

# School Files

Hawaii Real Estate Commission

April 2015

[www.hawaii.gov/hirec](http://www.hawaii.gov/hirec)

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## **PROPOSED RULE CHANGES ARE MOVING ALONG**

The last time Hawaii Administrative Rules (HAR), Chapter 99, “Real Estate Brokers and Salespersons”, was amended was in 2001 via then Lt. Governor Mazie Hirono’s “Slice Waste and Tape” (SWAT) initiative. Fourteen years later, the Real Estate Commission and real estate licensees are seeing the light at the end of the tunnel as far as the proposed rule amendments gaining final approval from the Governor.

What’s up for amendment, deletion, addition? Draft 8 of the proposed rule changes was approved for adoption at its March 2015 meeting by the Small Business Regulatory Review Board shortly after the Real Estate Commission approved Draft 8 at its monthly meeting on Friday, February 27, 2015. The proposed rules will now go to the Attorney General’s Office, and once it passes review, will head to the Governor.

Here is a sample of the proposed rule changes that may be of interest. Changes for consistency and form are not included. To view a complete draft of the proposed rule changes, go to [www.hawaii.gov/hirec](http://www.hawaii.gov/hirec). (Note: underscored material is a proposed addition to the rules. Material that is crossed through is proposed for deletion.)

§16 99 3 Conduct.

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(k) The brokerage firm shall not compensate a licensee of another brokerage firm in connection with a real estate transaction without paying directly or causing the payment to be made directly to the other brokerage firm. This requirement shall not apply in cases where the licensee or the licensee’s estate is receiving compensation from a former brokerage firm for commission earned while the licensee was affiliated with that former brokerage firm[.], regardless of whether the licensee is on inactive status or on forfeited status or deceased.

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(o) Prior to the time the principal broker or the [~~broker in charge~~] broker-in-charge is absent from the principal place of business for more than

thirty calendar days, and no other ~~[broker-in-charge]~~ broker-in-charge is registered ~~[with]~~ for the principal place of business, the principal broker shall submit to the commission a signed, written notification of the absence designating a temporary principal broker or temporary ~~[broker-in-charge]~~ broker-in-charge, who shall acknowledge the temporary designation by signing the notification. In case of prolonged illness or death where the principal broker or ~~[broker-in-charge]~~ broker-in-charge is unable to act, another broker shall be designated as the temporary principal broker or ~~[broker-in-charge]~~ broker-in-charge within thirty days of the illness or death with appropriate notification ~~[to the commission.]~~ and statement of a licensed medical doctor certifying to the commission the inability of the broker to practice. ~~[A temporary principal broker or broker in charge arrangement shall not exceed a period of six months, with the right to extend prior to expiration for another six months for good cause and with the approval of the commission.]~~

A temporary principal broker or broker-in-charge arrangement shall not exceed a period of six months unless, prior to expiration of the initial six-month period, the principal broker requests and obtains, upon a showing of good cause for such extension, approval of the commission to extend the temporary arrangement for up to an additional six months.

§16 99 4 Client's account; trust funds; properties other than funds.

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(d) Every brokerage firm shall deposit or place trust funds received into a neutral escrow depository or in a trust fund account with some bank or recognized depository, which is federally insured, by the next business day following their receipts. The neutral escrow depository shall be located in the same state where the property is located.

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§16 99 5.1 Involuntary inactive license status.

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(d) A brokerage firm's license, whether a corporation, limited liability company or partnership, shall be placed on an involuntary inactive status upon the occurrence of one or more of the following:

- (1) The principal broker's license is placed on an inactive, forfeited, suspended, revoked, or terminated status;
- (2) The brokerage firm is no longer registered with the business registration division;
- (3) The principal broker is unable to act in the case of prolonged illness or death and no temporary principal broker has been designated pursuant to section 16-993(o);
- (4) The brokerage firm has no approved place of business; and
- (5) The principal broker is absent from the place of business for more than thirty days, or moves out-of-state, and no commission approved temporary principal broker or broker-in-charge has been designated pursuant to section 16-99-3(o).

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 **Spring is here!** 



§16 99 11 Advertisement. (a) All real estate advertising and promotional materials shall prominently and conspicuously include the legal name of the brokerage firm or a trade name previously registered by the brokerage firm with the business registration division and with the commission[.] and the license number of the brokerage. The license number of the brokerage shall not be required for all advertising and promotional materials that comply with paragraph (e).

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(c) Current individual real estate licenses[~~, whether active or inactive,~~] on inactive status shall disclose the licensee's inactive status [~~as a real estate licensee~~] in all advertising and promotional material.

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(e) All advertising and promotional materials that refer to the individual licensee's name, including but not limited to business cards, shall:

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- (2) Identify the licensee with the licensee's associating or employing brokerage firm; and
- (3) [~~Specify that the licensee is a broker (B), or salesperson (S), or if a current member of the Hawaii Association of Realtors, Realtor (R) or Realtor Associate (RA).~~] Include the licensee's license number as issued by the commission.

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§16 99 37 Education equivalency. (a) The commission may grant an equivalency to the respective education requirements for applicants for the salesperson [~~and broker~~] license examinations for:

- (1) Those who hold a current license that was active within one year immediately prior to the date of application as a salesperson or broker in another state with similar or superior education requirements as determined by the commission;
- (2) Graduates of an accredited law school in the United States; [~~or~~] or
- (3) Bachelor of arts or bachelor of science degree graduates of accredited colleges and universities in the United States who have majored in real estate or business[;] .

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(b) The commission may grant an equivalency to the respective education requirements for applicants for the broker license examinations for:

- (1) Those who hold a current license that was active within one year immediately prior to the date of application as a broker in another state with similar or superior education requirements as determined by the commission; and
- (2) Graduates of an accredited law school in the United States.

§16 99 58 Faculty.

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(d) Each instructor shall initially take and pass an examination with a minimum passing score of eighty-five per cent or as prescribed by the commission and shall:

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(g) ~~[Every instructor, every three years, as a condition of recertification for each course the instructor chooses to teach, shall take and pass an instructor's exam, demonstrating the instructor's current command of the prelicense course.]~~ An instructor may not be certified if the individual has been:

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- (1) Disciplined by the commission or any state or by any licensing regulatory body for fraud, misrepresentation, or deceit in connection with the sale, purchase, exchange, or property management of any interest in real estate or for any other conduct substantially related to the practice or profession of real estate; or
- (2) Convicted of a crime which substantially relates to the profession of teaching or to the practice or profession of real estate.

§16 99 87 Definitions. As used in this subchapter:

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"Course and course offering" means a continuing education module of instruction certified by the commission, consisting of a minimum of three clock hours [.] and a maximum as the commission may determine.

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"Professional standards and practice courses" means course content relating to real estate professional development[.] that improves real estate competency of the licensee or for the benefit of the real estate consumer, or both.

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§16 99 95 Duplicate continuing education hours. Except as provided by the commission or by this subchapter, a licensee shall not take a continuing education course ~~[that is substantially similar to a course]~~ for which the licensee has already received a certificate[.] within two consecutive biennia. ~~[A continuing education provider shall not issue to a licensee a certificate for substantially the same course completed by the licensee. "Substantially similar" as used in this section means that at minimum, seventy five per cent of the course content of a course is repeated in another course offering.]~~

§16 99 96 An instructor who is a licensee. In satisfying the continuing education hours of a license period, an instructor who is a real estate licensee, may use once in any two consecutive biennium, the clock hours for each course taught[.] except the core course which may be recognized for clock hours each biennium. The one time use applies even when the instructor has taught the course more than once.

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§16 99 101 Courses not acceptable for continuing education course certification. The commission may not certify a continuing education course, or any portion thereof, which:

- (1) Does not directly relate to real estate law or real estate practice;
- (2) Is related to passing a prelicense real estate salesperson or broker exam;
- (3) Teaches general office [and business] skills, such as [typing,] word processing, basic internet skills, computer software or other technology, [speed reading, memory improvement, report writing,] personal motivation, [salesmanship, sales psychology,] and time management;
- (4) Includes sales or promotions of a product or service or other meetings held in conjunction with general real estate brokerage activity;
- (5) Is devoted to meals or refreshments;
- (6) Is less than three clock hours in duration; and
- (7) Does not meet the definition of continuing education as determined by the commission.

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§16 99 104 Criteria for certification of a continuing education instructor.

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(d) Any individual meeting the criteria for approval as a continuing education instructor, may not be certified by the provider if the individual has been:

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(3) Determined to have scored below the minimum requirements as established by \the commission, which may include a standardized student evaluation rating.

(e) The commission may require that each instructor complete an instructor's workshop as approved by the commission [or complete viewing a commission approved audio videotape of such workshop within the biennium.] prior to teaching in each biennium.

§16 99 121 Faculty

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(b) The administrator shall be responsible for:

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(5) Administering and maintaining the student evaluations; and ~~minimum rating standards of instructors~~

(6) Ensuring that instructors do not fall below minimum rating standards.

§16-99-121.1 Instructor evaluation. (a) Course providers shall implement a standardized student evaluation process as determined by the commission.

(b) Course providers shall ensure that student evaluations of instructors do not fall below the minimum rating standards as determined by the commission.

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§16-99-147.1 Condominium hotel operations. The condominium hotel operator shall operate only in areas specifically authorized by county zoning codes. The condominium project declaration and bylaws shall specifically permit transient lodging of less than thirty days



§16-99-147.2 Who may register as a condominium hotel operator. (a) Only those persons who do not hold a real estate license, either salesperson or broker, may register as a condominium hotel operator.

(b) Where an entity includes the following persons holding a real estate salesperson or broker's license, that entity may not register as a condominium hotel operator:

(1) General partner or employee of a partnership condominium hotel operator;

(2) An officer or employee of a corporation condominium hotel operator;

(3) A member of a member-managed limited liability company condominium hotel operator;

or

(4) A principal having direct management and responsibility over condominium hotel operations, including performing or facilitating the delivery of customary hotel services.

#### §16-99-148 Fidelity Bond

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(g) The fidelity bond shall not be required of an individual owner providing apartments or units for transient lodging; provided that ownership of the apartment or unit is in the individual owner's name and not in an entity's name; and provided further that the owner has no employees. Where the individual owner has an employee, the individual owner shall obtain and maintain a fidelity bond.

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§16-99-149 Client's trust funds, accounting, and records. (a) Condominium hotel operators, including condominium hotel operators who are [excluded or exempt from obtaining a real estate broker's license pursuant to section 467-30(f), HRS] precluded from holding a license as a real estate broker or real estate salesperson pursuant to 467-30(g)(2), HRS shall comply with section 16-99-4. For purposes of compliance, when the condominium hotel operator is not a real estate broker, references to broker or principal broker in section 16-99-4 shall also mean "condominium hotel operator."



## **NEW RULE-MAKING TO BEGIN AGAIN**

The Real Estate Commission will embark on ANOTHER rule-making journey shortly. While the current rule-making process is nearing an end, the Commission believes that there are many other potential amendments and updates that need to be formalized in the Hawaii Administrative Rules. Updates will be provided.





## **INFORMAL NON-BINDING INTERPRETATIONS ISSUED BY COMMISSION**

At its Friday, February 27, 2015 meeting, the Hawaii Real Estate Commission (“Commission”) issued the following informal, non-binding interpretations:

- 1) Pursuant to a written request as to whether a team name may be used in addition to identifying the licensee’s associating or employing brokerage firm, the Hawaii Real Estate Commission (“Commission”) concluded that as long as the “Team Name” is advertised in addition to and is NOT a replacement of the brokerage firm’s name, as licensed by the Commission, it meets the requirement of the rule. Hawaii Administrative Rules §16-99-11(a) provides that “all real estate advertising and promotional materials shall include the legal name of the brokerage firm or a trade name previously registered by the brokerage firm with the business registration division and with the commission.”
- 2) Pursuant to a written request as to whether a duly licensed Hawaii real estate broker may continue to act as Broker-in-Charge of a duly licensed Hawaii real estate brokerage firm from California, the Commission concluded that in order to meet the Hawaii Administrative Rules, §16-99-2 definition of broker in charge (“BIC”) as “an individual broker licensee designated by the principal broker as the broker directly in charge of and responsible to the principal broker for the real estate operations conducted at the principal place of business or a branch office” the BIC must be physically present within the state. Therefore, the BIC shall not act as a BIC from California.



## **RECERTIFYING CONTINUING EDUCATION COURSES**

Forgot to recertify that continuing education course by the end of the last biennium? If you did, and suddenly realize that you want to offer the course during the current biennium, here is what needs to happen:

1. The author/owner of the course is responsible to recertify his or her course for each biennium the course is to be offered.
2. The author/owner may name the continuing education provider(s) they are authorizing to offer their course(s) by completing the “Author/Owner Authorization to Offer Course” form, available on the Commission’s website.
3. Complete the “Recertification of Continuing Education Elective Course” application, and include the correct application fee.
4. ADD an additional \$10.00 restoration fee for each biennium that the course was not recertified. For example, if you last certified the course in the 2011-2012 biennium, and are recertifying the course in the 2015-2016 biennium, the additional restoration fee would total \$20.00. \$10 for the 2013-2014 biennium, \$10 for the 2015-2016 biennium, as the deadline to certify or recertify continuing education courses for the 2015-2016 biennium was December 31, 2014.



Here is a sample of the “Author/Owner Authorization to Offer Course” form to be completed and signed by the course author/owner, and submitted to the Real Estate Branch for processing.



STATE OF HAWAII  
 REAL ESTATE BRANCH  
 PROFESSIONAL AND VOCATIONAL LICENSING DIVISION  
 DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS  
 KING KALAKAUA BUILDING  
 335 MERCHANT STREET, ROOM 333  
 HONOLULU, HI 96813

**COURSE AUTHOR/OWNER  
 AUTHORIZATION TO OFFER COURSE**

\_\_\_\_\_  
*(Name - Course Author/Owner)*

hereby authorizes

\_\_\_\_\_  
*(Name - Continuing Education Provider)*

to offer the following Real Estate Commission certified continuing education course(s).

Course Title	Specific Offering Date(s) or If for Remainder of Current Biennium Check Box	
		<input type="checkbox"/>
		<input type="checkbox"/>
		<input type="checkbox"/>
		<input type="checkbox"/>
		<input type="checkbox"/>
		<input type="checkbox"/>

\_\_\_\_\_  
 Signature - Course Author/Owner

Date \_\_\_\_\_





## WELCOME DATHAN!



The Real Estate Branch (“REB”) welcomed Dathan Choy as a new condominium specialist on January 26, 2015. Dathan was a tax consultant with Deloitte & Touche before joining REB. He also worked as a budget analyst for the Ways and Means Committee at the 2013-2014 legislative session.

Dathan graduated from Punahou School, Honolulu, HI, and earned a Bachelors of Science degree at the University of Oregon and a Masters of Accounting at the University of Hawaii, Manoa.

In his leisure time, he swims 1.25 – 2 miles a week, enjoys cooking and trying new restaurants, watching TV and spending time with friends.

Welcome aboard, Dathan!



## WELCOME BEE!

The Real Estate Branch also extends a warm welcome to Kietsuda Soontornsatienchai, an office assistant on the real estate side of the office. Better known as “Bee”, she was previously an office assistant with the Licensing Branch, and handled real estate-related submissions.

Bee is a native of Thailand, and graduated from Siam University with a BA in English Business Communication. In her leisure time, she enjoys going to the beach, cooking, hiking, watching movies, and bbq-ing with friends!

Welcome aboard, Bee!





## 2015 REAL ESTATE COMMISSION MEETING SCHEDULE

<b>Laws &amp; Rules Review Committee – 9:00 a.m.</b>	
<b>Condominium Review Committee - Upon adjournment of the Laws &amp; Rules Review Committee Meeting</b>	<b>Real Estate Commission 9:00 a.m.</b>
<b>Education Review Committee – Upon adjournment of the Condominium Review Committee Meeting</b>	
Wednesday, April 8, 2015	Friday, April 24, 2015
Wednesday, May 13, 2015	Friday, May 29, 2015
Wednesday, June 10, 2015*	Friday, June 26, 2015
Wednesday, July 8, 2015	Friday, July 24, 2015
Wednesday, August 12, 2015	Friday, August 28, 2015
Wednesday, September 9, 2015	Friday, September 25, 2015
Wednesday, October 7, 2015	Friday, October 23, 2015
Tuesday, November 10, 2015	Wednesday, November 25, 2015
Wednesday, December 2, 2015	Friday, December 18, 2015

\*The June 10, 2015 committee meetings will be held on Kauai at a place to be determined.

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](http://www.hawaii.gov/hirec) or call the Real Estate Commission Office at 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 586-2643 to submit your request.*

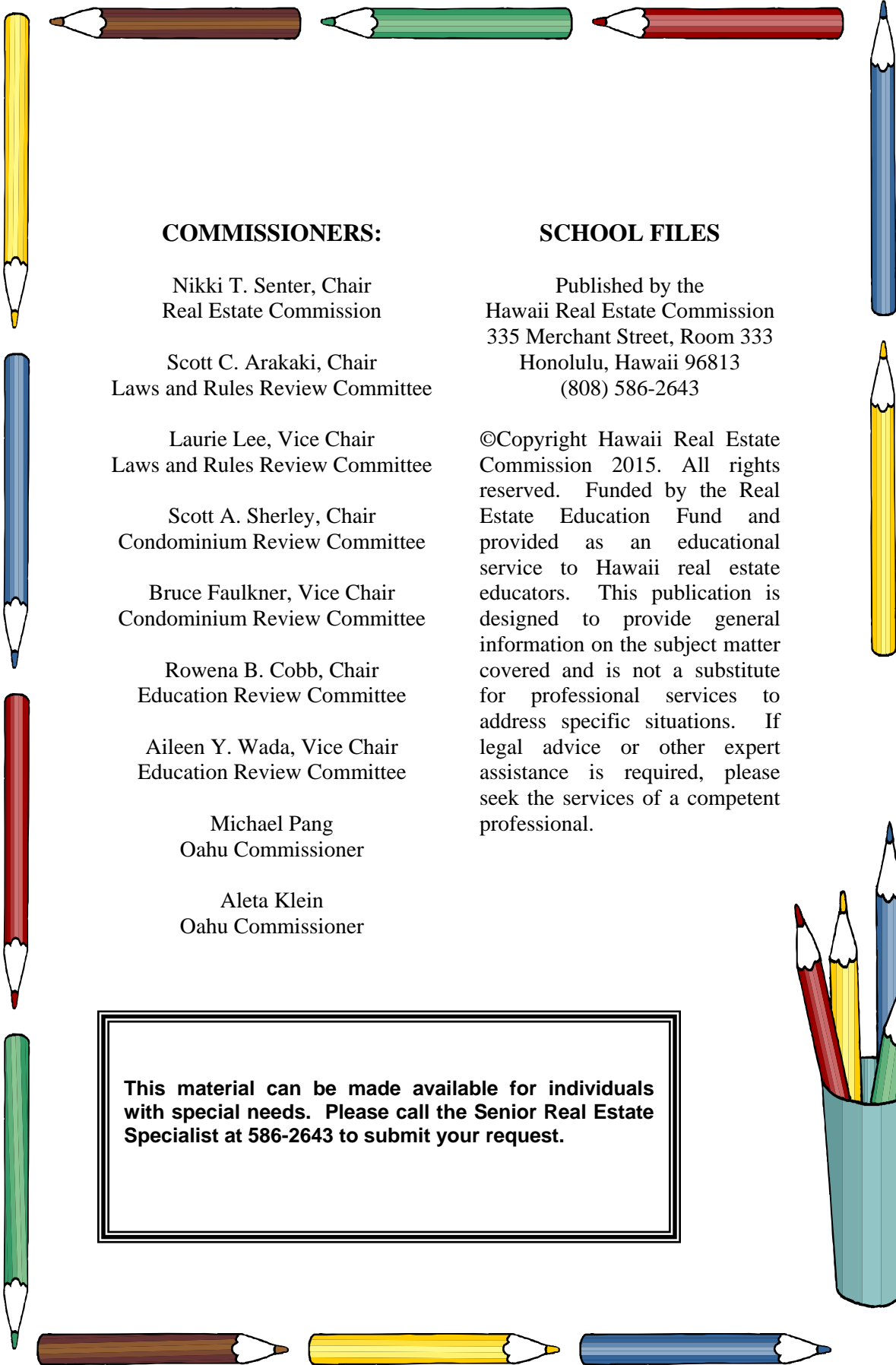
## CONTINUING EDUCATION PROVIDERS

Abe Lee Seminars  
All Islands Real Estate School  
American Dream Real Estate School, LLC  
American School of Real Estate Express, LLC  
Carol Ball School of Real Estate  
Carol M. Egan, Attorney at Law  
Coldwell Banker Pacific Properties Real Estate School  
Continuing Ed Express, LLC  
Dower School of Real Estate  
Eddie Flores Real Estate Continuing Education  
Hawaii Association of Realtors  
Hawaii Business Training  
Hawaii CCIM Chapter  
Hawaii Island Realtors  
Honolulu Board of Realtors  
Institute of Real Estate Management – Hawaii Chapter No. 34  
Institute of Real Estate Management – National International Association of Certified Home Inspectors (InterNACHI)  
Kama'aina Realty, LLC dba RP Seminars Unlimited  
Kauai Board of Realtors  
Lorman Business Center, Inc. dba Lorman Education Services  
McKissock, LP  
OnCourse Learning Corporation, dba Career WebSchool  
Pacific Real Estate Institute  
Property Merchants, Inc. dba All Islands Real Estate School  
ProSchools, Inc.  
Ralph Foulger's School of Real Estate  
Real Class, Inc.  
Realtors' Association of Maui, Inc  
REMI School of Real Estate  
Russ Goode Seminars  
Servpro Industries, Inc.  
Shari S. Motooka-Higa  
The CE Shop, Inc  
Vitousek Real Estate Schools, Inc.  
West Hawaii Association of Realtors

## PRELICENSE SCHOOLS

Abe Lee Seminars  
Akahi Real Estate Network, LLC  
All Islands Real Estate School  
American Dream Real Estate School, LLC  
Carol Ball School of Real Estate  
Coldwell Banker Pacific Properties Real Estate School  
Continuing Ed Express LLC  
Dower School of Real Estate  
Fahrni School of Real Estate  
Inet Realty  
ProSchools, Inc.  
Ralph Foulger's School of Real Estate  
REMI School of Real Estate  
Seiler School of Real Estate  
University of Hawaii Maui College – OCET Real Estate School  
Vitousek Real Estate Schools, Inc.





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Real Estate Commission

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Oahu Commissioner

Aleta Klein  
Oahu Commissioner

**SCHOOL FILES**

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