

# School Files

Hawaii Real Estate Commission

April 2016

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

## PROPOSED RULE CHANGES

### *What's in this Issue?*

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- **Broker Experience Certificate**
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There has been much activity surrounding the proposed rules, and here's what has been happening. In a nutshell, the proposed changes to Hawaii Administrative Rules, §16-99-11, on advertising, have been taken out of the rule package. This move was done because the Hawaii Association of REALTORS® and the Commission could not agree to advertising language, and to stop the passage of legislation that would have codified advertising language in Hawaii Revised Statutes, Chapter 467. The rest of the rule package sent up to the Governor's office in October, 2015, remains intact. Here is a sample of the proposed rule changes that may be of interest. Changes for consistency and form are not included. Again, it is **ONLY** the proposed changes to §16-99-11 that will be carved out of the rule amendments that will once again be forwarded to the Governor's office for review and approval. (see highlighted text below for the carved-out section)

New, proposed rule language for §16-99-11 will be developed working collaboratively with the Hawaii Association of REALTORS®. The Commission looks forward to come up with mutually agreeable language for an amendment to HAR §16-99-11, to be introduced into the rule-making process in the near future, specifically incorporating some form of "including but not limited to" language and examples of materials requiring license numbers.

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.

(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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**(The highlighted material below will be carved out of the rule amendment package that will be forwarded once again to the Governor.)**

§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).

(c) Current individual real estate licensees[, 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.

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

- (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.

§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; [øf] 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[;] .

(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.

(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:

(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:

- (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

- (b) The administrator shall be responsible for:
- (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.

§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

(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.

§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"



## Broker Experience Certificate

You will notice that the School Completion Certificate now has point #4 under "Note" in the bottom, left side of the certificate. It reads, "Candidates for the broker examination are required to apply and be granted an "Experience Certificate" prior to registering for the examination with the testing company. Failure to obtain the Experience Certificate prior to examination will result in the invalidation of the examination score pursuant to Hawaii Administrative Rules, Section 16-99-19.2."

Please remind your prelicense candidates to obtain the Broker Experience Certificate if sitting for the Hawaii real estate broker licensing exam.

### Hawaii Real Estate Commission School Completion Certificate

Certificate Number: \_\_\_\_\_

This is to certify that

Name (As it appears on Proper Identification) \_\_\_\_\_

has successfully completed a course of study conforming to the approved curriculum for Real Estate  
license as established by the Hawaii Real Estate Commission.

Accredited School \_\_\_\_\_

Principal \_\_\_\_\_

Signature \_\_\_\_\_

Expiration Date \_\_\_\_\_

**Note:**

1. This certificate expires on the date indicated above. No extensions of time will be granted.
2. Upon passing the licensing examination, candidates must submit a complete application for license within two (2) years from the date of the examination, or they will be subject to the prerequisites for licensure, including meeting all pre-licensing education requirements and reexamination.
3. Candidates with incomplete or incorrect certificates will not be permitted to take the examination.
4. Candidates for the broker examination are required to apply and be granted an "Experience Certificate" prior to registering for the examination with the testing company. Failure to obtain the Experience Certificate prior to examination will result in the invalidation of the examination score pursuant to Hawaii Administrative Rules, Section 16-99-19.2



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February 2016

## REAL ESTATE COMMISSION INFORMATIONAL NOTICE

### NEW LICENSE APPLICANTS, LICENSE RENEWAL AND CONTINUING EDUCATION REQUIREMENT

All real estate licenses must be renewed by the renewal application deadline, **November 30, 2016**. All real estate licenses expire at the end of each even-numbered year, regardless of the initial date of licensure. Submission of a complete renewal application, payment of fees, and for active licensees, completion of continuing education courses, are required by the renewal application deadline to ensure the successful renewal of licenses before January 1, 2017. Licenses not successfully renewed will be considered forfeited as of January 1, 2017 and the licensee will not be able to conduct real estate activity or receive compensation.

If you are renewing your license on an active status, you must fulfill the mandatory continuing education requirement **prior** to submitting your renewal application. For a new salesperson licensee with a new license issued in 2016, see below – SALESPERSON APPLICANTS and SALESPERSON LICENSEES. If you are not able to complete the continuing education requirement, your license may be renewed on an inactive status and you may not conduct real estate activity or receive compensation. There is a \$25.00 fee to change from inactive status to active status, in addition to completion of the continuing education requirement.

#### **SALESPERSON APPLICANTS and SALESPERSON LICENSEES:**

- If you apply for a new salesperson license before the end of 2016, you will have to pay license fees twice in 2016. In addition to the fees you pay for your new license, you will have to pay renewal fees to renew your license by November 30, 2016. Fees are not prorated and basically cover the cost of processing, reviewing, and decision on the application.
- All salesperson licensees must complete the continuing education requirement prior to the renewal application deadline to successfully renew on an active status, unless you were issued a new salesperson license during calendar year 2016 and renew your license by November 30, 2016. If you were issued a new salesperson license in calendar year 2016 and renew your license by the renewal application deadline, you will be deemed to have completed the equivalent to the continuing education requirement and will not have to complete the continuing education requirement for this license renewal.

**- CONTINUED ON REVERSE -**

- If your new salesperson license application deadline is on or after December 31, 2016 and you do not desire to be licensed as a salesperson in 2016, **and the licensing renewal application period is in effect**, you may submit your complete salesperson license application during the renewal application period and request that your new salesperson license be effective January 1, 2017. Please call for specific information on this procedure. The aforementioned continuing education equivalency will not be applicable if licensed in calendar year 2017.

#### **BROKER APPLICANTS and BROKER LICENSEES:**

- All broker applicants and broker licensees must complete the continuing education requirement prior to the renewal application deadline in order to successfully renew their salesperson or broker license on an active status.
- If your broker license application deadline is on or after December 31, 2016, and you do not desire to be licensed as a broker in 2016, **and you received the renewal application for your salesperson license**, you may submit your complete broker license application during the renewal application period (must be received by November 30, 2016) and request that your salesperson license not be renewed and the new broker license be effective January 1, 2017. This procedure does not excuse completion of continuing education requirements for active licensees. Please call for specific information on this procedure.

For more information, please contact our office at 586-2643, or visit our website at [www.hawaii.gov/hirec](http://www.hawaii.gov/hirec).

#### **THE LAW DOES NOT PROVIDE FOR: PRORATION OF FEES OR REFUND OR CREDIT OF FEES PAID; EXTENSION OF TIME TO APPLY FOR LICENSE; EXTENSION OF TIME TO RENEW A LICENSE.**

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



## REAPPOINTMENTS TO REAL ESTATE COMMISSION



Aileen Wada was reappointed as a commissioner and will serve her second term which will end on June 30, 2019. She is a broker representing O'ahu, and is a Broker-in-Charge at Locations, LLC, where she has been since 1979. Ms. Wada continues to be an active real estate broker and has received numerous awards from the brokerage including the President's Circle, Leading Edge Society Award, and Client Service Award in 2002 and 2009.



Bruce Faulkner, broker, Maui, was reappointed as a second-term commissioner, with his second term ending on June 30, 2020. Mr. Faulkner is a sole proprietor doing business as Maui HI Realty in Makawao. Born and raised on O'ahu, he relocated to Maui where he has been a long-time resident. He is a real estate licensee since 1985, and served as a past President of the REALTORS® Association of Maui, Inc. He is an avid bow and arrow hunter, and is active in the Maui community.



Scott C. Arakaki, public member from O'ahu, was reappointed to the Commission, with his second term ending on June 30, 2020. Mr. Arakaki is an attorney specializing in the areas of real estate and commercial transactions, and personal injury litigation. Mr. Arakaki received his Juris Doctor degree from the University of Notre Dame, and his Bachelor of Arts degree from the University of Hawaii – Manoa.

Mr. Arakaki is an instructor in real estate education, has co-authored real estate continuing education courses, as well as articles which have appeared in several publications.

## CONTINUING EDUCATION PROVIDERS

Abe Lee Seminars  
 All Islands Real Estate School  
 American Dream Real Estate School, LLC  
 American C.E. Institute, 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  
 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  
 USA Homeownership Foundation, Inc. dba Veterans Association of Real Estate Professionals (VAREP)  
 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.



## 2016 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>Education Review Committee - Upon adjournment of the Condominium Review Committee Meeting</b>	<b>Real Estate Commission 9:00 a.m.</b>
Wednesday, April 06, 2016	Friday, April 29, 2016
Wednesday, May 11, 2016	Friday, May 27, 2016
Wednesday, June 08, 2016	Friday, June 24, 2016
Wednesday, July 13, 2016	Friday, July 29, 2016
Wednesday, August 10, 2016	Friday, August 26, 2016
Wednesday, September 14, 2016	Friday, September 30, 2016
Wednesday, October 12, 2016	Friday, October 28, 2016
Wednesday, November 09, 2016	Wednesday, November 23, 2016
Wednesday, December 07, 2016	Friday, December 16, 2016

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.

A decorative border of colored pencils surrounds the page. At the top are three pencils: yellow, brown, and green. On the right side are two pencils: blue and yellow. At the bottom right is a cup containing several pencils: red, yellow, blue, green, and brown. At the bottom are three pencils: brown, yellow, and blue. On the left side are four pencils: blue, blue, red, and green.

## COMMISSIONERS:

Nikki T. Senter, Chair  
Real Estate Commission

Scott C. Arakaki, Chair  
Laws and Rules Review Committee

Laurie Lee, Vice Chair  
Laws and Rules Review Committee

Scott A. Sherley, Chair  
Condominium Review Committee

Bruce Faulkner, Vice Chair  
Condominium Review Committee

Rowena B. Cobb, Chair  
Education Review Committee

Aileen Y. Wada, Vice Chair  
Education Review Committee

Michael Pang  
Oahu Commissioner

Aleta Klein  
Oahu Commissioner

## SCHOOL FILES

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