School Files

Hawaii Real Estate Commission July 2010 http://www.hawaii.gov/hirec

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2010 LEGISLATION

A brief summary of some of the bills and acts from the 2010 legislative session appears below. The summaries are not intended to be an exhaustive list or to cover all provisions of the bills and acts. Complete information is available at www.capitol.hawaii.gov. Bills without act numbers are awaiting final decision by the Governor.

Additionally, summaries of legislative action that may be of interest to real estate licensees are included in the Commission's mandatory core course, Core B 2010, along with the module, "Don't Discriminate: Fair Housing in Diverse Communities."

ACT 9 SB 2602 HD1, Relating to real estate brokers and salespersons – continuing education

Increases the continuing education requirement for real estate licensees from 10 hours to at least 20 hours per biennium, effective January 1, 2011. Promotes professionalism and consumer protection. Rejected Senate's proposal that required a high school diploma or equivalent for new licensees.

The Governor signed the bill on March 23, 2010.

ACT 11 SB 2699 SD1, Relating to restoration time limits for licensees

Establishes a 5-year time limit, from the date of forfeiture, for individual real estate brokers and salespersons to apply for restoration of their license. Provides for automatic termination of a broker license issued to any person other than a natural person if an application for restoration is not filed within one year of forfeiture. This Act affects only forfeited, not inactive licenses.

Previously, there was no time limit for the restoration of individual real estate licenses.

The governor signed the bill on April 1, 2010.

Act 49 SB 2921 SD1 HD1, Relating to escrow depositories – real properties

Requires a Hawaii license from the Commissioner of Financial Institutions to act as an escrow depository with respect to transactions involving property in Hawaii. This will make all escrow entities handling Hawaii real property subject to Hawaii regulations, create uniformity and provide a clear course of action for Hawaii residents seeking assistance or redress from an escrow company dealing with Hawaii property.

The Governor signed the bill on April 23, 2010, and the effective date is July 1, 2010.

HB 1212 HD1 SD1 CD 1, Relating to public documents; privacy

Protects from public disclosure, as part of an inquiry into an individual's fitness to be granted or to retain a license, one's record of unresolved complaints. Complaints that have been resolved, which include those where warning letters may have been issued and other intermediary actions taken before sanctions incurred, are not considered a significant privacy interest subject to protection and will be disclosed via DCCA's website. The bill has a sunset date of July 1, 2013.

Act 84 SB 2603 SD 2 HD2 CD1, Relating to mortgage licensing

Brings the Hawaii mortgage loan originator licensing laws into full compliance with the federal Secure and Fair Enforcement (SAFE) for Mortgage Licensing Act of 2008, which increases uniformity, reduces regulatory burden, enhances consumer protection and reduces fraud by encouraging states to regulate the mortgage industry.

The bill deals with, among other things, licensing of mortgage brokers and solicitors, setting the Mortgage Loan Recovery Fund fee for branch offices of loan originators, the amounts of license application, renewal and other related fees and the transitioning from one law to another and from one division to another (from DCCA's Professional and Vocational Licensing Division to Division of Financial Institutions)

The Governor signed this bill on May 7, 2010.

Act 36 SB 2910 HD1, Relating to residential real property, mortgage foreclosure

Provides consumer protection by prohibiting a foreclosing mortgagee from requiring that a buyer purchase owner's title insurance or escrow services from a particular vendor as a condition of sale. Applies only to foreclosure of residential property improved by four or fewer units. Violators of the law shall be liable to buyers in an amount equal to three times the charges incurred in the purchase of the title insurance policy or escrow services.

The Governor signed this bill on April 19, 2010, and the effective date is July 1, 2010.

Act 53 HB 2197 HD1 SD1, Relating to condominiums; solar energy; wind energy

Gives boards of directors of condominium associations the authority to install or allow installation of solar or wind energy devices on common elements under appropriate circumstances to reduce Hawaii's dependence on fossil fuel energy. However, devices cannot be installed on limited common elements without owners' consent, cannot be a structural alteration

that constitutes a material change of plans, and cannot directly, specially and adversely affect an individual non-consenting unit owner in a manner not common to apartment owners as a whole.

The Governor signed this bill on April 23, 2010.

Act 44 HB 1927 HD1 SD1, Relating to owner-builders
Amends the owner-builder law (Hawaii Revised Statutes, Chapter 444, Contractors) by: (1) Allowing an exemption for the sale or lease of a property by an owner-builder prior to the expiration of the one-year prohibition period in the event of hardship; (2) Defining when a construction or improvement project is completed; (3) Exempting improvements pursuant to an approved building permit where the estimated valuation as reflected in the building permit is less than $10,000; (4) Establishing fines for the failure of an owner-builder to comply with the requirements set forth in the disclosure statement provided to the owner-builder by the county.

The Governor signed this bill on April 21, 2010, and its effective date is July 1, 2010.

Act 91 SB 2643 SD1 HD1 CD1, Relating to general excise tax

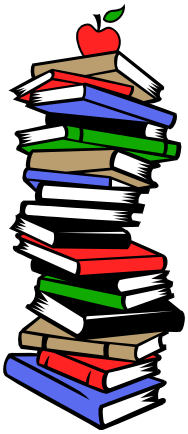
Extends the exemption on GET for condominium common expenses paid by managers, submanagers and suboperators from December 31, 2010 to December 31, 2014, and clarifies that the annual cap of $400,000 imposed by Act 196 SL 2009 applies to the aggregate tax liability, not gross receipts. Exemption also applies to hotel operators and timeshare associations.

The Governor signed this bill on May 11, 2010.

Act 21 HB 2596, Relating to income tax credits

Clarifies that refundable tax credits must be used first, followed by nonrefundable tax credits. Thus, in offsetting a taxpayer's income tax liability, tax credits that may be refunded or paid to a taxpayer who has no tax liability shall be used first, followed by nonrefundable tax credits that may be used against taxes in subsequent years until exhausted. This Act, which was signed on April 14, 2010, is expected to save $17 million and applies to all tax years beginning January 1, 2010.

CORE B 2010 IS READY



Train the Trainer

All Continuing Education Providers wishing to offer the Commission's mandatory core course, part B, need to have their continuing education instructors attend a Train the Trainer session for "Core B." Two sessions were offered on June 7 and June 10, 2010. From now on, any instructor wishing to teach Core B must view the DVD of the Train the Trainer session, in a proctored setting. All the local boards of REALTORS® will have a DVD available for viewing. Upon completion of the viewing of the Train the Trainer DVD, the Board must forward written notification on a form provided by the Commission (which the boards will have) that the individual completed viewing the Train the Trainer DVD. All Continuing Education Providers who sent instructors to attend the Train the Trainer session, are provided with the Core B materials via email.

Online Version of CORE B

Continuing Education Providers wishing to offer Core B in an online format may contact ProSchools, Inc., Deanne Gillock (deanneg@proschools.com) to set-up the online access for the course. ProSchools will provide written notification to the Commission of the names of the Continuing Education Providers who have set-up the online access. The online version of Core B will be added to the provider's roster of subjects in the database.

CORE A and CORE B Availability

Core B will be available in both a live classroom version and an online version through December 31, 2010. Effective January 1, 2011, Core B will no longer be available in a live classroom format, and will only be available in an online format.

The online versions of Core A and Core B, 2009-2010, will both be available until May 31, 2011, for those licensees wishing to restore or reactivate their real estate license. From June 1, 2011, those individuals wishing to restore or reactivate their real estate license must take 12 hours of continuing education elective courses, as the 2009-2010 core course will no longer be available.

Remember, the core course may NOT be used as a "make-up" course for licensees restoring or reactivating their license.

CONTINUING EDUCATION

With the use of the Commission's Online Real Estate Continuing Education System ("CE Online System"), which debuted August 2009, Hawaii Administrative Rules, section 16-99-95 Duplicate continuing education hours is now being enforced. The data input into the CE Online System goes back to 1995. From 1995 forward, licensees may no longer take the same continuing education elective course for credit. The licensee may take the course any number of times, but may receive credit for the course only once. Class rosters must be created by the CE provider AS LICENSEES REGISTER for the course. The CE provider will be informed immediately whether or not the licensee has taken the course previously, and therefore, will not be able to register the licensee for the same course for continuing education credit.

Course updates should be made by the **course author** whenever and where applicable to course materials. These changes should be submitted to the Real Estate Branch for inclusion in the course file. Law updates to the subject matter of a continuing education course are NOT considered material changes to the course content.

CE Providers – here is a summary of how to go about obtaining courses for your own course roster to offer to licensees.

CE Elective Course

It is the author/owner of the CE course that is responsible to certify his or her course and submit the appropriate non-refundable application fee, and to recertify the course for the new biennium, if so desired. Normally, the CE Elective Course application is submitted naming a specific CE Provider on the application. Once this particular CE Elective Course application is approved by the Commission's Education Review Committee (ERC), and a different, registered CE Provider would like to also offer the same course, this CE Provider will:

1) Submit written permission from the author/owner of the course which states the CE Provider has permission to offer the course, the specific offering dates should be noted, and the letter must be signed by the author/owner.
2) Submit a completed "Written Authorization Form" signed by the appropriate CE Provider administrator or staff person, which lists the course(s) being offered, and the dates of offering.
3) When items #1 and #2 above are received, REB staff will input the course as a "subject" into the CE Online System's database under that CE Provider.
4) No CE Elective Course application and application fee is necessary. (Note: this procedure is subject to review and may change in the future)

Nationally Certified or Association of Real Estate License Law Officials (ARELLO) Certified Course

To use this application, the course must be a nationally-certified or ARELLO-certified course, and the verifying documentation must be included with the course application and fee. The course must be taught by a nationally certified instructor, or the course PROVIDER must also be ARELLO-certified. ARELLO-certification of CE providers and instructors involves time and money. Most of our CE Providers are NOT ARELLO-certified.

If one of these nationally-certified or ARELLO-certified courses is brought in by, for example, the Hawaii Association of REALTORS®, and is certified for CE here, and a different CE Provider would like to offer this course:

1) The CE Provider must obtain written permission from the national organization or ARELLO to offer the course.
2) The CE Provider must submit the CE ELECTIVE COURSE APPLICATION and the non-refundable APPLICATION FEE.
3) REB staff will approve the course application and input the course into the CE Online System under that CE Provider.

The above process also applies to Dearborn Real Estate courses, as all Dearborn real estate continuing education courses are ARELLO-certified.

The local Boards of REALTORS® are **not** considered affiliates of the National Association of REALTORS®, and therefore, must provide the completed Continuing Education Elective Course application and the applicable course fee, along with written authorization from the author/owner to offer the course.

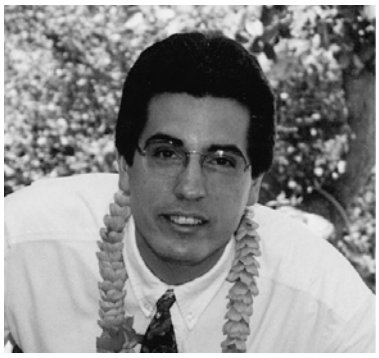
	Written authorization to offer course from author/owner of course	Continuing Education Elective Course Application	Nationally or ARELLO Certified Course Application	Application Fee	
				$150/3 hours	$25/3 hours
New Elective Course		**X** Submitted by author/owner		**X**	
Elective Course previously certified by author/owner	**X**				
Nationally or ARELLO Certified Course (taught by a nationally certified instructor certified by the NAR or its affiliates)	**X**		**X**		**X**
Nationally or ARELLO Certified Course (taught by a nationally certified instructor certified by BOMA, CAI or national organization approved by the Commission)	**X**		**X**		**X**
Nationally or ARELLO Certified Course and Provider certified by ARELLO	**X**		**X**		**X**
Nationally or ARELLO Certified Course (***NOT*** taught or provided by a nationally or ARELLO certified instructor or provider)	**X**	**X**		**X**	

FRANCES GENDRANO REAPPOINTED

Frances Allison Torre Gendrano was reappointed to a second term as a Commissioner, O'ahu, effective July 1, 2010. She is the principal broker of KFG Properties, Inc. She has served as the vice-chair of the Commission's Education Review Committee, and was most recently the vice-chair of the Commission's Laws and Rules Review Committee.

She is a graduate of Punahou School and Boston College, Boston, MA, where she received a B.S. in Biology.

SCOTT SHERLEY is NEWEST MEMBER of the COMMISSION



Scott A. Sherley is the newest member of the Real Estate Commission, representing the Big Island. He is a broker-in-charge with ERA Pacific Properties and has been involved in real estate since 1985. His appointment is effective July 1, 2010.

Mr. Sherley was the 2004 President of the Hawaii Association of REALTORS®. He also served as President of the REALTORS® Association of Maui in 1999. He is active in the continuing education arena, having authored several continuing education courses previously approved by the Commission, and taught courses dealing with the topics of fair housing, property management, and condominium ownership.

Mr. Sherley is currently the President of the East Hawaii Chapter of the National Association of Residential Property Managers (NARPM), and is active on various committees with the Hawaii Island Board of REALTORS®. He also served on the Commission's Adhoc Committee on Condominium Education and Research. Mr. Sherley is a member of the Community Associations Institute (CAI) and the Real Estate Educators Association (REEA).

Originally from Maui, Mr. Sherley relocated to Pahoa, on the Big Island, in 2006, with his wife, Penny. He is a graduate of the Doris Todd Christian Academy, Paia, Maui, 1983.

ONLINE CE SYSTEM REMINDERS

1) Be sure to double-check the class rosters PRIOR to submitting them to the Real Estate Branch. Make sure all students attending are listed on the roster.

2) Verify whether each registered student may receive CE credit for the course they are signed up for BEFORE you admit them to the class.

3) Click the "more" button in the bottom right corner of the CE history screen to see all of the CE courses the licensee has taken previously. The records go back to only 1995.

4) If a licensee is restoring or reactivating his or her license, please be sure to mark the courses as "make-up" for the PRIOR biennium. However, please remember, the core course may NOT be used as a "make-up" course for licensees restoring or reactivating their license.

5) If offering multiple sessions of the same course, check to see you are entering the student in the correct session, and not another one.

JULY – DECEMBER 2010 - 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 Education Review Committee Meeting, which is upon the adjournment of the Laws & Rules Review Committee Meeting, which convenes at 9:00 a.m.	**Real Estate Commission 9:00 a.m.**
Wednesday, July 14, 2010	Friday, July 30, 2010 ***(1:00 p.m.)***
Wednesday, August 11, 2010	Thursday, August 26, 2010
Wednesday, September 8, 2010	Thursday, September 23, 2010
Wednesday, October 13, 2010	Thursday, October 28, 2010
Wednesday, November 10, 2010	Wednesday, November 24, 2010
Wednesday, December 8, 2010	Thursday, December 16, 2010

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 website at 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.

Commissioners:

Trudy I. Nishihara, Chair
Real Estate Commission

Stanley M. Kuriyama, Vice Chair
Real Estate Commission

Carol Mae A. Ball, Chair
Education Review Committee

Frances T. Gendrano, Chair
Laws and Rules Review Committee

Walter Harvey, Vice Chair
Laws and Rules Review Committee

Michele Sunahara Loudermilk, Chair
Condominium Review Committee

Scott A. Sherley, Vice Chair
Education Review Committee

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