

Senate File 2294

S-5082

1 Amend Senate File 2294 as follows:

2 1. By striking everything after the enacting clause  
3 and inserting:

4 <Section 1. Section 543B.7, subsection 5, Code  
5 2011, is amended to read as follows:

6 5. The acts of an auctioneer who is not a licensee  
7 in conducting a public sale or auction, as provided in  
8 this subsection.

9 a. The auctioneer's role must be limited to  
10 establishing the time, place, and method of an auction;  
11 advertising the auction including which shall be  
12 limited to a brief description of the property for  
13 auction and the time and place for the auction; and  
14 craying the property at the auction.

15 (1) The auctioneer shall provide in any advertising  
16 the name and address of the real estate broker who is  
17 providing brokerage services for the transaction and  
18 the name of the real estate broker, ~~or~~ attorney, or  
19 closing company who is responsible for closing the sale  
20 of the property.

21 (2) The real estate broker providing brokerage  
22 services shall be present at the time of the auction  
23 and, if found to be in violation of this subsection,  
24 shall be subject to a civil penalty of ~~two~~ one thousand  
25 five hundred dollars.

26 (3) If the auctioneer closes or attempts to close  
27 the sale of the property or otherwise engages in acts  
28 defined in sections 543B.3 and 543B.6, or paragraph  
29 "b" of this subsection, then the requirements of this  
30 chapter do apply to the auctioneer.

31 b. An auctioneer who is not a licensee is expressly  
32 prohibited from engaging in the following acts:

33 (1) Contacting the public regarding real property  
34 beyond that which is permitted under this section with  
35 the purpose of securing or facilitating the sale of  
36 such real property.

37 (2) Independently showing property or hosting open  
38 houses.

39 (3) Making material and substantive representations  
40 regarding title, financing, or closings.

41 (4) Discussing or explaining a contract, lease,  
42 agreement, or other real estate document, other than  
43 the contract for conducting the auction or other acts  
44 permitted by this subsection, with a prospective buyer,  
45 owner, or tenant of the real property, with the purpose  
46 of securing or facilitating the sale of such real  
47 property.

48 (5) Collecting or holding deposit moneys, rent,  
49 other moneys, or anything of value received from the  
50 owner of real property or from a prospective buyer

1 or tenant, other than fees, commissions, or other  
2 consideration paid in exchange for conducting the  
3 auction or other acts permitted by this subsection,  
4 with the purpose of securing or facilitating the sale  
5 of such real property.

6 (6) Providing owners of real property or  
7 prospective buyers or tenants with advice,  
8 recommendations, or suggestions regarding the sale,  
9 purchase, exchange, rental, or leasing of real  
10 property, except with regard to acts permitted under  
11 this subsection.

12 (7) Falsely representing in any manner, orally or  
13 in writing, that the auctioneer is a licensee.

14 c. If an investigation pursuant to this chapter  
15 reveals that an auctioneer has violated this subsection  
16 or has assumed to act in the capacity of a real  
17 estate broker or real estate salesperson, the real  
18 estate commission ~~may~~ shall issue a cease and desist  
19 order, and shall ~~issue a warning letter notifying the~~  
20 ~~auctioneer of the violation~~ impose a penalty of one  
21 thousand dollars for the first offense, and impose a  
22 penalty of up to the greater of ten thousand dollars  
23 or ten percent of the real estate sales price for each  
24 subsequent violation.>

25 2. Title page, by striking lines 1 through 3 and  
26 inserting <An Act relating to the authorized activities  
27 of auctioneers in conducting a public sale or auction  
28 of real estate, and providing penalty provisions.>

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