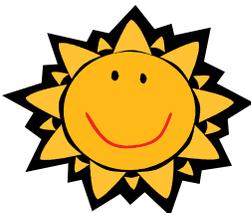
Hawaii Real Estate Commission

July 2005

<http://www.hawaii.gov/hirec>

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## **2005-2006 COMMISSION CORE COURSE and IDW**

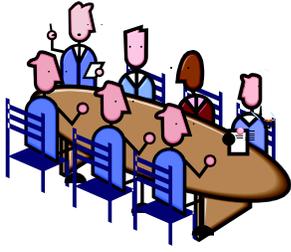
The Commission's 2005-2006 core course, "Real Estate Law Review & Update 2005-2006" as developed by ProSchools, Inc. and in partnership with Kenneth Chong, will be presented at the two Instructor's Development Workshops on Tuesday, August 2<sup>nd</sup>, REALTORS Association of Maui, Inc. (RAM), 441 Ala Makani Place, Kahului, and Thursday, August 4, Department of Commerce and Consumer Affairs, 335 Merchant Street, 1<sup>st</sup> floor, Queen Liliuokalani Conference Room, Honolulu. Both IDWs are from 9:00 a.m. to 4:00 p.m. and are free of charge.

The 2005-2006 core course was recommended for approval at the July 13, 2005, Education Review Committee meeting, and the full Commission is expected to approve the core course at its July 29, 2005 meeting. The core course will once again be available in an on-line and live classroom format. All instructors attending the IDW will be certified to teach the core course. For those instructors not able to attend either of the two sessions, RAM will be recording the IDW and will make a copy available to the Boards of REALTORS upon request. The instructor viewing the recorded IDW will do so at the Board in a proctored environment. Please contact Norm at 270-4644 or email at [Norm@RAMaui.com](mailto:Norm@RAMaui.com). Mahalo to RAM for recording the IDW!

The contents of the 2005-2006 core course include a 2005 Hawaii State Law Update, Agency and Agency Disclosure, Property Condition Disclosure, Scope of Services – New Models for A New Millennium, Managing Multiple Offers, and 1031 Exchanges. Power point slides are also included.

## **RULEMAKING, CHAPTER 99, HAR**

The Commission is going through the rulemaking process. Please submit any recommendations, with justification, to the Real Estate Branch via email at [hirec@dcca.hawaii.gov](mailto:hirec@dcca.hawaii.gov), or mail at 335 Merchant Street, Room 333, Honolulu, Hawaii 96813, especially on the prelicensing or continuing education part of the rules. Review the rules (Chapter 99, HAR) at [www.hawaii.gov/hirec](http://www.hawaii.gov/hirec).



## NEW COMMISSIONER, NEW CHAIR

The Real Estate Commission welcomes new commissioner Stanley M. Kuriyama, who is actually a familiar face, returning for a second stint on the Commission. He is one of two gubernatorial appointees to the Commission for 2005. The second appointment has not been made yet.

Mr. Kuriyama was previously a commissioner from 1989 to 1997. During that time, he served as the vice-chair of the Real Estate Commission, chair of the Laws and Rules Review Committee, and chair of the Condominium Review Committee. He has held an active real estate broker's license since 1982. He is currently executive vice president for A & B Properties, Inc., a property development and management subsidiary of Alexander and Baldwin, Inc., the State's fifth largest private landowner. Mr. Kuriyama is an attorney who previously practiced in the areas of real estate sales and purchases, condominium and subdivision development, commercial leases, and real estate financing.

Mr. Kuriyama graduated from Punahou High School in Honolulu, the University of Hawaii – Manoa with a BA in Economics, and received his law degree from Harvard Law School. He was a clerk for the U.S. District Court Judge Dick Yin Wong, in Honolulu, and was a partner for the law firm Cades Schutte Fleming & Wright before joining Alexander & Baldwin in 1992.

Trudy Nishihara, broker, O`ahu, is the new Chair of the Commission effective July, 2005. Ms. Nishihara was first appointed to the Commission in July, 2003, and served as the vice-chair of the Education Review Committee, and chair of the Commission's subcommittee, the Education Evaluation Task Force. She is the principal broker of HawaiiHomeBids.com, and owner of Realty Group and Realty Group Brokerages, and has been a broker since 1989.

Iris Okawa, public member, and appointed to the Commission in 1998, will serve as Commission vice-chair.

Under the leadership of Ms. Nishihara and Ms. Okawa, the Laws and Rules Review Committee chair is Louis Abrams, Broker, Kaua`i, and the vice-chair is Kathleen Kagawa, Broker, O`ahu. The Education Review Committee chair is Vern Yamanaka, Broker, Hilo, and the vice-chair is Carol Mae Ball, Broker, Maui. The Condominium Review Committee chair is Stanley Kuriyama, broker, O`ahu, and the vice-chair is Michele Sunahara Loudermilk, Public Member.



## NEW SALESPERSON AND BROKER CONTENT OUTLINES BASED ON NATIONAL REAL ESTATE JOB ANALYSIS

Promissor, the Commission's test administrator, conducted a national real estate job analysis between January and November 2004. The following articles summarize the process and the resulting changes to the salesperson and broker examination content outlines for the general real estate exam. **The implementation date for the updated uniform section of the real estate exam is Saturday, September 3, 2005.** All certified Hawaii prelicense schools should have received complete information from Promissor on the updated uniform section of the exam by the time you receive this edition of *School Files*.

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## MEMORANDUM

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**To:** All Approved Hawaii Real Estate Schools  
**From:** The Promissor National Real Estate Team  
**Date:** July 14, 2005  
**Subject:** Promissor 2005 National Real Estate Examinations

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*Promissor is pleased to announce the release of updated national real estate examinations.*

The revised examinations are the result of Promissor's 2004 national job analysis, undertaken to ensure that a national regulatory examination's test content is necessary and important for public protection at entry level. The job analysis involved a comprehensive survey requesting input on the importance and frequency of practical real estate knowledge areas. We received responses from licensees in all 51 U.S. jurisdictions. When the results of the survey were applied to the existing national content outline, a slightly different organization and emphasis were indicated. Accordingly, Promissor revised the content outline and updated its national real estate item pools through a series of meetings with industry experts, regulators, and educators. to make sure that its examinations reflected current practice and law.

Our examinations remain at 80 scored items, with approximately 10% of the questions requiring mathematical calculations. *The changes are actually quite slight, involving reorganization and adjustments in the number of items testing certain content areas, but we would like to take this opportunity to inform you as fully as possible about them.* Attached to this letter is a package of material to assist you in learning more about the job analysis and the subsequent content outline revisions.

The new content outline and examinations will be effective in Hawaii on September 2, 2005. Candidate handbook supplements will be mailed to you in the near future.

If you have any questions about the updated content outline or the new examinations, please email us at [RealEstateNational@Promissor.com](mailto:RealEstateNational@Promissor.com). We would be happy to assist you in any way that we can.

## **A Summary of Promissor's 2004 National Real Estate Job Analysis**

During 2004, Promissor conducted a third comprehensive, full-scale real estate job analysis, including a national survey, that has resulted in an updated content outline and new broker and salesperson examinations to be implemented during 2005.

Promissor's national real estate examinations derive their validity (and legal defensibility) from the kind of comprehensive and detailed survey of actual real estate job activities that is required in a job analysis. The job analysis ensures that a national examination's test material proves necessary and important for competent practice of the real estate profession nationwide.

Promissor's 2004 survey involved licensees from all 51 jurisdictions and consultation with practicing professionals in several national workshops. Every effort was made to solicit advice from practicing professionals to ensure the validity of the process. In addition, all client jurisdictions were invited to recommend participants for the key workshops described below and for the standard setting.

In an innovative move, Promissor used its advanced Internet technology to administer the survey online in a short time. Thus the job analysis utilized the very technology that many real estate professionals characterize as constituting the greatest change in the profession in recent years.

Promissor's 2004 job analysis involved the following major steps:

- Development of a draft survey of tasks and knowledge areas deemed necessary for competent practice in the real estate salesperson and broker professions with the help of workshop consultants from the profession
- An electronic **preliminary review** and updating of this draft survey of tasks and knowledge areas by **30 industry experts nationwide** identified through requests made to real estate licensing agencies nationwide
- **Industry expert review of this preliminary survey**, the online survey process, and its effect on the current content outline in a focus group workshop held in Philadelphia
- Administration of the **online survey** that asked licensees to rank 103 areas of knowledge **for frequency of use and importance to public protection**
- Automated **electronic data collection of survey results** from all 51 jurisdictions by Promissor psychometricians

## **A Summary of Promissor's 2004 National Real Estate Job Analysis**

- In-person review of the survey results, recommended adjustments, and refining of the updated content outlines by **national industry professionals** at a workshop held in Las Vegas
- **Updating of salesperson and broker item pools**, including:
  - Gap analysis of item pools to determine content areas that needed augmenting under updated content outline
  - New item writing, review by industry consultants, and pretesting of new items
  - Online review of entire sales and broker item pools by industry professionals during April, 2005
- A **national standard-setting meeting** (May 6, 2005) to set a common cut score for the sales and broker examinations

Because of its job analysis, Promissor is able to create examinations testing knowledge that is required in the current practice of the profession, is essential to competent performance for public protection, and is applicable across all jurisdictions.

## Comparison of Promissor 1998 and 2005 National Real Estate Content Outlines

### Promissor Real Estate Content Outline - Salesperson

Content area	1998 Weight	2005 Weight	1998 No. of Questions	2005 No. of Questions
I. Real property characteristics, definitions, ownership, restrictions, and transfer	20%	20%	16	16
II. Property valuation and the appraisal process	15%	8%	12	6
III. Contracts and agency relationships with buyers and sellers	25%*	26%	20	21
IV. Property conditions and disclosures	*	8%	*	6
V. Federal laws governing real estate activities	*	8%	*	6
VI. Financing the transaction and settlement	25%	21%	20	17
VII. Leases, rents, and property management	15%	8%	12	6
VIII. Brokerage operations	†	3%	†	2
<b>TOTALS</b>	<b>100%</b>	<b>◆</b>	<b>80</b>	<b>80</b>

\*In 1998, content area III. included the areas of Property disclosures and Federal laws, which have been given their own content categories (IV. and V.) in 2005.

†Brokerage operations is a new content category for 2005.

◆Total equals more than 100% due to numbers being rounded up to the nearest whole percentage point.

### Promissor Real Estate Content Outline - Broker

Content area	1998 Weight	2005 Weight	1998 No. of Questions	2005 No. of Questions
I. Real property characteristics, definitions, ownership, restrictions, and transfer	20%	18%	16	15
II. Property valuation and the appraisal process	15%	8%	12	6
III. Contracts and agency relationships with buyers and sellers	25%*	26%	20	21
IV. Property conditions and disclosures	*	8%	*	6
V. Federal laws governing real estate activities	*	10%	*	8
VI. Financing the transaction and settlement	25%	18%	20	14
VII. Leases, rents, and property management	15%	8%	12	6
VIII. Brokerage operations	†	5%	†	4
<b>TOTALS</b>	<b>100%</b>	<b>◆</b>	<b>80</b>	<b>80</b>

\*In 1998, content area III. included the areas of Property disclosures and Federal laws, which have been given their own content categories (IV. and V.) in 2005.

†Brokerage operations is a new content category for 2005.

◆Total equals more than 100% due to numbers being rounded up to the nearest whole percentage point.

# **Illustrated Revisions to the Promissor National Real Estate Content Outline**

During the 2004 job analysis, small adjustments were made to update the content outline with modern terminology and to streamline the content categories based on evolving practice within the field. Though the structure of the outline itself has changed, the areas of content have changed only slightly. The majority of the changes to the outline consist of consolidating certain closely related content areas (combining two content areas into one), and converting certain preexisting sub-content areas into their own major content categories. Additionally, the relative weighting (number of items per content area presented on an exam) has been adjusted to better accommodate modern practice. An overview of high-level changes made to the outline are described below and are illustrated in strikethrough on the following page.

## ***Restructuring of Category II.***

- Renamed content category II. for conciseness.
- Consolidation of A. *Principles, types and estimates of property value* and B. *Influences on property value* together.
- Renamed C. *Approaches to property valuation and investment analysis* to B. *Investment analysis*.

## ***Restructuring of Category III.***

- Renamed content category III. due to federal requirements being moved to its own section.
- B. *Agency employment contracts...* and C. *Purchase/Sales contracts* were consolidated into one content area, with three sub-areas.
- Section D. was renamed section C., as warranted, and was slightly renamed for style.
- E. *Property conditions and disclosures* was made into its own content category (IV.) and further delineated into details that relate to this subject.
- F. *Procedures and laws governing real estate activities...* was made into its own content category (V.) and further delineated/renamed to reflect the true nature of the content: Federal laws governing real estate activities.

## ***Restructuring of Category IV.***

- IV. *Financing the transaction and settlement* was renamed VI., as the restructuring of area III. demanded.
- Added the word "Financing" to A.2. for clarity.
- Settlement sections C., D., and E. were combined into one content area with sub-areas.

## ***Creation of Category VIII. Brokerage Operations***

- A new content area specifying questions on broker-salesperson relationships, broker management of funds, advertising, and legal and ethical business practices was created to call attention to nationally applicable real estate brokerage practices of growing importance.

# Illustrated Revisions to the Promissor National Real Estate Content Outline

- I. Real property characteristics, definitions, ownership, restrictions, and transfer (16 questions—20%)  
*(Sales 16, Broker 15 questions)*
  - A. Definitions, descriptions, and ways to hold title
    1. Elements of real and personal property
    2. Property description and legal description
    3. Estates in real property
    4. Forms, rights, interests, and obligations of ownership
  - B. Land use controls and restrictions
    1. Public (e.g., zoning, taxation, police power)
    2. Private (e.g., liens, encumbrances, recording and priorities, subdivision/association rules)
  - C. Transfer/alienation of title to real property
    1. Voluntary and involuntary
    2. Deeds, warranties, and defects in title
- II. ~~Assessing and explaining~~ Property valuation and the appraisal process (12 questions—15%)  
*(Sales 6, Broker 6 questions)*
  - ~~A. Principles, types, and estimates of property value~~
  - ~~B. Influences on property value~~
  - ~~C. Approaches to property valuation and investment analysis~~
  - B. Investment analysis**
- III. Contracts *and* agency relationships with buyers and sellers and federal requirements (20 questions—25%)  
*(Sales 21, Broker 21 questions)*
  - A. Contract elements, types (e.g., valid, enforceable), and terminology
  - ~~B. Agency employment contracts, listing and buyer agency agreements, and required elements~~
  - ~~C. Purchase/Sales contracts and contingencies~~
  - B. Types of contracts used in real estate**
    1. Listing contracts
    2. Commission agreements
    3. Sales contracts
  - ~~D. General Agency relationships and fiduciary responsibilities~~
  - ~~E. Property conditions and disclosures (e.g., property, environmental)~~
  - IV. Property conditions and disclosures (e.g., property, environmental) (Sales 6, Broker 6 questions)**
    - A. Environmental issues and hazards, and hazardous materials
    - B. Material and other disclosures
    - C. Liability considerations
- ~~F. Procedures and laws governing real estate activities (e.g., Federal Fair Housing Act, Americans with Disabilities Act, antitrust, marketing controls)~~
- V. Federal laws governing real estate activities (e.g., Federal Fair Housing Act, Americans with Disabilities Act, antitrust, marketing controls) (Sales 6, Broker 8 questions)**
- IV. VI. Financing the transaction and settlement (20 questions—25%) *(Sales 17, Broker 18 questions)*
  - A. Financing components
    1. Financing instruments (e.g., notes, mortgages, contract for deed, deed of trust)
    2. *Financing* sources (e.g., primary and secondary mortgage markets, seller financing)
    3. Types of loans
    4. Financing concepts and terminology
  - B. Lender requirements and obligations
  - ~~C. Settlement procedures~~
  - ~~D. Settlement documents (e.g., title review, RESPA)~~
  - ~~E. Financing costs, property taxation, proration calculations, and other closing costs~~
  - C. Settlement (including calculations)**
    1. Procedures
    2. Closing costs
    3. Documents
- V. VII. Leases, rents, and property management (12 questions—15%) *(Sales 6, Broker 6 questions)*
  - A. Types and elements of leasehold estates, leases, lease clauses, and rental agreements
  - B. Lessor and lessee rights, responsibilities, and recourse
  - C. Property management contracts and obligations of parties
- VIII. *Brokerage operations (Sales 2, Broker 4 questions)*
  - A. Broker management of funds
  - B. Broker-salesperson relationship
  - C. Advertising
  - D. Ethical and legal business practices

# Promissor 2005 National Real Estate Examination Content Outline for Sales and Broker Examinations

Each examination consists of 80 scored questions and 5 pretest questions.  
Approximately ten percent of the scored questions involve mathematical computations.

- I. Real property characteristics, definitions, ownership, restrictions, and transfer (Sales 16, Broker 15)**
  - A. Definitions, descriptions, and ways to hold title
    - 1. Elements of real and personal property
    - 2. Property description and legal description
    - 3. Estates in real property
    - 4. Forms, rights, interests, and obligations of ownership
  - B. Land use controls and restrictions
    - 1. Public (e.g., zoning, taxation, police power)
    - 2. Private (e.g., liens, encumbrances, recording and priorities, subdivision/association rules)
  - C. Transfer/alienation of title to real property
    - 1. Voluntary and involuntary
    - 2. Deeds, warranties, and defects in title
- II. Property valuation and the appraisal process (Sales 6, Broker 6)**
  - A. Principles, types, and estimates of property value
  - B. Investment analysis
- III. Contracts and agency relationships with buyers and sellers (Sales 21, Broker 21)**
  - A. Contract elements, types (e.g., valid, enforceable), and terminology
  - B. Types of contracts used in real estate
    - 1. Listing contracts
    - 2. Commission agreements
    - 3. Sales contracts
  - C. Agency relationships and fiduciary responsibilities
- IV. Property conditions and disclosures (Sales 6, Broker 6)**
  - A. Environmental issues and hazards and hazardous materials
  - B. Material and other disclosures
  - C. Liability considerations
- V. Federal laws governing real estate activities (e.g., Federal Fair Housing Act, Americans with Disabilities Act, antitrust, marketing controls) (Sales 6, Broker 8)**
- VI. Financing the transaction and settlement (Sales 17, Broker 14)**
  - A. Financing components
    - 1. Financing instruments (e.g., notes, mortgages, contract for deed, deed of trust)
    - 2. Financing sources (e.g., primary and secondary mortgage markets, seller financing)
    - 3. Types of loans
    - 4. Financing concepts and terminology
  - B. Lender requirements and obligations
  - C. Settlement (including calculations)
    - 1. Procedures
    - 2. Closing costs
    - 3. Documents
- VII. Leases, rents, and property management (Sales 6, Broker 6)**
  - A. Types and elements of leasehold estates, leases, lease clauses, and rental agreements
  - B. Lessor and lessee rights, responsibilities, and recourse
  - C. Property management contracts and obligations of parties
- VIII. Brokerage operations (Sales 2, Broker 4)**
  - A. Broker management of funds
  - B. Broker-salesperson relationship
  - C. Advertising
  - D. Ethical and legal business practices

## NEW SALESPERSON CURRICULUM

The revised and updated salesperson's curriculum was given a recommended stamp of approval at the Commission's Education Review Committee meeting on Wednesday, July 13, 2005. The Commission is expected to ratify the recommendation and approve the new salesperson's curriculum when it next meets on Friday, July 29, 2005.



The salesperson's curriculum now boasts a minimum of 60 hours, an increase of 15 hours from the original, 20-year-old salesperson's curriculum of 45 instructional hours. While much of the curriculum remains the same, there is an increase in depth in topics, and certain changes of emphasis. These changes include:

1. Increased emphasis upon ethics as the base and underlying foundation of the agency relationship.
2. Consequent greater attention given to agency relationships and their various forms.
3. Greater focus and more time spent on practical applications including HAR standard forms.
4. Less time spent on the more specialized areas of the law (Hawaii Revised Statutes) including Chapters 436B, 514A, and 514E, and the subdivision laws.

As required, the curriculum is a guide, and it is the responsibility of each certified prelicense school and instructor to develop, modify, and update all course materials as necessary.

The curriculum outline consists of the following 23 sections, with great detail in sub-topics which are not listed here:

1. Introduction and Background
2. Real Estate Licensing Laws
3. Ethics and Real Estate Regulations
4. Nature and Description of Real Estate
5. The Law and Real Property
6. Encumbrances, Liens, and Easements
7. Tenancy and Ownership of Real Estate
8. Condominiums, Cooperatives, Planned Unit Developments and Timeshare
9. State Land Use Controls and Property Development
10. Agency
11. Real Estate Contracts
12. Hawaii Standard Forms
13. Real Estate Financing Principles
14. Real Estate Financing Practices
15. Real Estate Valuation and Appraisal
16. Real Estate and Other Taxes, Tax Liens
17. Interests in Real Estate
18. Closing the Real Estate Transaction
19. Commercial Real Estate Management, Leasing, and Sales
20. Landlord-Tenant Code
21. Fair Housing Laws and the Americans with Disabilities Act
22. Environmental Issues and the Real Estate Transaction
23. Mathematics

Also included with the salesperson's curriculum are six (6) handouts on the following topics:

1. Ethics – situations, anecdotal accounts, case studies
2. Settlement Statements – what to look for
3. Condominium project documents – anatomy of, and red flags to look for
4. DROA – item-by-item explanations
5. FIRPTA/HARPTA – filing process, responsibility of parties and impact on sales involving foreign clients
6. Opportunities – information on specialized courses, designations, organizations; within the context of promoting enhanced education

As with the transition from the old broker's curriculum to the new broker's curriculum in January 2005, the Commission is targeting the beginning of 2006 for implementation of the new salesperson's curriculum. This target date is subject to change. Test development for new questions reflecting the revised salesperson's curriculum will be held sometime this fall. Specific dates have not been decided yet.

The full text of the revised salesperson's curriculum will be available on the Commission's website, [www.hawaii.gov/hirec](http://www.hawaii.gov/hirec) shortly after formal approval by the Commission, which is expected at its July 29, 2005 meeting.



## 2005 REAL ESTATE COMMISSION MEETING SCHEDULE

**Laws and Rules Review Committee**

**Education Review Committee**

**Condominium Review Committee**

(These committees meet one after another,  
beginning at 9:00 a.m.)

**Real Estate Commission, 9:00 a.m.**

Wednesday, August 10, 2005

Wednesday, September 14, 2005\*

Wednesday, October 12, 2005

Wednesday, November 9, 2005

Wednesday, December 7, 2005

Friday, August 26, 2005

Friday, September 23, 2005

Friday, October 28, 2005

Wednesday, November 23, 2005

Friday, December 16, 2005

All meetings will be held in the Queen Liliuokalani Conference Room of the King Kalakaua Building, 335 Merchant Street, First Floor, \*with the exception of the **September 14, 2005 meetings**, which will be held in the Kauai Planning Commission's Meeting Room #2, in the Mo'ikeha Building, located at 4444 Rice Street, Lihue, Kauai.

Meeting dates, locations and times are subject to change without notice. Please visit the Commission's website at [www.hawaii.gov/hirec](http://www.hawaii.gov/hirec) or call the Real Estate Commission's office at 586-2643 to confirm the dates, times and locations of the meetings.

## CONDOMINIUM LAW RECODIFIED

The Governor signed Senate Bill 1132 S.D. 2 H.D. 1 C.D. 1, completing the recodification of the condominium property regimes law begun under Act 164, Session Laws of Hawaii 2004 (Act 164) and delayed the effective date of the Act to July 1, 2006.

Act 93 highlights what the 2005 Legislature did in completing the recodification of the condominium property regimes law are summarized here. Readers are advised to read the full text of the bill at [http://www.capitol.hawaii.gov/sessioncurrent/bills/sb1132\\_cd1\\_.htm](http://www.capitol.hawaii.gov/sessioncurrent/bills/sb1132_cd1_.htm). In completing the recodification the legislature did the following:

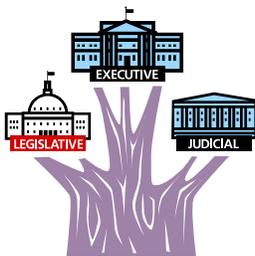


- Established provisions relating to the creation, alteration, and termination of condominiums; the registration and administration of condominiums; and the protection of condominium purchasers;
- Made effective July 1, 2006 parts I and II of Act 164 (SLH 2004); provisions relating to the governance and management of condominium associations;
- Amended section 149 relating to the handling and disbursement of association funds conditionally passed last year, by basically changing the amendments to reflect the current law as set forth in section 514A-97(c), HRS. The current law appears to require that associations deposit their funds in FDIC insured financial institutions located in this State, have the funds held by trust companies authorized to do business under article 8 of chapter 412, HRS, have the funds held by the United States Treasury; and have funds purchased in the name of the association by securities brokers who are registered with the SEC with offices in this state and. The current law apparently does not prohibit the in state financial institutions, trust companies, and securities brokers from investing in deposits, investment certificates, savings accounts, and certificates of deposits out of state;
- Clarified that:
  - ✓ the requirement to file an annual update of a developer's public report extends to a developer's successor or assign;
  - ✓ a developer and real estate broker shall keep records of all sales transactions and proceeds in accordance with the requirements of the real estate brokers and salespersons law, chapter 467, Hawaii Revised Statutes, HRS, and the related administrative rules;
- Repealed chapter 514A, HRS;
- Added a standard savings clause provision;
- Clarified the parameters of the savings clause provision relating to condominium developers and purchasers by providing that the legislation does not affect the parties' rights and obligations under a sales contract for a condominium unit in a project registered under chapter 514A, HRS, prior to the effective date of the new condominium law;

- Deleted the appropriation from the condominium education trust fund for the conduct of post bill passage educational activities; and
- Made technical amendments to the bill, correcting statutory and other internal references.

The Commission has included in its Program of Work for Fiscal Year 2006, the implementation of the new condominium law as it relates to the registration of condominium projects, management of condominiums, and an educational program targeted to inform the condominium community, developers, real estate licensees, prospective condominium purchasers, and the general public about the new condominium law.

The educational program is subject to budget, expenditure restrictions, and procurement law.



## 2005 LEGISLATION

In addition to the giant condominium recodification bill that was passed by the 2005 Hawaii State Legislature, the following condominium-related bills also were enacted. A more complete list of legislation that is relevant to the real estate community will appear in the upcoming Bulletin.

### SB1336 SD1 HD1 (HSCR 1542) RELATING TO CONDOMINIUMS AND COOPERATIVE HOUSING CORPORATIONS (ACT 91).

Amends provisions relating to exceptions. Provides that if the land under the condominium is owned jointly by lessors, all of whom qualify as tax exempt charitable organizations, the sale by 1 co lessor to another co lessor of its interest in the land under the condominium shall not be subject to the lease to fee conversions for condominiums and cooperative housing corporations law. -- SB1336 HD1

Current Status: May-03-05 Passed Legislature/Section Affected: 514C-8

### SB1345 SD1 (SSCR 83) RELATING TO CONDOMINIUMS (ACT 92)

Amends provisions relating to condominium property regimes. Provides that if a dispute is not resolved by mediation, in addition to any other legal remedies that may be available, any party that participated in the mediation may file a request for a hearing with the office of administrative hearings, department of commerce and consumer affairs. Provides that the subject matter of the hearing before the hearing officer may include any matter that was the subject of the mediation. -- SB1345 SD1

Current Status: May-03 05 Passed Legislature/Section Affected: 514A-121.5

### SB1348 SD1 HD1 CD1 (CCR 30) RELATING TO CONDOMINIUM PROPERTY REGIMES (ACT 90)

Amends provisions relating to documents of the association of apartment owners. Requires the association's meeting minutes of the board of directors' meetings to be available to any owner at no cost or on a 24 hour loan, at a convenient location designated by the board of directors; or be transmitted to any apartment owner making a request for the minutes within 15 days of the request, provided that the minutes shall be transmitted by mail, electronic mail transmission, or facsimile. Amends Act 164, session laws of 2004. -- SB1348 CD1

Current Status: May-03-05 Passed Legislature/Section Affected: 514A-83.5, ACT 164 2004

SB1349 SD1 HD1 CD1 (CCR 20) RELATING TO CONDOMINIUM PROPERTY REGIMES (ACT 89)

Amends provisions relating to documents of the association of apartment owners. Requires condominium board of directors to maintain records for the duration those records are kept by the association and to be available for examination by apartment owners at a place designated by the board. Amends Act 164, session laws of 2004, relating to association records. Requires condominium board of directors to maintain records for the duration those records are kept by the association and to be available for examination by apartment owners at a place designated by the board. -- SB1349 CD1

Current Status: May-03-05 Passed Legislature/Section Affected: 514A-83.5, ACT 164 2004

SB1798 HD1 CD1 (CCR 28) RELATING TO NONPROFIT CORPORATIONS (ACT 155)

Amends provisions relating to content of bylaws under condominium management provisions. Provides that the removal and replacement of members of the board of directors of apartment owners shall be by a vote of a majority of the apartment owners. Adds that if bylaws provide for cumulative voting by the owners, the owners may so vote if an owner gives notice of the owner's intent to cumulatively vote before voting commences. Amends Act 164, session laws of 2004. -- SB1798 CD1

Current Status: May-03-05 Passed Legislature/Section Affected: 514A-82, ACT 164 2004

HB1017 HD3 SD2 CD1 (CCR 173) RELATING TO SOLAR ENERGY (ACT 157)

Amends provisions relating to placement of solar energy devices. Prohibits a person to be prevented by any covenant, declaration, by laws, restriction, deed, lease, term, provisions, condition, codicil, contract or similar binding agreements from installing a solar energy device on any single family residential dwelling or townhouse that the person owns, provided that the device is in compliance with the rules and specifications, registered with the private entity of record within 30 days of installation, and the homeowner has obtained written consent of the private entity if the device is placed on a common element or limited common element. -- Amends provisions relating to work prohibited under condominium property regimes law. Allows the installation of solar energy devices. -- Amends Act 164, session laws of 2004. -- HB1017 CD1

Current Status: May-03-05 Passed Legislature/Section Affected: 196-7, 514A-89, ACT 164 2004



## **“CLASS HOUR” = 60 MINUTES OF INSTRUCTION**

Recently, a matter was brought to the attention of the Real Estate Branch staff regarding the number of instruction hours for the prelicense salesperson’s curriculum. An advertisement for a prelicense salesperson’s course appeared in local newspaper publications stating that the school is offering a “5 Day Accelerated” class from 9:00 a.m. – 6:00 p.m. The inquirer expressed concerns that given the 9 hours of class each day, while this added up to the required 45 hours for the prelicense salesperson’s course, there was no time provided for breaks or a meal, or the final school exam. These same concerns were validated by an investigator from the Regulated Industries Complaints Office (RICO) who was enrolled in one of the advertised accelerated classes and provided a written report and evaluation to the Commission.

As a reminder to all prelicense school principals and instructors, Hawaii Administrative Rules (HAR), §16-99-36 states in part, “Education requirement. The education requirement for

the salesperson license examination shall be satisfied by successful completion of a curriculum in real estate . . . consisting of a **minimum of forty-five class hours** and conforming to the approved curriculum for salesperson adopted by the commission . . . . **A ‘class hour’ as used in this section means sixty minutes of classroom instruction.**” (emphasis added)

The broker’s prelicense curriculum is 80 hours, and this means 80 hours of classroom instruction. Breaks, meals, and housekeeping matters are not considered part of classroom instruction.

Hawaii Administrative Rules, §16-99-69 states in part, “Revocation or suspension of school registration, course approval, and instructor certification. The commission may revoke or suspend the registration of any real estate school, . . . or the certification of any instructor for any of the following causes: . . . (1) The school, instructor, or course falls below the minimum requirements established by the commission including a student exam passing percentage; . . . .”

The information received will be included in the agenda for the Education Review Committee meeting on Wednesday, August 10, 2005.



## CURRENT CONTINUING EDUCATION PROVIDERS

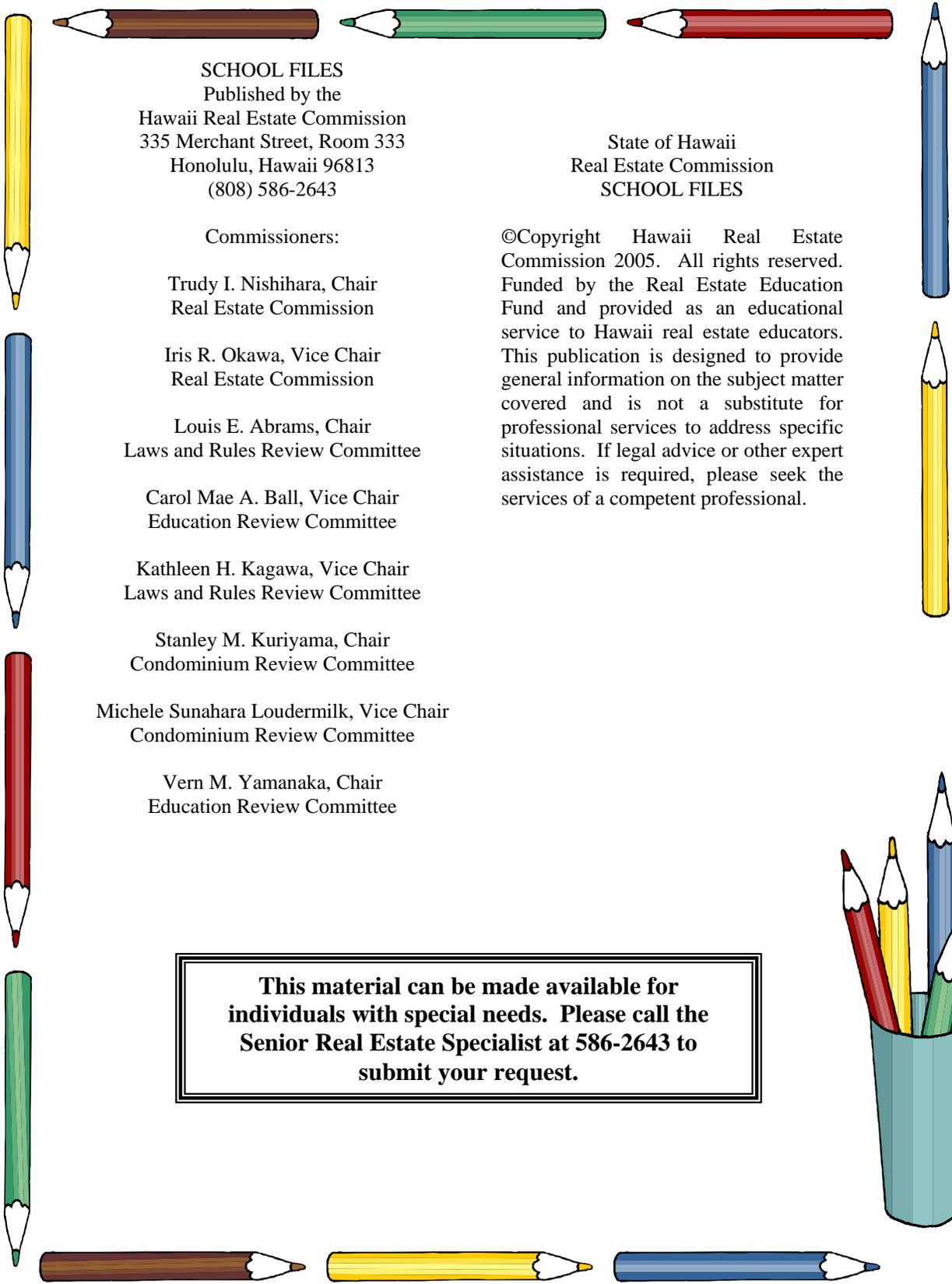
Abe Lee Seminars  
Akahi Real Estate Network LLC  
BOMA-Hawaii  
Brian R. Thomas dba Edventures  
Coldwell Banker Pacific Properties  
Continuing-Ed-Online.Org  
Dower School of Real Estate Windward  
Dower School of Real Estate  
Duplanty School of Real Estate  
Eddie Flores Real Estate  
Fahrni School of Real Estate  
Hawaii Association of REALTORS®  
Hawai’i CCIM Chapter  
Hayloft Climbers, LLC  
Hogan School of Real Estate

Honolulu Board of REALTORS®  
John Reilly  
Kauai Board of REALTORS®  
Kona Board of REALTORS® Inc.  
Lorman Education Services  
Lynn W. Carlson  
Pacific Real Estate Institute  
Premier Realty 2000, Inc.  
ProSchools, Inc.  
REALTORS® Association of Maui  
Russ Goode Seminars  
Seiler School of Real Estate  
Servpro Industries, Inc.  
Terabiz  
University of Hawaii at Manoa

## CURRENT PRELICENSE SCHOOLS

Abe Lee Seminars  
Akahi Real Estate Network LLC  
Century 21 Real Estate School  
Coldwell Banker Pacific Properties  
Dower School of Real Estate Windward  
Dower School of Real Estate  
Fahrni School of Real Estate  
Hawaii Academy of Real Estate LLC

Hudson Real Estate School  
Maui Community College – VITEC  
Premier Realty 2000, Inc.  
ProSchools, Inc.  
REEF Inc. dba  
Hawaii Institute of Real Estate  
Seiler School of Real Estate  
University of Hawaii at Manoa  
Vitousek Real Estate Schools



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