

JAN 27 2016

A BILL FOR AN ACT

RELATING TO THE REAL ESTATE EDUCATION FUND.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 467-11, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§467-11 Fees; original license and biennial renewals.

4 (a) All fees for applications, registrations, certificates, and
5 any license prescribed by this chapter shall be deposited to the
6 credit of the compliance resolution fund established pursuant to
7 section 26-9(o), and all fees allocated to the real estate
8 education fund shall be as provided in rules adopted by the
9 director of commerce and consumer affairs pursuant to chapter
10 91.

11 (b) The biennial renewal fee and completed renewal
12 application shall be submitted to the department of commerce and
13 consumer affairs on or before the commission-prescribed deadline
14 and prior to the expiration date of the license. All real
15 estate licenses expire on December 31 of an even-numbered year.
16 Failure, neglect, or refusal of any duly licensed real estate
17 broker or real estate salesperson to pay the biennial renewal
18 fee and to submit a completed renewal application shall

1 constitute a forfeiture of the license as of January 1 of the
2 subsequent odd-numbered year.

3 (c) The forfeited license of an individual real estate
4 broker or real estate salesperson may be restored upon
5 compliance with the licensing renewal requirements provided by
6 law; submission of a complete written application; payment of
7 all applicable renewal fees, penalty fees, compliance resolution
8 fund fees, and, if applicable, recovery fund assessments;
9 satisfaction of the applicable requirements in sections 467-8
10 and 467-9; submission of written documentation demonstrating
11 compliance with section 467-11.5; and, for individual licensees,
12 satisfaction of one of the following as applicable:

13 (1) For a license forfeited for more than one year but less
14 than four years, the successful completion of the
15 commission-approved course or courses or passage of the
16 commission-approved examination; or

17 (2) For a license forfeited for more than four years but
18 less than five years, the successful passage of the
19 commission-approved examination.

20 (d) The license of any individual licensed as a real
21 estate broker or a real estate salesperson who fails to apply
22 for restoration of a forfeited license within five years from

1 the date of forfeiture shall be automatically terminated. Once
2 a license has been terminated pursuant to this section, the
3 individual may apply for a new salesperson license pursuant to
4 and subject to all applicable laws and rules in effect at the
5 time of application.

6 (e) The license of any real estate broker other than a
7 natural person that fails to apply for restoration of a
8 forfeited license within one year from the date of forfeiture,
9 shall be automatically terminated. Once a license has been
10 terminated pursuant to this section, the entity may apply for a
11 new license pursuant to and subject to all applicable laws and
12 rules in effect at the time of application.

13 (f) A real estate broker or real estate salesperson may
14 place that person's license on an inactive status by filing an
15 application and setting forth information prescribed or required
16 by the commission; the license shall be renewed on or before the
17 commission-prescribed deadline prior to the expiration date of
18 the license by payment of the biennial renewal fee and
19 submission of a completed renewal application. A real estate
20 broker or real estate salesperson may reactivate that person's
21 inactive license by satisfying section 467-11.5, filing an

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1 application setting forth any information as may be prescribed
2 or required by the commission, and paying the proper fee.

3 (g) The commission may refund any fee erroneously paid to
4 it under this section when the commission deems it just and
5 equitable.

6 ~~[(h) If beginning on July 1, 1987, the education fund
7 balance at the end of any fiscal biennium exceeds \$1,200,000,
8 there shall be a moratorium on renewal contributions and the
9 commission shall review and consider a reduction in the amount
10 of license fees.]~~"

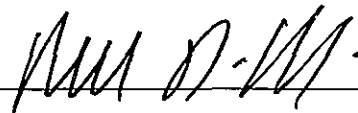
11 SECTION 2. Statutory material to be repealed is bracketed
12 and stricken.

13 SECTION 3. This Act shall take effect upon its approval.

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INTRODUCED BY:



16

BY REQUEST

S.B. NO. 2865

Report Title:

Real Estate Education Fund; Real Estate

Description:

Removes the ambiguity caused by the mandatory and discretionary language; allows the continuity of Real Estate Education Fund operations; brings the Real Estate Education Fund in line with other operational funds within the Professional and Vocational Licensing Division of the Department of Commerce and Consumer Affairs; allows the Real Estate Education Fund's budget scrutiny to occur through the rulemaking process.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

JUSTIFICATION SHEET

DEPARTMENT: Commerce and Consumer Affairs

TITLE: A BILL FOR AN ACT RELATING TO THE REAL ESTATE EDUCATION FUND.

PURPOSE: The purpose of this measure is to:

- Provide the Real Estate Commission (Commission) with flexibility and means to continue to carry out its educational mandate under section 467-19, Hawaii Revised Statutes (HRS); and
- Remove the language for a potential moratorium on the collection of real estate license renewal fees.

MEANS: Amend section 467-11, HRS.

JUSTIFICATION: The Real Estate Commission protects a reserve larger than \$1.2 million as historical evidence is now showing that fees are either insufficient, or unreliable to maintain stable financial standing to provide a set level of educational activities in the next several years.

No other operational fund within the Department of Commerce and Consumer Affairs' Professional and Vocational Licensing Division exists with an operational budget limitation.

The Commission is statutorily mandated to protect the general public in its real estate transactions. Towards this end, the Commission, among other duties, administers the Real Estate Education Fund (REEF) and expends the funds for educational purposes. Educational purposes include "those purposes to promote the advancement of education and research in the field of real estate for the benefit of the public and those licensed under the provisions of" chapter 467, HRS,

and the improvement and more efficient administration of the real estate industry. (Section 467-19(b), HRS).

The vast majority of the Commission's REEF operating budget is received at the beginning of the year following a renewal year. These renewal fees collected must sustain operations for 2 years and until the next license renewal. If the statutory ceiling is reached and a moratorium imposed, the REEF operational budget must sustain operations for 4 years and not the typical 2 years.

For nearly thirty years, the REEF lived with this procedural mandate which now has outlived its intended purpose. Since its enactment the current procedural safeguard of section 92-28, HRS, of increasing fees through the rulemaking process is currently employed by 49 other boards and programs administratively attached to the Department of Commerce and Consumer Affairs.

Impact on the public: The proposed amendment provides for the continuing financial stability, management, and educational programs funded by the REEF for the benefit and education of the general public and real estate licensees in real estate transactions.

Impact on the department and other agencies: Assist the Real Estate Branch of the Department of Commerce and Consumer Affairs in planning for and carrying out the Commission's educational responsibilities of section 467-19, HRS.

GENERAL FUNDS:	None.
OTHER FUNDS:	Real Estate Education Fund (T-905).
PPBS PROGRAM DESIGNATION:	CCA-105.

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OTHER AFFECTED
AGENCIES:

None.

EFFECTIVE DATE:

Upon approval.