

House File 541

H-1225

1 Amend House File 541 as follows:

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

4 <DIVISION I

5 REAL ESTATE LICENSEES

6 Section 1. Section 543B.15, subsection 3, Code 2017, is
7 amended to read as follows:

8 3. *a.* An applicant for a real estate broker's or
9 salesperson's license who has been convicted of an offense
10 specified in **this subsection** shall not be considered for
11 licensure until the following time periods have elapsed
12 following completion of any applicable period of incarceration,
13 or payment of a fine or fulfillment of any other type of
14 sentence:

15 (1) For an offense which is classified as a felony, ~~two~~
16 an offense including or involving forgery, embezzlement,
17 obtaining money under false pretenses, theft, arson, extortion,
18 conspiracy to defraud, or other similar offense, or any other
19 offense involving a criminal breach of fiduciary duty, five
20 years.

21 (2) ~~Notwithstanding subparagraph (1), for offenses~~
22 ~~including or involving forgery, embezzlement, obtaining money~~
23 ~~under false pretenses, theft, arson, extortion, conspiracy to~~
24 ~~defraud, or other similar offense, any offense involving moral~~
25 ~~turpitude, or other offense involving a criminal breach of~~
26 ~~fiduciary duty, five years. For any offense not described in~~
27 subparagraph (1) involving moral turpitude, one year.

28 *b.* After expiration of the time periods specified in
29 paragraph "a", an application shall be considered by the
30 commission pursuant to **subsection 6** and may be denied on the
31 grounds of the conviction. An applicant may request a hearing
32 pursuant to **section 543B.19** in the event of a denial.

33 *c.* For purposes of **this section**, "convicted" or "conviction"
34 means a conviction for an indictable offense and includes a
35 court's acceptance of a guilty plea, deferred judgment from

1 the time of entry of the deferred judgment until the time the
2 defendant is discharged by the court without entry of judgment,
3 or other finding of guilt by a court of competent jurisdiction
4 in this state, or in any other state, territory, or district
5 of the United States, or in any foreign jurisdiction. A copy
6 of the record of conviction is conclusive evidence of such
7 conviction.

8 Sec. 2. Section 543B.16, Code 2017, is amended to read as
9 follows:

10 **543B.16 Application forms.**

11 1. Every applicant for a real estate ~~broker's~~ license shall
12 apply in writing upon blanks prepared or furnished by the
13 real estate commission. The real estate commission shall not
14 require that a recent photograph of the applicant be attached
15 to the application. The real estate commission shall only
16 require an applicant to disclose on the application criminal
17 convictions for crimes classified as indictable offenses.

18 2. Every applicant for a license shall furnish information
19 setting forth the applicant's present mailing address, ~~both of~~
20 ~~business and residence, a complete list of all former places~~
21 ~~where the applicant may have been engaged in business for a~~
22 ~~period of sixty days or more, during the last five years,~~
23 accounting for such entire period and electronic mail address.

24 3. ~~The commission shall prepare and furnish written~~
25 ~~application blanks for the salesperson's license requesting~~
26 ~~information as the commission may require. The commission~~
27 ~~shall not require that a recent photograph of the applicant be~~
28 ~~attached to the application. The application~~ Every applicant
29 for the a salesperson's license shall be accompanied by furnish
30 a written statement by the designated broker whose service the
31 applicant is about to enter recommending that the license be
32 granted to the applicant.

33 Sec. 3. Section 543B.29, subsection 4, Code 2017, is amended
34 to read as follows:

35 4. A real estate broker's or salesperson's license shall be

1 revoked following three violations of this section or section
2 543B.34 within a ~~five-year~~ three-year period.

3 Sec. 4. Section 543B.31, Code 2017, is amended to read as
4 follows:

5 **543B.31 Place of business — branch license.**

6 Every real estate broker, except as provided in section
7 543B.22, shall maintain a place of business in this state. A
8 real estate broker may maintain more than one place of business
9 within the state and a broker may be the designated broker of
10 more than one branch office within the state. If the real
11 estate broker maintains more than one place of business within
12 the state, a duplicate license shall be issued to such broker
13 for each branch office maintained. ~~Provided, that if such~~
14 ~~broker be a partnership, association, corporation, professional~~
15 ~~corporation, or professional limited liability company a~~
16 ~~duplicate shall be issued to the members or officers thereof,~~
17 ~~and a~~ A fee determined by the real estate commission in ~~each~~
18 ~~case~~ shall be paid for each duplicate license.

19 Sec. 5. Section 543B.32, Code 2017, is amended to read as
20 follows:

21 **543B.32 Change of location.**

22 Notice in writing, electronic or otherwise, shall be given
23 to the real estate commission by each licensee of any change
24 of principal business location, whereupon the commission shall
25 issue a new license for the unexpired period upon the payment
26 of a fee established by rule to cover the cost of issuing the
27 license.

28 Sec. 6. Section 543B.33, Code 2017, is amended to read as
29 follows:

30 **543B.33 Salespersons — change of employment or association.**

31 When any real estate salesperson is discharged or terminates
32 employment or association with the real estate broker by
33 whom the salesperson is employed, the real estate broker
34 shall immediately deliver, ~~or~~ by mail, or electronically submit
35 to the real estate commission a copy of the real estate

1 salesperson's license on the reverse side of which the
2 ~~employing~~ designated broker shall set out the date ~~and cause~~
3 of termination ~~of employment~~. The ~~real estate~~ designated
4 broker at the time of ~~mailing~~ submitting a copy of the real
5 estate salesperson's license to the commission shall address
6 a communication to the last known residence address of the
7 real estate salesperson stating that a copy of the license
8 has been delivered, or mailed, or electronically submitted
9 to the commission. A copy of the communication to the real
10 estate salesperson shall accompany the copy of the license
11 ~~when mailed or delivered~~ submitted to the commission. It is
12 unlawful for any real estate salesperson to perform any of the
13 acts contemplated by [this chapter](#) either directly or indirectly
14 under authority of a license from and after the date of receipt
15 of a copy of the license by the commission. The commission
16 shall, upon presentation of evidence by the salesperson that
17 the salesperson has been employed by or is associated with
18 another broker, issue another license for the balance of the
19 current license period showing each change of employment or
20 association. A fee as determined by the commission shall be
21 charged for the issuance of the license. Not more than one
22 license shall be issued to any real estate salesperson for the
23 same period of time.

24 Sec. 7. Section 543B.34, subsection 1, unnumbered paragraph
25 1, Code 2017, is amended to read as follows:

26 The real estate commission may upon its own motion and
27 shall upon the verified complaint in writing of any person,
28 if the complaint together with evidence, documentary or
29 otherwise, presented in connection with the complaint makes
30 out a prima facie case, request commission staff or any other
31 duly authorized representative or designee to investigate the
32 actions of any real estate broker, real estate salesperson, or
33 other person who assumes to act in ~~either~~ such capacity within
34 this state. The commission may assess civil penalties against
35 any person or entity, and may suspend or revoke a license

1 on the account shall be transferred quarterly to the treasurer
2 of state and transferred to the Iowa finance authority for
3 deposit in the housing trust fund established in section
4 16.181 unless there is a written agreement between the buyer
5 and seller to the contrary. The broker shall not benefit
6 from interest received on funds of others in the broker's
7 possession. A broker who is not in the practice of depositing
8 funds in a trust account shall not be required to maintain a
9 common trust account pursuant to this section.

10 2. Each broker required to maintain a trust account pursuant
11 to this section shall notify the real estate commission of
12 the name of each ~~bank, savings association, or credit union~~
13 the federally insured depository institution in which a trust
14 account is maintained and also the name of the account on forms
15 provided therefor.

16 3. Each broker required to maintain a trust account
17 pursuant to this section shall authorize the real estate
18 commission to examine each trust account and shall obtain the
19 certification of the ~~bank, savings association, or credit~~
20 ~~union~~ federally insured depository institution attesting to
21 each trust account and consenting to the examination and audit
22 of each account by a duly authorized representative of the
23 commission. The certification and consent shall be furnished
24 on forms prescribed by the commission. **This subsection** does
25 not apply to an individual farm account maintained in the
26 name of the owner or owners for the purpose of conducting
27 ongoing farm business whether it is conducted by the farm owner
28 or by an agent or farm manager when the account is part of
29 a farm management agreement between the owner and agent or
30 manager. **This subsection** also does not apply to an individual
31 property management account maintained in the name of the
32 owner or owners for the purpose of conducting ongoing property
33 management whether it is conducted by the property owner or
34 by an agent or manager when the account is part of a property
35 management agreement between the owner and agent or manager.

1 4. Each broker required to maintain a trust account pursuant
2 to this section shall only deposit trust funds ~~received on~~
3 ~~real estate or business opportunity transactions~~ as directed
4 by the principal of a transaction constituting dealing in real
5 estate as defined in [section 543B.6](#) in the common trust account
6 and shall not commingle the broker's personal funds or other
7 funds in the trust account with the exception that a broker may
8 deposit and keep a sum not to exceed ~~five hundred~~ one thousand
9 dollars in the account from the broker's personal funds, which
10 sum shall be specifically identified and deposited to cover
11 bank service charges relating to the trust account.

12 5. A broker may maintain more than one trust account
13 provided the commission is advised of said account as specified
14 in [subsections 2 and 3](#) above.

15 6. The commission shall verify on a test basis, a
16 random sampling of the brokers, corporations, professional
17 corporations, professional limited liability companies,
18 and partnerships for their trust account compliance. The
19 commission may upon reasonable cause, or as a part of or after
20 an investigation, request or order a special report.

21 7. The examination of a trust account shall be conducted by
22 the commission or the commission's authorized representative.

23 8. The commission shall adopt rules to ensure
24 implementation of [this section](#).

25 Sec. 11. Section 543B.53, Code 2017, is amended to read as
26 follows:

27 **543B.53 Application of chapter.**

28 The provisions of [this chapter](#) which require successful
29 completion of a real estate education course before being
30 licensed as a real estate salesperson shall not apply to
31 ~~persons who hold real estate salesperson's licenses on July 1,~~
32 ~~1976 or to the issuance of new licenses to these persons under~~
33 ~~the provisions of~~ pursuant to [section 543B.28](#).

34 Sec. 12. Section 543B.57, Code 2017, is amended to read as
35 follows:

1 **543B.57 Confirmation and disclosure of relationship.**

2 1. A licensee shall not represent any party or parties
3 to a transaction or otherwise as a licensee unless that
4 licensee makes a ~~disclosure to all parties to the transaction~~
5 ~~identifying which party that person represents in the~~
6 ~~transaction~~ an agency disclosure to the party or parties
7 represented by the licensee.

8 2. *a.* The disclosure required in **subsection 1** shall
9 be made by the licensee at the time the licensee provides
10 specific assistance to the client. A change in a licensee's
11 representation that makes the initial disclosure incomplete,
12 misleading, or inaccurate requires that a new disclosure be
13 made immediately.

14 *b.* A written disclosure is required to be made to the client
15 prior to an offer being made or accepted by ~~any party to a~~
16 ~~transaction.~~ The written disclosure shall be acknowledged by
17 separate signatures of ~~all parties to the transaction~~ the party
18 or parties represented by the licensee prior to any offer being
19 made or accepted by any party to a transaction.

20 *c.* For purposes of **this section**, "*specific assistance*" means
21 eliciting or accepting confidential information about a party's
22 real estate needs, motivation, or financial qualifications,
23 or eliciting or accepting information involving a proposed
24 or preliminary offer associated with specific real estate.
25 "*Specific assistance*" does not mean an open house showing,
26 preliminary conversations concerning price range, location, and
27 property styles, or responding to general factual questions
28 concerning properties which have been advertised for sale or
29 lease.

30 3. The written agency disclosure form shall contain all of
31 the following:

32 *a.* A statement of which party is the licensee's client or,
33 if the licensee is providing brokerage services to more than
34 one client as provided under **section 543B.60**, a statement of
35 all persons who are the licensee's clients.

1 delivery is electronic, acknowledgment of receipt shall be
2 provided pursuant to rules adopted by the commission. The
3 delivery may be made to the spouse of the transferee, unless
4 otherwise provided by the parties. If the disclosure statement
5 is not timely delivered, the transferee may withdraw the offer
6 or revoke the acceptance without liability, within three days
7 following personal delivery of the statement or five days
8 following electronic delivery or delivery by mail.>

LANDON of Polk