

*Substituted by
HF 2250
3-14-94 (P644)*

FILED FEB 21 1994

SENATE FILE 2171

BY COMMITTEE ON STATE GOVERNMENT

(SUCCESSOR TO SSB 2066)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the qualifications of an applicant for a
2 license to sell real estate in this state.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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SENATE FILE 2171

S-5165

1 Amend Senate File 2171 as follows:
2 1. Page 1, lines 13 and 14 by striking the words
3 "and shall be a high school graduate or hold a high
4 school equivalency diploma".

By TONY BISIGNANO

S-5165 FILED MARCH 14, 1994
ADOPTED

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SF 2171

1 Section 1. Section 543B.15, Code 1993, is amended to read
2 as follows:

3 543B.15 QUALIFICATIONS.

4 1. Except as provided in section 543B.20 an applicant for
5 a real estate broker's or salesperson's license must be a
6 person whose application has not been rejected for licensure
7 in this or any other state within ~~six~~ twelve months prior to
8 the date of application, and whose real estate license has not
9 been revoked in this or any other state within two years prior
10 to date of application.

11 2. To qualify for a license as a real estate broker or
12 salesperson a person shall be eighteen years of age or over
13 and shall be a high school graduate or hold a high school
14 equivalency diploma. However, an applicant is not ineligible
15 because of citizenship, sex, race, religion, marital status,
16 or national origin, although the application form may require
17 citizenship information. ~~The real estate commission may~~
18 ~~consider the past felony record of an applicant only if the~~
19 ~~felony conviction relates directly to the practice of real~~
20 ~~estate selling. Character references may be required but~~
21 ~~shall not be obtained from licensed real estate brokers or~~
22 ~~salespersons.~~

23 3. An applicant for a real estate broker's or
24 salesperson's license who has been convicted of forgery,
25 embezzlement, obtaining money under false pretenses, theft,
26 extortion, conspiracy to defraud, or other similar offenses,
27 or of any crime involving moral turpitude in a court of
28 competent jurisdiction in this state, or in any other state,
29 territory, or district of the United States, or in any foreign
30 jurisdiction, may be denied a license by the commission, on
31 the grounds of such conviction. For purposes of this section,
32 "conviction" includes a guilty plea, deferred judgment, or
33 other finding of guilt by a court of competent jurisdiction.

34 4. An applicant for a real estate broker's or
35 salesperson's license who has had a professional license of

1 any kind revoked in this or any other jurisdiction may be
2 denied a license by the commission on the grounds of such
3 revocation.

4 5. A person who makes a false statement of material fact
5 on an application for a real estate broker's or salesperson's
6 license, or who causes to be submitted, or has been a party to
7 preparing or submitting any false application for such
8 license, may be denied a license by the commission, on the
9 grounds of such false statement or submission. A licensee
10 found to have made such a statement or who caused to be
11 submitted, or was a party to preparing or submitting any false
12 application for a real estate broker's or salesperson's
13 license, may have such license suspended or revoked by the
14 commission, on the grounds of such false statement or
15 submission.

16 6. A licensed real estate broker or salesperson shall
17 notify the commission of the licensee's conviction of an
18 offense included in subsection 3 within sixty days of such
19 conviction. The failure of the licensee to notify the
20 commission of such conviction within sixty days of the date of
21 the conviction is sufficient grounds for revocation of the
22 license.

23 7. The commission, when considering the denial or
24 revocation of a license pursuant to this section, shall
25 consider the nature of the offense; any aggravating or
26 extenuating circumstances which are documented; the time
27 lapsed since the revocation, conduct, or conviction; the
28 rehabilitation, treatment, or restitution performed by the
29 applicant or licensee; and any other factors the commission
30 deems relevant. Character references may be required but
31 shall not be obtained from licensed real estate brokers or
32 salespersons.

33 8. To qualify for a license as a real estate broker, a
34 person shall complete at least sixty contact hours of
35 commission approved real estate education within twenty-four

1 months prior to taking the broker examination. This education
2 shall be in addition to the required salesperson prelicense
3 course. The applicant shall have been a licensed real estate
4 salesperson actively engaged in real estate for a period of at
5 least twenty-four months preceding the date of application, or
6 shall have had experience substantially equal to that which a
7 licensed real estate salesperson would ordinarily receive
8 during a period of twenty-four months, whether as a former
9 broker or salesperson, a manager of real estate, or otherwise.
10 However, if the commission finds that an applicant could not
11 acquire employment as a licensed real estate salesperson
12 because of conditions existing in the area where the person
13 resides, the experience requirement of this paragraph
14 subsection may be waived for that person by the commission.

15 9. A qualified applicant for a license as a real estate
16 salesperson shall complete a commission approved short course
17 in real estate education of at least thirty hours during the
18 twelve months prior to taking the salesperson examination.

19 Sec. 2. Section 543B.29, subsection 5, Code 1993, is
20 amended to read as follows:

21 ~~5. Conviction of a felony related to the profession or~~
22 ~~occupation of the licensee or conviction of a felony that~~
23 ~~would affect the licensee's ability to practice the profession~~
24 ~~of real estate broker and salesperson~~ an offense included in
25 section 543B.15, subsection 3. For purposes of this section,
26 a conviction includes a guilty plea, deferred judgment, or
27 other finding of guilt by a court of competent jurisdiction.
28 A copy of the record of conviction, ~~or plea of guilty plea,~~
29 deferred judgment or other finding of guilt is conclusive
30 evidence.

31 Sec. 3. Section 543B.29, Code 1993, is amended by adding
32 the following new subsection:

33 NEW SUBSECTION. 11. Revocation of any professional
34 license held by the licensee in this or any other
35 jurisdiction.

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EXPLANATION

This bill relates to the qualifications necessary for an applicant to obtain a real estate broker's or salesperson's license. Section 543B.15 is amended to grant the real estate commission the discretion to deny a license to an applicant who has been convicted of certain criminal acts, who has received a deferred judgment related to certain criminal acts, or who has submitted a false application to the commission. The bill requires that a licensed real estate broker or salesperson notify the commission of the licensee's conviction for certain criminal acts. Failure of the licensee to notify the commission of such conviction is sufficient grounds for revocation of the person's license. When considering the denial or revocation of a license under this section, the commission is directed to consider the nature of the offense; any documented aggravating or extenuating circumstances; the time lapsed since the revocation, conduct, or conviction; the rehabilitation, treatment, or restitution performed by the applicant or licensee; and any other factors the commission deems relevant.

Bisignano - Chair
Kibbie
McLaren

SSB-2066
State Government

SENATE/HOUSE FILE 2171
BY (PROPOSED DEPARTMENT OF
COMMERCE/PROFESSIONAL
LICENSING AND REGULATION
DIVISION BILL)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the qualifications of an applicant for a
2 license to sell real estate in this state.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 543B.15, Code 1993, is amended to read
2 as follows:

3 543B.15 QUALIFICATIONS.

4 1. Except as provided in section 543B.20 an applicant for
5 a real estate broker's or salesperson's license must be a
6 person whose application has not been rejected for licensure
7 in this or any other state within ~~six~~ twelve months prior to
8 the date of application, and whose real estate license has not
9 been revoked in this or any other state within two years prior
10 to date of application.

11 2. To qualify for a license as a real estate broker or
12 salesperson a person shall be eighteen years of age or over
13 and shall be a high school graduate or hold a high school
14 equivalency diploma. However, an applicant is not ineligible
15 because of citizenship, sex, race, religion, marital status,
16 or national origin, although the application form may require
17 citizenship information. ~~The real estate commission may~~
18 ~~consider the past felony record of an applicant only if the~~
19 ~~felony conviction relates directly to the practice of real~~
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23 3. An applicant for a real estate broker's or
24 salesperson's license who has been convicted of forgery,
25 embezzlement, obtaining money under false pretenses, theft,
26 extortion, conspiracy to defraud, or other similar offenses,
27 or of any crime involving moral turpitude in a court of
28 competent jurisdiction in this state, or in any other state,
29 territory, or district of the United States, or in any foreign
30 jurisdiction, may be denied a license by the commission, on
31 the grounds of such conviction. For purposes of this section,
32 "conviction" includes a guilty plea, deferred judgment, or
33 other finding of guilt by a court of competent jurisdiction.

34 4. An applicant for a real estate broker's or
35 salesperson's license who has had a professional license of

1 any kind revoked in this or any other jurisdiction may be
2 denied a license by the commission on the grounds of such
3 revocation.

4 5. A person who makes a false statement of material fact
5 on an application for a real estate broker's or salesperson's
6 license, or who causes to be submitted, or has been a party to
7 preparing or submitting any false application for such
8 license, may be denied a license by the commission, on the
9 grounds of such false statement or submission. A licensee
10 found to have made such a statement or who caused to be
11 submitted, or was a party to preparing or submitting any false
12 application for a real estate broker's or salesperson's
13 license, may have such license suspended or revoked by the
14 commission, on the grounds of such false statement or
15 submission.

16 6. A licensed real estate broker or salesperson shall
17 notify the commission of the licensee's conviction of an
18 offense included in subsection 3 within sixty days of such
19 conviction. The failure of the licensee to notify the
20 commission of such conviction within sixty days of the date of
21 the conviction is sufficient grounds for revocation of the
22 license.

23 7. The commission, when considering the denial or
24 revocation of a license pursuant to this section, shall
25 consider the nature of the offense; any aggravating or
26 extenuating circumstances which are documented; the time
27 lapsed since the revocation, conduct, or conviction; the
28 rehabilitation, treatment, or restitution performed by the
29 applicant or licensee; and any other factors the commission
30 deems relevant. Character references may be required but
31 shall not be obtained from licensed real estate brokers or
32 salespersons.

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34 person shall complete at least sixty contact hours of
35 commission approved real estate education within twenty-four

1 months prior to taking the broker examination. This education
2 shall be in addition to the required salesperson prelicense
3 course. The applicant shall have been a licensed real estate
4 salesperson actively engaged in real estate for a period of at
5 least twenty-four months preceding the date of application, or
6 shall have had experience substantially equal to that which a
7 licensed real estate salesperson would ordinarily receive
8 during a period of twenty-four months, whether as a former
9 broker or salesperson, a manager of real estate, or otherwise.
10 However, if the commission finds that an applicant could not
11 acquire employment as a licensed real estate salesperson
12 because of conditions existing in the area where the person
13 resides, the experience requirement of this paragraph
14 subsection may be waived for that person by the commission.

15 9. A qualified applicant for a license as a real estate
16 salesperson shall complete a commission approved short course
17 in real estate education of at least thirty hours during the
18 twelve months prior to taking the salesperson examination.

19 Sec. 2. Section 543B.29, subsection 5, Code 1993, is
20 amended to read as follows:

21 ~~5. Conviction of a felony related to the profession or~~
22 ~~occupation of the licensee or conviction of a felony that~~
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24 ~~of real estate broker and salesperson~~ an offense included in
25 section 543B.15, subsection 3. For purposes of this section,
26 a conviction includes a guilty plea, deferred judgment, or
27 other finding of guilt by a court of competent jurisdiction.
28 A copy of the record of conviction, ~~or plea of guilty plea,~~
29 deferred judgment or other finding of guilt is conclusive
30 evidence.

31 Sec. 3. Section 543B.29, Code 1993, is amended by adding
32 the following new subsection:

33 NEW SUBSECTION. 11. Revocation of any professional
34 license held by the licensee in this or any other
35 jurisdiction.

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EXPLANATION

2 This bill relates to the qualifications necessary for an
3 applicant to obtain a real estate broker's or salesperson's
4 license. Section 543B.15 is amended to grant the real estate
5 commission the discretion to deny a license to an applicant
6 who has been convicted of certain criminal acts, who has
7 received a deferred judgment related to certain criminal acts,
8 or who has submitted a false application to the commission.
9 The bill requires that a licensed real estate broker or
10 salesperson notify the commission of the licensee's conviction
11 for certain criminal acts. Failure of the licensee to notify
12 the commission of such conviction is sufficient grounds for
13 revocation of the person's license. When considering the
14 denial or revocation of a license under this section, the
15 commission is directed to consider the nature of the offense;
16 any documented aggravating or extenuating circumstances; the
17 time lapsed since the revocation, conduct, or conviction; the
18 rehabilitation, treatment, or restitution performed by the
19 applicant or licensee; and any other factors the commission
20 deems relevant.

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BACKGROUND STATEMENT

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SUBMITTED BY THE AGENCY

23 Members of the real estate commission have long felt that
24 the statutory discretion provided to grant or deny a real
25 estate license needs to be expanded. The current law,
26 contained in section 543B.15, allows the real estate
27 commission to deny a license only if the applicant committed a
28 felony that "relates directly to the practice of real estate
29 selling."

30 This limited discretion granted to the commission is
31 unclear and does not clearly allow it to deny a license to
32 persons convicted of crimes involving violence or other forms
33 of moral turpitude.

34 The real estate commission's proposed legislation does not
35 require the commission to deny a license to a convicted felon.

1 Rather, the proposal mandates that the commission consider
2 "any aggravating or extenuating circumstances which are
3 documented; the time lapsed since the revocation, conduct, or
4 conviction; the rehabilitation, treatment, or restitution
5 performed by the applicant or licensee; and any other factors
6 the commission deems relevant." This provision is a safeguard
7 for those individuals who may have committed an offense but
8 whose present behavior is consistent with admission to the
9 real estate profession.

10 This proposed legislation is reasonable and is modeled
11 after laws in other states. The real estate commission and
12 Iowa association of realtors support this proposal and have
13 worked together in drafting the language.

14 Section 543B.29 is amended to provide that a license to
15 practice the profession of real estate broker and salesperson
16 may be revoked or suspended by the commission upon a
17 conviction of the same criminal acts for which a license may
18 be denied. For purposes of this section, conviction includes
19 a guilty plea, deferred judgment, or other finding of guilt by
20 a court of competent jurisdiction.

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