

# State of Hawaii Real Estate Commission Bulletin

August 2012



## Hawaii Real Estate Commission's 2011 - 2012 Core Course - 2012 Legislative Update

(NOTE: The 2012 legislative update is the final component of the Commission's 2011-2012 Core Course. It is appearing in written form in the Commission's quarterly Real Estate Commission Bulletin and will not be covered in the live classroom or online versions of the 2011-2012 core course.)

This article summarizes 15 real estate-related bills that became law this past session. The bills are organized by House and Senate bill numbers in sequential order with the Act number and date at the end.

The Governor had the option of vetoing any of the bills but did not do so. He signed all except for HB 2078, the Transient Accommodation Tax bill, which became law without his signature.

Do not rely on or act on a bill's summary alone. If the content is important, read the law in its entirety and be sure its meaning and procedures are clear. The information provided in these summaries is not intended to be complete nor constitute legal advice. Check with your attorney for assistance, including interpretation and impact of a law.

### HOUSE BILLS:

**HB 1746 HOUSE BILLS HD1** **ACT 18 (4/12/12)**  
On Condominiums – Provides for separate utility metering of condo units.

Allows a condo board to authorize the installation of utility meters to measure actual use by individual units, provided the association bears the cost of conversion. Applies to pre-1978 projects. For projects constructed after 1978, separate metering, calculations, or both, has been required for residential and nonresidential units. This was prompted mainly by frequent disputes concerning allocation of utility costs in mixed-use projects such as Yacht Harbor Towers. Takes effect on approval.

**\*HB 1875 CD1 HD2 SD2** **ACT 182 (6/28/12)**  
On Foreclosure – Sequel to Act 48 (SLH 2011) on non-judicial mortgage foreclosures  
Implements recommendations made by a task force cre-

ated to address various issues affecting owner-occupant mortgagors faced with non-judicial mortgage foreclosures. Among other things this bill repeals Part I on non-judicial foreclosure, enables mortgagors to convert non-judicial foreclosure to judicial foreclosure, streamlines and makes permanent the foreclosure dispute resolution process, revises procedure for recovery of unpaid maintenance fees, and creates a new judicial process for collection of fines by Associations. Takes effect on approval unless otherwise noted.

\*See the summary article on Act 182, "Mortgage Foreclosure Rights, Obligations Being Revised, Clarified in Act 182".

**HB 2078 HD2 SD2 CD1** **ACT 326 (7/10/12)**  
On Taxation – Enforces collection of Transient Accommodation Tax (TAT)

Amends TAT law to 1) require any operator of a transient accommodation to designate a local contact on the same island where the accommodation is located, 2) require that the operator furnish information on the local contact to the homeowner association, 3) require the association to inform the Dept. of Taxation of all transient accommodators in the project, and 4) require operators to display their TAT registration I.D. number in all website advertisements. Takes effect on 7/1/12, sunsets on 12/31/15.

**HB 2328 CD1 HD1 SD1** **ACT 220 (7/5/12)**  
On Taxation – Rewrites Hawaii estate tax law

Rewrites the Hawai'i estate tax law, specifically sets forth the tax rate schedule, provides the necessary power for the Department of Taxation to enforce the law, and provides protection for taxpayers. Also, ties the calculation of one's taxable estate to the federal return to lessen the burden on tax-payers and effectively adopts the federal estate tax exemption amount (currently \$5,000,000). The measure also amends the Hawai'i generation-skipping tax.  
Takes effect on 7/1/12. However, the estate and genera-

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# Hawaii Real Estate Commission's 2011 - 2012 Core Course - 2012 Legislative Update (cont. from page 1)

Takes effect on 7/1/12. However, the estate and generation-skipping tax amendments apply to decedents dying or taxable transfers occurring after 1/25/12.

## HB 2375 SD2

**ACT 183 (6/ 28/ 12)**

On the Mortgage Rescue Fraud Prevention Act – Seeks to educate homeowners about fraudulent activities relating to foreclosures.

Requires the Office of Consumer Protection to educate consumers about fraudulent activities that may be committed against homeowners who face property foreclosures, liens, or encumbrances, as appropriate. Establishes criminal penalties and a mandatory fine for certain violations of the Mortgage Rescue Fraud Prevention Act. Takes effect on 7/1/12.

## HB 2591 HD2

**ACT 56 (4/ 23/ 12)**

On Accreted Lands – Affects waterfront property owners with accreted lands

In 2003, the State passed Act 73 which changed the definition of public lands to include accreted land or land that is gained through water-borne sediment. A class action lawsuit was filed by ocean-front owners to be paid just compensation for accreted lands taken. The court ruled that there was a taking as to all privately owned land that accreted before May 20, 2003, but not a taking as to lands that accreted thereafter. This law modifies Act 73 so as to apply only to accreted land after May 20, 2003, and to disclaim public ownership of accreted lands privately owned before Act 73. Just compensation would be due on the taking of such earlier accretions. Takes effect upon approval.

## HB 2623 HD1 SD1 CD1

**ACT 209 (7/ 3/ 12)**

On Transfer of Property – Equates benefits of tenancy by entirety with revocable trusts

Prior to this Act, spouses were forced to choose between the creditor protections of a tenancy by the entirety arrangement or foregoing those protections in favor of setting up a revocable trust, which offers probate avoidance and minimizes estate taxes.

This measure specifies that real property held in tenancy by the entirety shall have the same immunity from claims of separate creditors of spouses or reciprocal beneficiaries if conveyed into a joint or separate revocable trust, under certain circumstances. Takes effect on 7/1/12.

## HB 2686 HD1 SD1 CD1

**ACT 291 (7/ 9/ 12)**

On Civil Liability – Exempts owners of private property who provide emergency access from civil liability

Exempts an owner of private property who provides emergency access to land, shelter or subsistence to a person in good faith during a disaster from liability for injury or damage suffered by the person, unless it was caused by the gross negligence or intentional or

wanton acts or omissions of the owner of the land. Takes effect upon approval.

## SENATE BILLS:

### SB 2281 SD1 HD1

**ACT 172 (6/ 27/ 12)**

On Environmental Impact Statements – Allows bypassing of environmental assessment if EIS a likely requirement

Authorizes agencies to bypass the preparation of an environmental assessment and proceed directly to the preparation of an environmental impact statement, or allow an applicant to do the same if the agency determines that an environmental impact statement is likely to be required for a proposed action. Takes effect upon approval.

### SB 2335 HD2 CD1

**ACT 239 (7/ 6/ 12)**

On Special Management Areas – Requires concurrent processing for subdivision, SMA permit

Requires the counties to concurrently process subdivision and SMA use permits under certain conditions to ensure that a SMA use permit is processed and granted before final subdivision approval occurs. Takes effect upon approval.

### SB 2397 SD1 HD3

**ACT 83 (4/ 26/ 12)**

On Fire Sprinklers – Prohibits counties from requiring sprinklers in certain types of housing

Prohibits counties from requiring installation or retrofitting of automatic fire sprinklers in a new or existing detached one- or two-family dwelling unit in a structure used only for residential purposes and non-residential agricultural and aquacultural buildings and structures located outside of an urban area. This does not apply to new homes that require a variance from access road or fire fighting water supply requirements. Takes effect on 7/1/12.

### SB 2740 SD1

**ACT 138 (6/ 19/ 12)**

On Housing Loan and Mortgage Program – Promotes affordable rental projects by increasing Hula Mae bond limit

The Hula Mae Multifamily program promotes the development of new or preservation of existing affordable rental projects through the issuance of mortgage revenue bonds at below-market interest rates. The Hawai'i Housing Finance and Development Corp. only has about \$84 million in uncommitted bond authority left. This measure increases the bond issuance authority from \$500 million to \$750 million to continue to support affordable housing projects. Takes effect on 7/1/12.

### SB 2842 HD1 SD1

**ACT 85 (4/ 26/ 12)**

On Civil Actions for Discriminatory Practices – Conforms Hawaii law to federal on filing of civil actions

## The Chair's Message



Aloha Kakou!

I am honored to be appointed Chair of the Real Estate Commission and thank Governor Abercrombie and Director Lopez for their faith and confidence in my abilities.

Early in my legal career, I had the opportunity to appear before the Commission to request an informal nonbind-

ing opinion to clarify the definition and scope of a “material change” under the Hawaii Condominium Act. I was impressed with the knowledge and integrity of the Commissioners and their desire to serve the public and uphold the laws, rules and regulations enacted by the legislature and our administrative body in all of their wisdom. Since that first appearance, one of my goals was to serve as a Commissioner.

In 2011, I was fortunate to become a member of the Commission and to serve as Vice Chair of the Commission’s Condominium Committee. This year, I view my appointment as Chair as an opportunity to give back to my peers, the staff, the industry and the community by serving in a leadership role to the best of my abilities and with highest moral and ethical standards. I am also extremely blessed to have served with former Chair Ball, Vice Chair Kuriyama, former Commissioner Loudermilk, Commissioner Gendrano, Commissioner Harvey, Commissioner Sherley, Commissioner Cobb and Commissioner Wada, all who have been role models to me this past year, offering their own unique strengths and viewpoints and exemplifying the highest level of integrity in their role as Commissioners.

The year starts with cautious optimism as the future appears bright

for Hawaii’s real estate industry. Although gradual, developers are breaking ground, equipment is moving again on stalled projects and exciting new projects are coming to fruition. This means one important thing for the industry: more inventory and diverse product to develop, sell and manage. As such, it is important for the Commission to finalize the rules for the governance of real estate salespersons and brokers and for the creation and registration of condominium projects and associations. The adoption of new Hawaii Administrative Rules for real estate brokers and salespersons and for the administration of the Condominium Property Act is critical to provide guidelines for the industry before the market is back in full upswing. In addition, although online resources for the Commission staff to receive and disseminate information to the industry have grown considerably, efficiency and consistency may be better achieved by continued development of online services for the condominium and real estate licensing applications and processes. My hope is that the Commission will continue to move toward achieving these goals.

It is with great humility that I step into my role as Chair and I look forward to years of education, trials and tribulations and successes and accomplishments. I thank the Commissioners and Commission staff for their support and guidance. It will be a great journey (and a fun ride)!

Mahalo Nui Loa,

A handwritten signature in black ink that reads "Nikki J. Senter".

(s) Nikki Senter, Chair

## Hawaii Real Estate Commission's 2011 - 2012 Core Course - 2012 Legislative Update (cont. from page 2)

Makes Hawai'i law consistent with federal Fair Housing law by:

1. Allowing an aggrieved person to file a civil action in the appropriate court no later than 2 years after the occurrence or termination of an alleged discriminatory housing practice.
2. Requiring the Hawai'i Civil Rights Commission to issue a right to sue on a complaint if it determines that a similar civil action has been filed.

Takes effect upon approval.

**SB 2873 SD1 HD3 CD2** **ACT 312 (7/ 9/ 12)**  
On Environmental Impact Statements – Repeals Act 45 (SLH 2011) and clarifies exemptions on environmental assessments

In 2011, Act 45 was passed extending the sunset date to exclude properties that touched an existing public right-of-way or highway from having to prepare an environmental assessment (EA) if the environmental impact appeared to be minimal. This saved homeowners from having to go through the EA process even for simple projects, such as fixing one's home driveway access or enlarging a septic tank.

This measure repeals the previous Act and clarifies that secondary actions limited to the installation, improvement, renovation, construction, or development of infrastructure within an existing public

right-of-way or highway are now exempt from the EA requirement. Also, for projects that require a discretionary consent, the Office of Environmental Quality Control must determine which agency has the responsibility to determine whether an EA is required. Takes effect upon approval.

**SB 3002 SD2 HD1 CD1** **ACT 257 (7/ 6/ 12)**  
On Real Estate Brokers and Salespersons - Amends HRS 467 by requiring consideration of good faith reliance by licensees accused of misrepresentation

Senate Bill 3002, C.D.1, amends HRS 467-14, regarding the revocation, suspension and fine provisions for a real estate licensee by adding the following provision after par. (21): **"For purposes of paragraphs (1) and (18), the Real Estate Commission shall consider whether the licensee relied in good faith on information provided by other persons or third parties."** The two paragraphs referred to are:

- (1) Making any misrepresentations concerning any real estate transaction; and
- (18) Failing to ascertain and disclose all material facts concerning every property for which the licensee accepts the agency, so that the licensee may fulfill the licensee's obligation to avoid error, misrepresentation, or concealment of material facts.

Takes effect upon approval.

## Hawaii Real Estate Commission's 2011 - 2012 Core Course - Mortgage Foreclosure Rights, Obligations Being Revised, Clarified in Act 182

(This article accompanies the 2012 legislative update, the final component of the Commission's 2011-2012 Core Course, and elaborates on how Act 182 clarifies Act 48, SLH 2011.)

By Act 48, the 2011 Legislature initiated a number of reforms affecting the rights and obligations of owner-occupants (Borrowers) being foreclosed upon non-judicially by creditors (Lenders). However, a number of problems surfaced, not the least of which were severe penalties on lenders for minor, unintended violations of Act 48, bringing the number of non-judicial foreclosures (NJF) in 2011 down drastically. HB 1875, one of the more important 2012 bills, is an attempt to implement reforms proposed by a task force to clarify and improve on Act 48. The following, in capsule form, are some of the more significant provisions of this lengthy bill, which became law on 6/28/2012 as ACT 182.

- A. Repeals Part I of the NJF law. Only Part II now available
- B. Treats planned community and condominium associations similarly

- C. Allows associations to recover the last 6 months of delinquent maintenance fees from third party foreclosure purchasers (no \$ cap)
- D. Permits association liens to be foreclosed judicially or non judicially (with exception)
- E. Recorded liens for unpaid association assessments expire after six years
- F. Makes process for Borrower's conversion of NJF to judicial permanent
- G. Limits Borrower claims of Unfair and Deceptive Acts to only 13 provisions of entire law
- H. Creates an attorney affirmation process for certifying accuracy of documents
- I. Modifies the publication of notice requirements

*continued on page 5*



# Hawaii Real Estate Commission's 2011 - 2012 Core Course - Mortgage Foreclosure Rights, Obligations Being Revised, Clarified in Act 182 (cont. from page 4)

The new process for implementing a Part II NJF under HB 1875 will take the following format and is expected to take from 4 to 8 months to complete:

1. Borrower, after being served notice, has 60 days to cure the default
2. Lender must file a NJF notice with DCCA within 3 days of notifying Borrower. DCCA, in turn, also notifies Borrower within 10 days.
3. If Borrower cannot timely cure the default, he has 30 days to opt for either Dispute Resolution (DR) or convert the NJF to a judicial foreclosure and pay the applicable fee.
4. If neither happens, the NJF continues.
5. If DR is chosen, a session with the mediator must be scheduled within 40-70 days.
6. Borrower must meet with a counselor 30 days before the DR session.
7. Lender's authorized representative may negotiate a loan modification
8. There may be up to two 3-hour mediation sessions.
9. The mediator has 60 days to determine if an agreement has been reached.

Licensees should seek the advice of an attorney in counseling a client on what to do if he or she is in or facing a NJF situation.

## Splitting Fees - Informal, Non-Binding Interpretation Issued

At its June 13, 2012 monthly meeting the Real Estate Commission's Laws and Rules Review Committee (LRRC) issued the following informal, non-binding interpretation pursuant to a written request regarding Hawaii Revised Statutes (HRS), section 467-14(14)(A), which reads, "Revocation, suspension, and fine. In addition to any other actions authorized by law, the commission may revoke any license issued under this chapter, suspend the right of the licensee to use the license, fine any person holding a license, registration, or certificate issued under this chapter, or terminate any registration or certificate issued under this chapter, for any cause authorized by law, including but not limited to the following: (14) Splitting fees with or otherwise compensating others not licensed hereunder for referring business; provided that notwithstanding paragraph (5), a real estate broker may pay a commission to: (A) A licensed real estate broker of another state, territory, or possession of the United States, if that real estate broker does not conduct in this State any of the negotiations for which a commission is paid; . . .".

The LRRC's informal, non-binding interpretation states that Hawaii-licensed brokers may pay a referral fee to out-of-state brokers, but the out-of-state broker may not conduct in Hawaii any real estate negotiations by any means of communication, as they are not licensed in Hawaii, and are prohibited from engaging in any activity for which a Hawaii real estate license is required.

To further amplify the above, the LRRC determined that any form of communication, for example, telephone calls, emails, faxes, etc. may not be used by the out-of-state broker to enter into any real estate negotiations. The out-of-state broker may only receive a referral fee from the Hawaii real estate broker. The amount of the referral fee is negotiable between the concerned parties.

Should a complaint arise in the above scenario, review, investigation and any possible disciplinary action would be against the Hawaii licensee, not the out-of-state licensee.

It is important to remember that the licensing laws and rules do not differentiate between licensees who engage in residential or commercial real estate. All laws and rules apply across the board.

# Administrative Actions

April 2012

**John C. Dinan**

Salesperson – RS 60657

Case No: REC 2009-271-L

Dated 4/27/12

**Factual Findings:** On or about 11/8/08, Respondent entered into a 6-month rental agreement to rent his apartment unit to Complainant. Complainant paid Respondent the required security deposit of \$2,100.00. On or about 1/28/09, Complainant emailed Respondent to inquire about a pending foreclosure action involving the property he was renting. Respondent responded that, “as for any action or notice you may have received, please disregard, the situation is being handled and your lease is not at risk, so please do not worry.” On 5/29/09, the property was auctioned in a non-judicial foreclosure sale. On or about 6/1/09, Complainant received a letter informing him that the property had been auctioned in a non-judicial foreclosure, that the purchase was expected to close no later than 6/29/09, and advising him to “Please vacate the unit prior to that time to avoid legal action.” On 6/5/09, title to the property was conveyed to the Association of Apartment Owners (AOAO) as the purchaser. Notwithstanding the conveyance of the property to the AOAO, on 6/6/09, Respondent posted a notice at the property informing Complainant that rent was past due and demanding payment of the rent together with a \$300 penalty and 12% interest by 5:00 p.m. on 6/10/09, “or it will be necessary for you to vacate the property immediately and this matter shall be turned over to our attorneys for legal action against you...Should you chose [sic] not to vacate the unit, you will be subject to holdover tenancy provision of your rental agreement and acceleration of rent.” Complainant remained in the property as a tenant of the AOAO. Complainant did not receive his security deposit back from Respondent.

**Order:** License revocation and pay a \$2,000.00 fine.

**Violations:** HRS §§467-14(1), (3), (7), (8), (16), (20) and HRS §436B-19(7)

## Administrative Actions (cont. from page 6)

**Lily L.H. Kong**

Broker – RB 13539

Case No: REC 2009-295-L

Dated 4/27/12

**Allegations:** In or around the summer of 2009, the Respondent advertised for, and agreed to rent a room to a Consumer for a year. Respondent owned the premises but failed to disclose the interest in writing to the Consumer prior to agreeing to rent the premises to her. Pursuant to the agreement, the Consumer took possession of the unit at the end of June 2009, and gave a check to Respondent on or about 6/28/09 for \$1050.00 representing the first month's rent and security deposit. On or about 7/1/09, the Consumer informed the Respondent that because her sister on the mainland had suffered a heart attack and she needed to return to Ohio immediately, she wished to cancel the lease arrangement and requested a refund of the \$1050.00. According to the Consumer, Respondent agreed verbally to the Consumer's request. On or about 7/3/09, Respondent negotiated the Consumer's check for \$1050.00. On or about 7/8/09, the Consumer's husband sent Respondent a letter requesting a refund of 3 weeks rent plus the security deposit. On or about 7/28/09, Respondent sent the Consumer a check for \$525.00 representing the security deposit less a \$50 fee. The Consumer negotiated Respondent's check, but continued to pursue her complaint against the Respondent for the return of 3 weeks worth of rental money. The Respondent failed to reduce to writing the lease agreement, arrangement and financial obligation related thereto between Respondent and the Consumer. Respondent's failure contributed to the stress and confusion over what, if anything, was due to the Consumer on account of the Consumer having to vacate the premises a few days after she took occupancy.

**Sanction:** Pay a \$1,000.00 fine

**Violations:** HRS §467-14(13); HAR §16-99-3(f), (g)

## Administrative Actions (cont. from page 7)

June 2012

**Nemo Reatly, Inc., Mikiko Malasek and Vojtech Malasek**  
 Broker – RB 14975  
 RB 14280, RB 18254  
 Case No: REC 2004-92-L  
 Dated 6/29/12

**Allegations:** On or about 4/6/09, RICO filed a Petition for Disciplinary Action Against Real Estate Broker's Licenses of NEMO REALTY, INC., MIKIKO MALASEK AND VOJTECH MALASEK, alleging that in 2003, Respondents received two commissions for real estate transactions in the amount of \$12,677.50 and \$15,386.25 as a result of fraudulently altered purchase agreements and Cooperating Broker's Separate Agreements naming Respondent NEMO REALTY, INC. and Respondent MIKIKO MALASEK as brokers representing the buyers in two real estate transactions. The buyers in the aforementioned transactions were not represented by an agent or broker. The buyers' signatures on page two of the respective purchase agreements were forged. The

Cooperating Broker's Separate Agreements for the respective purchases were signed by Respondent MIKIKO MALASEK and falsely represented that the buyers were represented by Respondents NEMO REALTY, INC. AND MIKIKO MALASEK. Respondents have not returned the commissions paid to them.

**Sanction:** Voluntary license revocation.

**Violations:** HRS §§467-14(1), (3), (7), (8), (16), (20); HRS §§436B-19(7), (12)

## Statutory/Rule Violations

**Settlement Agreement (Allegations/ Sanction):** The Respondent does not admit to the allegations set forth by the Regulated Industries Complaints Office (RICO) and denies having violated any licensing law or rule. The respondent enters in a Settlement Agreement as a compromise of the claims and to conserve on the expense of proceeding with a hearing on the matter.

**Disciplinary Action (Factual Findings/ Order):** The respondent is found to have violated the specific laws and rules cited, and the Commission approves the recommended order of the Hearings Officer.

HRS §467-14 (1)	Making any misrepresentation concerning any real estate transaction.
xHRS §467-14 (3)	Pursuing a continued and flagrant course of misrepresentation
HRS §467-14 (7)	Failing to account for moneys belonging to others.
HRS §467-14(8)	Conduct constituting fraudulent or dishonest dealings.
HRS §467-14(13)	Violating this chapter, chapters 484, 514A, 514B, 514E, or 515, or section §516-71, or the rules adopted pursuant thereto.
HRS §467-14 (16)	verting other people's moneys to the licensees own use.
HRS §467-14 (20)	Failure to maintain a reputation for or record of competency, honesty, truthfulness, financial integrity, and fair dealing.
HRS §436B-19(7)	Professional misconduct, incompetence, gross negligence, or mani-fest incapacity in the practice of the licensed profession or vocation.
HRS §436B-19(12)	Failure to comply, observe, or adhere to any law in a manner such that the licensing authority deems the applicant or holder to be an unfit or improper person to hold a license.
HAR §16-99-3(f)	The licensee, for the protection of all parties with whom the licensee deals, shall see that financial obligations and commitments regarding real estate transactions, including real property rental management agreements, are in writing, express the exact agreements of the parties, and set forth essential terms and conditions, and that copies of those agreements, at the time they are executed, are placed in the hands of all parties involved.
HAR §16-99-3(g)	The licensee shall not acquire, rent, lease, or exchange an interest in or buy, rent, lease, or exchange for one's self, any member of the licensee's immediate family or brokerage firm, or any entity in which the licensee has any ownership interest, property listed with the licensee, licensee's brokerage firm, or listed with any other brokerage firm or licensee without making the true position known in writing to the listing owner or property owner. When offering for sale, lease, exchange, or rental, property which the licensee owns or has an interest in, the licensee shall fully inform the principal broker of the licensee's intention to sell, lease, exchange, or rent, and of the licensee's interest in the property. The licensee shall reveal the interest to the purchaser, lessee, or tenant in writing prior to accepting any o



## Bruce Faulkner - New Maui Commissioner

Welcome to Bruce Faulkner, broker, Maui, who joined the Hawaii Real Estate Commission effective July 1, 2012. Mr. Faulkner will serve a four-year term representing Maui, and his term expires on June 30, 2016.

Mr. Faulkner is a sole proprietor doing business under the name of Maui HI Realty in Makawao. He was born and raised on O'ahu where he graduated from Kailua High School. He earned a Bachelor of Arts degree in Sociology from Mauna Olu College on Maui. He is a long-time Maui resident, and has extensive work experience in the construction industry and as a contractor. He has been a real estate licensee since 1985, and served as a past President of the REALTORS® Association of Maui, Inc. Mr. Faulkner is also active in the Maui community.



## Local Contact for Transient Accommodations by Department of Taxation

Each year, hundreds of proposed bills are introduced for discussion and consideration. One of the more hotly debated bills during the 2012 legislative session had been House Bill 2078 HD2 SD2 CD1 relating to the transient accommodation tax. In the end, the Legislature adopted the measure and the bill became law without the Governor's signature, due to his concern about the penalty provisions in the new law.

HB 2078 HD2 SD2 CD1, now otherwise known as Act 326, Session Laws of Hawaii 2012, introduced a new section to the Transient Accommodation Tax (TAT) chapter of Title 14, Hawaii Revised Statutes. In this new section, several new requirements are imposed on non-resident property owners who engage in the business of furnishing transient accommodations, for less than one hundred eighty consecutive days, for consideration. Non-resident owners include any property owner that does not live on the same island where the transient accommodation is located.

Highlights of the new requirements include:

- Nonresident owners must designate a local contact, residing on the same island where the transient accommodation is located.
- The name, address and contact information of the local contact shall be furnished "...to any association of homeowners, community association, condominium association, cooperative, or any other nongovernmental entity with covenants, bylaws, and administrative provisions with which the operator's

compliance is required for the property where the transient accommodation is located."

- The name and phone number of the local contact shall be included in any contract or rental agreement and posted inside the transient accommodation.
- Any advertising of a transient accommodation on a website requires that the registration number (also sometimes referred to as the transient accommodation tax number), for this transient accommodation, be displayed on the website or via an online link.

This new law has stimulated a lot of interest in learning about the TAT law and its application. As a reminder, if property is offered as a transient accommodation, both the general excise and transient accommodations tax may apply. In the coming weeks, the Department of Taxation will issue additional guidance regarding the application and requirements of Act 326.

More general information about the TAT and other taxes is available on our website ([www.hawaii.gov/tax](http://www.hawaii.gov/tax)) or through our taxpayer assistance telephone lines at 587-4242.

## Renewal Deadline is November 30

Remember, the renewal deadline for all real estate licensees is **NOVEMBER 30, 2012**. All real estate licenses, course certifications, prelicense schools, instructors, and guest lecturer certifications and registrations, as well as continuing education provider registrations must be renewed by the renewal deadline to be assured that there is no break in the validity of your license or certification or registration.

**ON-LINE RENEWAL** is scheduled to go LIVE on October 15, 2012. Information will be posted on the Commission's website, [www.hawaii.gov/hirec](http://www.hawaii.gov/hirec), click on Real Estate License Renewals.

It is highly recommended that **the licenses/ registrations of the brokerage firm, PB, BICs, and RBOs be simultaneously renewed during early November** and prior to renewals of all associating licensees to ensure sufficient time to correct any problems and to ensure successful renewals of associating licensees. If an associating licensee's renewal application is submitted prior to the PB's, BIC's, and brokerage firm's renewal applications, the associating licensee's renewal application will be held in suspense until the PB, BIC(s), and brokerage firm have successfully renewed all licenses.

**PBs and BICs should complete all CE requirements immediately** as successful renewal includes completion of CE requirements prior to submission of a renewal application.

To re-register a branch office, a BIC's license must also be successfully renewed in addition to the PB's license and the brokerage firm's license. If the PB's, BIC's, and/or the brokerage firm's license are not successfully renewed **prior** to the associating licensees, the license renewal applications of all associating licensees will be placed on "suspense" and renewed on **inactive** status come January 1, 2013.

Whether license renewals are handled by the individual licensee or the brokerage firm, the **PB is responsible for the associating licensee's current and active status**. It is recommended that PBs ensure all associating licensees are current and active by requiring all licensees to submit a photocopy of their 2013-2014 pocket license prior to December 31, 2012. **REMEMBER**, by January 1, 2013, licenses which are not renewed are converted to a **forfeited status**. If this conversion takes place, disciplinary action may occur and the consumer may recover all commissions and/or compensations paid.

**RENEWING ON ACTIVE STATUS:** Individual licensees who wish to renew their license on active status need to complete 20 hours of approved continuing education (CE) courses. Licensees are required to take the 2011-2012 mandatory core course, which consists of Part I and Part II. The CE completion certificates do not have to be submitted with the renewal application unless otherwise instructed. All CE courses should be completed in advance of the

date of submission of the renewal application or the license may be renewed on an inactive status. Any individual licensee who has renewed but failed to complete the CE requirement will be renewed on an inactive status without further notice.

**CE RECORDS:** Upon completion of a CE core or elective course(s), the course completion information will be downloaded to the Commission's Online Real Estate Continuing Education database by the CE Provider who offered the course. Course certificates may be printed by the licensee, if necessary.

**[http:// pvl.hawaii.gov/ rece](http://pvl.hawaii.gov/rece)** A principal broker or licensee may verify if a licensee has completed the 20 hours CE requirement, the specific courses completed, the number of CE hours required, the number of CE hours earned, and the number of CE hours remaining to complete the CE requirement.

**RENEWING ON INACTIVE STATUS:** Individual licensees who renew their license on an inactive status do not have to complete the CE requirement but must submit the renewal application and fees by November 30, 2012. An inactive licensee desiring to change to active status shall submit the CE certificates with a completed Change Form and a reactivation fee of \$25.00.

**NEW SALESPERSON in 2012:** If you were issued a **new salesperson license** in calendar year 2012 and renew your license by the renewal application deadline of November 30, 2012, you will be deemed to have completed equivalent to the CE requirement and will not have to complete the CE requirement for this license renewal only. (Note: This does not apply to new brokers who received their broker's license in 2012.)

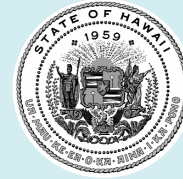
**CANDIDATES FOR LICENSURE:** Subject to compliance with the license application deadline, a candidate for licensure may want to consider being licensed as of January 1, 2013 rather than the remaining months of 2012 and be subject to renewal requirements. Please call the Real Estate Branch (808-586-2643) for additional information.

## Continuing Education Providers

360training.com	512-539-2869
Abe Lee Seminars	942-4472
Akahi Real Estate Network LLC	808-331-2008
All Islands Real Estate School	564-5170
Career Webschool Cengage Learning, Inc.	800-532-7649
Carol Ball School of Real Estate	808-871-8807
Carol M. Egan, Attorney at Law	222-9725
Coldwell Banker Pacific Properties Real Estate School	597-5550
Continuing Ed Express LLC	866-415-8521
Distressed Properties Institute, LLC	800-482-0335
Dower School of Real Estate	735-8838
Eddie Flores Real Estate Continuing Education	951-9888
ERA School of Real Estate a Division of SRH Inc.	808-981-0711
Great Lakes Institute of Real Estate	248-559-7555
Green Building, LLC	808-283-2183
Hawaii Association of Realtors	733-7060
Hawaii CCIM Chapter	528-2246
Hawaii Institute of Real Estate (HIRE)	561-7653
Hawaii Island Board of Realtors	808-935-0827
Hogan School of Real Estate	800-794-1390
Honolulu Board of Realtors	732-3000
Kauai Board of Realtors	808-245-404
Levin & Hu, LLP	808-270-1096
Lorman Education Services	715-833-3940
Lynn W. Carlso	
McKissock, LP	800-328-2008
Pacific Real Estate Institute	524-1505
ProSchools, Inc.	800-299-2207
Ralph Foulger's School of Real Estate	239-8881
Realtors Association of Maui Inc.	808-873-8585
REMI School of Real Estate	230-8200
Richard Daggett School of Real Estate	923-0122
Russ Goode Seminars	597-1111
Seiler School of Real Estate	808-874-3100
Servpro Industries, Inc.	615-451-0200
Shari S. Motooka-Higa	457-0156
The CE Shop, Inc.	888-827-0777
The Seminar Group	206-463-4400
UH Maui College – OCET	808-984-3231
University of Hawaii at Manoa Outreach College	956-8244
West Hawaii Association of Realtors	808-329-4874

## Prelicense Schools

Abe Lee Seminars	808-942-4472
Akahi Real Estate Network LLC	808-331-2008
All Islands Real Estate School	808-564-5170
Carol Ball School of Real Estate	808-871-8807
Coldwell Banker Pacific Properties Real Estate School	808-597-5550
Dower School of Real Estate	808-735-8838
Fahrni School of Real Estate	808-486-4166
Hawaii Institute of Real Estate (HIRE)	808-536-1211
ProSchools, Inc.	800-452-4879
Ralph Foulger's School of Real Estate	808-239-8881
REMI School of Real Estate	808-230-8200
Seiler School of Real Estate	808-874-3100
University of Hawaii at Manoa Outreach College	808-984-3231
University of Hawaii Maui College – OCET	808-956-2037
Vitousek Real Estate Schools, Inc.	808-946-0505



## State of Hawaii Real Estate Commission

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This material can be made available to individuals with special needs. Please call the Senior Real Estate Specialist at 586-2643 to submit your request.

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Real Estate Commission  
King Kalakaua Building  
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## 2012 Real Estate Commission Meeting Schedule

**Laws & Rules Review Committee – 9:00 a.m.**

**Condominium Review Committee –**

**Upon adjournment of the Laws & Rules Review**

**Committee Meeting**

**Education Review Committee –**

**Upon adjournment of the**

**Condominium Review Committee Meeting**

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

**Wednesday, August 8, 2012**

**Friday, August 24, 2012**

**Wednesday, September 12, 2012\***

**Friday, September 28, 2012**

**Wednesday, October 10, 2012**

**Friday, October 26, 2012**

**Wednesday, November 7, 2012**

**Wednesday, November 21, 2012**

**Wednesday, December 12, 2012**

**Friday, December 21, 2012**

\*The September 12, 2012 meeting will be held at 9:30 a.m. at the Hawaii Innovation Center Conference Room at University of Hawaii at Hilo.

All meetings will be held in the Queen Liliuokalani Conference Room of the King Kalakaua Building, 335 Merchant Street, First Floor.

*Meeting dates, locations and times are subject to change without notice. Please visit the Commission's web-site at [www.hawaii.gov/hirec](http://www.hawaii.gov/hirec) or call the Real Estate Commission Office at (808) 586-2643 to confirm the dates, times and locations of the meetings. This material can be made available to individuals with special needs. Please contact the Executive Officer at (808) 586-2643 to submit your request.*