

### **543B.34 Investigations by commission licensing sanctions civil penalty.**

The real estate commission may upon its own motion and shall upon the verified complaint in writing of any person, if the complaint together with evidence, documentary or otherwise, presented in connection with the complaint makes out a prima facie case, request commission staff or any other duly authorized representative or designee to investigate the actions of any real estate broker, real estate salesperson, or other person who assumes to act in either capacity within this state, and may suspend or revoke a license issued under this chapter at any time if the licensee has by false or fraudulent representation obtained a license, or if the licensee or other person assuming to act in the capacity of a real estate broker or real estate salesperson, except for those actions exempt pursuant to section 543B.7, is found to be guilty of any of the following:

1. Making any substantial misrepresentation.
2. Making any false promise of a character likely to influence, persuade or induce.
3. Pursuing a continued and flagrant course of misrepresentation, or making of false promises through agents or salespersons or advertising or otherwise.
4. Acting for more than one party in a transaction without the knowledge of all parties for whom the licensee acts.
5. Accepting a commission or valuable consideration as a real estate broker associate or salesperson for the performance of any of the acts specified in this chapter, from any person, except the broker associate's or salesperson's employer, who must be a licensed real estate broker. However, a broker associate or salesperson may, without violating this subsection, accept a commission or valuable consideration from a corporation which is wholly owned, or owned with a spouse, by the broker associate or salesperson if the conditions described in subsection 9 are met.
6. Representing or attempting to represent a real estate broker other than the licensee's employer, without the express knowledge and consent of the employer.
7. Failing, within a reasonable time, to account for or to remit any moneys coming into the licensee's possession which belong to others.
8. Being unworthy or incompetent to act as a real estate broker or salesperson in such manner as to safeguard the interests of the public.
9. *a.* Paying a commission or other valuable consideration or any part of such commission or consideration for performing any of the acts specified in this chapter to a person who is not a licensed broker or salesperson under this chapter or who is not engaged in the real estate business in another state or foreign country, or paying a commission or other valuable consideration for performing any of the acts specified in this chapter to a licensee knowing that the licensee will pay a portion of or all of such commission or consideration to a person or party who is not licensed pursuant to this chapter, provided that the provisions of this section shall not be construed to prohibit the payment of earned commissions or consideration to any of the following:
  - (1) The estate or heirs of a deceased real estate licensee when such licensee had a valid real estate license in effect at the time the commission or consideration was earned.
  - (2) A citizen of another country acting as a referral agent if that country does not license real estate brokers and if the Iowa licensee paying the commission or consideration obtains and maintains reasonable written evidence that the payee is a citizen of the other country, is not a resident of this country, and is in the business of brokering real estate in that other country.

(3) A corporation pursuant to paragraph "b".

*b.* A broker may pay a commission to a corporation which is wholly owned, or owned with a spouse, by a salesperson or broker associate employed by or otherwise associated with the broker, if all of the following conditions are met:

(1) The corporation does not engage in real estate transactions as a third-party agent or in any other activity requiring a license under this chapter.

(2) The employing broker is not relieved of any obligation to supervise the employed licensee or any other requirement of this chapter or the rules adopted pursuant to this chapter.

(3) The employed broker associate or salesperson is not relieved from any personal civil liability for any licensed activities by interposing the corporate form.

10. Failing, within a reasonable time, to provide information requested by the commission as the result of a formal or informal complaint to the commission which would indicate a violation of this chapter.

11. Any other conduct, whether of the same or different character from that specified in this section, which demonstrates bad faith, or improper, fraudulent, or dishonest dealings which would have disqualified the licensee from securing a license under this chapter.

Any unlawful act or violation of any of the provisions of this chapter by any real estate broker associate or salesperson, employee, or partner or associate of a licensed real estate broker, is not cause for the revocation of the license of any real estate broker, unless the commission finds that the real estate broker had guilty knowledge of the unlawful act or violation.

If an investigation pursuant to this section reveals that an unlicensed person has assumed to act in the capacity of a real estate broker or real estate salesperson, the commission may issue a cease and desist order, and may impose a civil penalty of up to the greater of ten thousand dollars or ten percent of the real estate sale price.

[C31, 35, § 1905-c48; C39, § **1905.45**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 117.34; 81 Acts, ch 54, § 21]

88 Acts, ch 1158, § 23; 89 Acts, ch 29, § 1; 89 Acts, ch 83, § 24; 92 Acts, ch 1242, § 21

C93, § 543B.34

95 Acts, ch 170, §6; 99 Acts, ch 22, §1; 2004 Acts, ch 1005, §1, 2