

SCHOOL FILES



Hawaii Real Estate Commission - <http://www.hawaii.gov/hirec>

April/May/June/July 1998

NO MORE CASHIER'S CHECKS OR MONEY ORDERS REQUIRED



In an effort to streamline the licensing process, the Real Estate Commission has adopted a new policy and will no longer require cashier's checks or money orders for applications for licenses, registrations or certifications.

However, if a check is dishonored by the bank or financial institution, the license, registration or certificate will automatically be invalid (as if never issued) and any activity conducted during that time may be considered unlicensed activity.

ASK THE COMMISSION!

Question:

Can a license applicant be reviewed **before** he/she takes the prelicense course or sits for the license examination?

Currently laws/rules for real estate licenses state that an applicant must have fulfilled the education and examination requirement prior to submitting an application. Also, applications must be complete in order to be reviewed by the Real Estate Commission.

Question:

"I've heard a rumor that continuing education providers will not be allowed to offer continuing education courses in the last few months of the biennium."

This is a rumor. The Commission has made no such policy, nor is there

an existing law or rule which states this. You may offer continuing education course, in accordance with the laws and rules up until the last day of the year, if you wish! However, don't forget - it is very important that the providers submit their diskette, copy of the roster and results sheet within the ten (10) days as provided by §16-99-112(c), Hawaii Administrative Rules.

SEPTEMBER COMMITTEE MEETINGS RESCHEDULED!

The September committee meetings have been rescheduled to **Friday September 18, 1998** and moved to the **Kauai Marriott** in conjunction with the Hawaii Association of REALTORS annual convention. See this issues' "Conferences, Meetings, Seminars" for more information on the time and location.

Question:

If there is a lawsuit or disciplinary action filed against me as a licensee, must I report this to the Commission even though there is no judgment or disposition?

Pursuant to §436B-16 Notice of judgments, penalties: (a) Each licensee shall provide written notice within thirty days to the licensing authority of any judgment, award, disciplinary sanction, order, or other determination, which adjudges or finds that the licensee is civilly, criminally, or otherwise liable for any

personal injury, property damage, or loss caused by the licensee's conduct in the practice of the licensee's profession or vocation. A licensee shall also give notice of such determinations made in other jurisdictions.

(b) In addition to any other penalties provided by law, the failure of a licensee to comply with the provisions of this section is a violation punishable by a fine of not less than \$100 for the first violation, \$250 to \$500 for the second violation, and \$500 to \$1,000 for subsequent violations. Any action taken to impose or collect the fine provided for in this subsection shall not be considered criminal action.

EVALUATION AND MONITORING PROGRAM

The first report of the evaluation and monitoring program for continuing education instructors has been distributed to the providers.

Each provider should have received a narrative, a general standard scale average number for all offered courses and specific evaluation scores, plus students' written comments for any instructor who taught for that provider.

The evaluation and monitoring program for prelicense instructors began in June 1998.

Change Forms & Office Location and CHO Exemption Forms are now available on the Commission's Webpage at <http://www.hawaii.gov/hirec>

COMMISSION COURSES UPDATED

Courses developed by the Hawaii Real Estate Research and Education Center have been updated as follows:



"Introduction to Broker Management"
- Added situation questions and overheads with question/answer
- Limited liability companies/partnerships

"Fair Housing"
- Updated statistics
- Inserted "service animal"
- Situation quiz on which advertising and appraising terms may be used
- Insert on "hanai" relationships
- Building Owners Code and Administrators Code
- Individual lessor record keeping

"Residential Property Management: Laws and Rules"
- Additions to "Do you know the Law" section
- Additional information on the Residential Landlord Tenant Code, §521-71, Hawaii Revised Statutes

"Disclosures in Hawaii Residential Transactions"
- Additional risk reduction techniques
- Revised six modules
- New paragraph on stigmatized properties
- New case study in Agency module on procuring cause

"Basic Real Estate Investment Analysis"
- Updated course example numbers to be more relevant to current economic conditions.

You may contact the Center for more information at 956-7892.

ASSESSMENT SYSTEMS, INC. (ASI):

Change of P.O. Box Number

Effective immediately, the new mailing address for ASI is:

**Assessment Systems, Inc.
P. O. Box 8588
Philadelphia, PA 19101-8588**

This is the address that tests candidates are sending their score transfer requests to.

ASI Practice Exams for Real Estate

ASI is offering practice exams for the real estate salesperson and broker exams. The easy-to-use "scratch and reveal" answer format contains 80 "inactive" questions from a current database.

A new diagnostic feature identifies subject areas in which a candidate may need more study.

You may order by calling ASI at (800) 618-2565.



REMINDERS:

Continuing Education Providers - Inaccurate Diskettes and Rosters

Providers, please be sure that you provide accurate information on your students (e.g., complete name, correct license number, etc.) on your diskettes and rosters.

There have been instances when a student did not receive continuing education credit because the information received from the provider was not accurate, resulting in the student not receiving credit for taking the continuing education course.

Accuracy is vitally important since we are approaching a renewal period.

It is also very burdensome for the student and staff to have to trace the

error to make the correction. Starting immediately, we will begin issuing written notices to those providers who do not provide accurate information. These "notices" will become part of your registration file and will be considered upon reregistration of your providership.

Ex parte Communications with Individual Commissioners

This is a repeat from the November/December 1997 School Files issue:

Staff has received information from Commissioners that they are being contacted by applicants for real estate licenses, registrations and certificates to discuss their applications and opinions on their chances of obtaining a license, registration or certificate.

Please remind your students that if they attempt to discuss their pending applications and/or issues with a Commissioner, that Commissioner may be disqualified from discussing, voting or decision making on the matter and the applicant may be doing more harm than good.

The law prohibits any communication from being directly related to a Commissioner on any pending or future matter which the Commission may decide, which is known as "ex parte communication."

Feel free to copy the attached memorandum for your students.

Salesperson's Preliminary Curriculum - 45 hours

§16-99-36, Hawaii Administrative Rules, states in part:

"The education requirement for the salesperson license examination shall be satisfied by successful completion of a curriculum in real estate at an accredited institution, consisting of a minimum of forty class hours and conforming to the approved curriculum for salesperson adopted by the commission"

However, in January 1993, the Real Estate Commission approved and adopted a 45 class hour salesperson's prelicensing curriculum.

The salesperson's prelicense course must be 45 class hours (and the broker's prelicense course must be 46 class hours). A "class hour" is defined as sixty minutes of classroom instruction and does not include the exam, breaks, etc.

Failure to hold 45 class hours before issuing school completion certificates is a rule violation and will result in revocation of school registration, not to mention disciplinary action against the responsible licensee provider. If an affected student ultimately is issued a real estate license, despite having attended less than the required 45 class hours, that license may be revoked.

Our thanks to the Ohio Department of Commerce, Division of Real Estate & Professional Licensing for allowing us to reproduce the attached article about a continuing education provider who lost his real estate license, was fined, placed on probation and received a jail sentence (which was suspended due to failing health) for giving out continuing education certificates to students who did not fulfill the education requirement. (See copy of article attached.)

Recertification Requirement for Prelicense Instructor - Instructor's Exam

Please remember that prelicense instructors are required to take and pass the instructor examination every three (3) years in order to recertify as a prelicense instructor. You may contact **ASI at 1-800-274-7301** to make an examination reservation.

Concerns have been expressed to the Commission that the current instructor examination may be outdated and/or too easy. Accordingly, the Commission will be consulting with ASI to consider replacing or updating the current

instructor examination. Also, the Education Review Committee, at its July 8, 1998 meeting recommended eliminating the examination requirement for certification and recertification of prelicense instructors during the next rulemaking.



LICENSES AND BUSINESSES INFORMATION CENTER: New Phone Service - 587-3222

In June, the **Department of Commerce and Consumer Affairs (DCCA)** began operations of its **Licenses and Businesses Information Center (587-3222)**. This new phone service will aid consumers in obtaining information on licensees and businesses. Callers may obtain the information from the following sources, with just a single phone call:

(1) Business Registration Division (BREG) - information on existing businesses (corporate officers, mailing address, etc.);

(2) Regulated Industries Complaints Office (RICO) - information on complaint history on existing or past licensees;

(3) Office of Consumer Protection (OCP) - complaint history information on existing or past businesses; and

(4) Professional & Vocational Licensing Division (PVL) - information of existing licenses (licensee verification, license type, insurance information, etc.).

Revocation or suspension of school registration, course approval, and instructor certification

Pursuant to §16-99-69, The Commission may revoke or suspend the registration of any real estate school, the approval of any real estate course, 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;
- (2) The school or instructor violates any ordinances, codes, statutes, or rules relating to real estate schools or instructors;
- (3) The school or instructor solicits information from any person for the purpose of discovering past examination questions or questions which may be used in future examinations;
- (4) The school or instructor distributes to any person copies of examination questions or otherwise communicates to any person examination questions, without the prior written approval of the copyright owner of the examination questions so distributed or communicated; or
- (5) The instructor sits for a Hawaii real estate license examination during the period the instructor is certified by the Commission.

Notice to All Candidates for Real Estate Licenses, Schools, and Exams During the Period Ending December 31, 1998

Please find the attached notice which you should copy and pass out to all students.

For students planning to take the prelicense course and exam during the coming months, this "notice" provides essential information regarding their license application options. As you can see, if an applicant applies for and receives a license before December 31, 1998, that person also will be required to fulfill the continuing education requirement and to renew the newly issued license before December 31, 1998. Failure to renew the license will result in forfeiture.

Those who fail to complete the continuing education requirement before December 31, 1998 will be issued an "inactive" license. Then, to go on "active" status, those licensees will be required to submit a Change Form and a \$25 reactivation fee. Proper planning by new licensee applicants can avoid unintended consequences.

Government Survey System

The general portion of the license examination will no longer include specific questions on the government survey system (GSS). However, this does not mean that this subject should not be taught. It is still a subject under the current approved curriculum.

APPROVED EDUCATION APPLICATIONS

Continuing Education Providers:

>Hawaiian School of Real Estate (Administrator: Ralph S. Foulger)*
> Akahi Real Estate Network, LLC (Administrator: Jay J. Spadinger)*

Continuing Education Instructors:

>Ralph S. Foulger, Elective course(s): "Disclosures in Hawaii Residential Transactions", Course categories: Property Management and Real Estate Law Update & Ethics*
>Michael B. Pence, Course categories: Real Estate Law and Property Management*
> M. Lee Ruggles, Course category: Contracts*

> Jay J. Spadinger, Elective courses: "Fair Housing", Introduction to Broker Management" and "Disclosures in Hawaii Residential Transactions" and Course categories: Real Estate Law Update & Ethics*
> Dana Keith, Elective course: "Real Estate and the Internet, Understanding a Changing Market"

Continuing Education Courses:

>"Essentials in Financing", Provider: Hawaii Association of REALTORS
>"Essentials of the DROA", Provider: Hawaii Association of REALTORS
> "Essentials of Listing", Provider: Hawaii Association of REALTORS
> "Understanding the Land Use Ordinance: C&C of Honolulu", Provider: Abe Lee Seminars
> "Sale of Time Share Interest" Provider: John Reilly Real Estate Continuing Education Company
> "Internet Commerce", Provider Hawaii Association of REALTORS
> "Real Estate and the Internet, Understanding a Changing Market"

(*indicates recertification or reregistration)

CONFERENCES, MEETINGS, SEMINARS

SEPTEMBER

The Hawaii Association of REALTORS (HAR) will be holding its annual State Convention on Kauai, September 16 - 18, 1998 at the Kauai Marriott Resort.

In conjunction with the HAR's State annual convention, the Real Estate Commission will be having its meetings for the Laws & Rules Review, Education Review and Condominium Review committees, on Friday, September 18, 1998. Times and rooms to be announced.

The Association of Real Estate Licensing Law Officials (ARELLO) will be having its annual conference in Orlando, Florida, September 20 - 23.

OCTOBER

The National Land Council, Inc. will be holding its fall seminar, October 21 - 25 in Albuquerque, New Mexico.

COMMISSION & STAFF

The Commission bids farewell to Ms. Carol Mon Lee, former Vice-Chair of the Commission and Chair of the Condominium Review Committee, whose term expired in June 1998. Ms. Lee is currently a Dean at the William S. Richardson School of Law at UH.

Commissioner Alvin Imamura announced a reorganization of the Commission due to the departure of Ms. Lee. He appointed Commissioner Nora Nomura as Vice Chair of the Commission and Commissioner John Ohama as Vice Chair of the Laws and Rules Review Committee.

Also, the Commission welcomes Ms. Iris Okawa, who replaces Ms. Lee as a public member Commissioner. Commissioner Okawa is an attorney with a local law firm. We look forward to working with her!

A welcome is extended to two new staff members. Ms. Pamela Garrison is the Senior Real Estate Specialist and Ms. Leilani Yam is the Recovery Fund Clerk.

Finally, the staff says farewell to Ms. Lorene Arata, who served as our Education Clerk. Ms. Arata accepted a position with the Regulated Industries Complaints Office (RICO). We wish her the best!

This material can be made available for individuals with special needs. Please call the Senior Real Estate Specialist at 586-2645 to submit your request.
