

1-24, Page 2 10

FILED JAN 23 1975

See Commerce 1/12/76

SENATE FILE 53

By GLUBA, GRIFFIN, NORPEL,
SCHWENGELS and HANSEN
(Cusack, Wulff, Harper,
Fullerton and Junker)

Passed Senate, Date 4-28-75(1127) Passed House, Date 2-25-76(665)

Vote: Ayes 35 Nays 2 Vote: Ayes 77 Nays 15

Approved 3-19-76

Re-passed Senate as amended by House
3-5-76 (p 752)
39-5

A BILL FOR

1 An Act to establish the license and qualifications of real
2 estate apprentice salesmen.

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

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1 Section 1. Section one hundred seventeen point one (117.1),
2 Code 1975, is amended to read as follows:

3 117.1 LICENSE MANDATORY. No person shall act as a real
4 estate broker ~~or~~, real estate salesman or real estate
5 apprentice salesman without first obtaining a license as
6 provided in this chapter. The word "person" as provided in
7 said chapter shall mean and include an individual, partnership,
8 association, or corporation.

9 Sec. 2. Section one hundred seventeen point two (117.2),
10 Code 1975, is amended to read as follows:

11 117.2 INDIVIDUAL LICENSES NECESSARY. No copartnership,
12 association, or corporation shall be granted a license, unless
13 every member or officer of the copartnership, association,
14 or corporation, who actively participates in the brokerage
15 business of the copartnership, association, or corporation,
16 shall hold a license as a real estate broker ~~or~~, salesman
17 or apprentice salesman, and unless every employee who acts
18 as a salesman for the copartnership, association, or
19 corporation shall hold a license as a real estate broker ~~or~~,
20 salesman or apprentice salesman. At least one member or
21 officer of each copartnership, association, or corporation
22 shall be a real estate broker.

23 Sec. 3. Section one hundred seventeen point five (117.5),
24 Code 1975, is amended by striking the section and inserting
25 in lieu thereof the following:

26 117.5 SALESMAN AND APPRENTICE SALESMAN DEFINED. As used
27 in this chapter:

28 1. "Real estate salesman" means a person employed by or
29 otherwise associated with a real estate broker, as a selling,
30 renting, or listing agent or representative of the broker.

31 2. "Real estate apprentice salesman" means a person
32 employed by or otherwise associated with a real estate broker,
33 as a selling, renting, or listing agent or representative
34 of the broker and who is subject to the educational
35 requirements provided in section one hundred seventeen point

1 fifteen (117.15) of the Code.

2 Sec. 4. Section one hundred seventeen point six (117.6),
3 Code 1975, is amended to read as follows:

4 117.6 ACTS CONSTITUTING DEALING IN REAL ESTATE. Any
5 person, partnership, association, or corporation, who, for
6 another, in consideration of compensation, by fee, commission,
7 salary, or otherwise, or with the intention or in the
8 expectation or upon the promise of receiving or collecting
9 a fee, does, offers or attempts or agrees to do, engages in
10 or offers or attempts or agrees to engage in, either directly
11 or indirectly, any single act or transaction contained in
12 the definition of a real estate broker as set out in section
13 117.3, whether said act be an incidental part of a transaction,
14 or the entire transaction, shall constitute such person,
15 partnership, association, or corporation a real estate broker
16 or, real estate salesman or real estate apprentice salesman
17 within the meaning of this chapter.

18 Sec. 5. Section one hundred seventeen point eight (117.8),
19 is amended to read as follows:

20 117.8 COMMISSION ESTABLISHED. There is established the
21 Iowa real estate commission which shall consist of three
22 members licensed under this chapter and two members not
23 licensed under this chapter and who shall represent the general
24 public. At least one of the licensed members shall be a
25 licensed real estate salesman, except that if the licensed
26 real estate salesman becomes a licensed real estate broker
27 during his term of office, he shall be allowed to complete
28 his term, but shall not be eligible for reappointment on the
29 commission as a licensed real estate salesman. A licensed
30 member shall be actively engaged in the real estate business
31 and shall have been so engaged for five years preceding his
32 appointment, the last two of which shall have been in Iowa.
33 Professional associations or societies of real estate brokers
34 or, real estate salesmen or real estate apprentice salesmen
35 may recommend the names of potential commission members to

1 the governor, but the governor shall not be bound by their
2 recommendations. A commission member shall not be required
3 to be a member of any professional association or society
4 composed of real estate brokers or salesmen. Commissioners
5 shall be appointed by the governor subject to the approval
6 of two-thirds of the members of the senate. Appointments
7 shall be for three-year terms and shall commence on July 4
8 first of the year in which the appointment is made. A
9 commissioner shall serve no more than three terms or nine
10 years, whichever is less. No more than one commissioner shall
11 be appointed from a county. A commissioner shall not hold
12 any other elective or appointive state or federal office.
13 Vacancies shall be filled for the unexpired term by appointment
14 of the governor and shall be subject to senate confirmation.
15 A majority of the commissioners shall constitute a quorum.

16 Sec. 6. Section one hundred seventeen point fifteen
17 (117.15), Code 1975, is amended to read as follows:

18 117.15 QUALIFICATIONS. Except as provided in section
19 117.20 an applicant for a real estate broker ~~or~~, salesman's
20 or apprentice salesman's license must be a person whose
21 application has not been rejected for licensure in this or
22 any other state within six months prior to the date of
23 application, or whose real estate license has not been revoked
24 in this or any other state within two years prior to date
25 of application.

26 Every applicant for a license as a real estate broker ~~or~~,
27 salesman or apprentice salesman shall be of the age of eighteen
28 years or over. Provided, however, an applicant shall not
29 be ineligible because of citizenship, sex, race, religion,
30 marital status, or national origin, although the application
31 form may require citizenship information. The commission
32 may consider the past felony record of an applicant only if
33 the felony conviction relates directly to the practice of
34 real estate selling. Character references may be required
35 but shall not be obtained from licensed real estate brokers

1 or, salesmen or apprentice salesmen.

2 A qualified applicant for a license as a real estate
3 apprentice salesman who successfully passes the required
4 written examination shall be issued a real estate apprentice
5 salesman's license which shall expire on the last day of the
6 twelfth calendar month following the month in which the license
7 is issued. Each real estate apprentice salesman who has
8 completed or shall have successfully completed a commission
9 approved short course in real estate education of not less
10 than thirty hours at a facility approved by the commission
11 shall be issued a real estate salesman's license for the
12 remainder of the year on payment of the appropriate fee and
13 return of his unexpired real estate apprentice salesman's
14 license. If a qualified applicant successfully completes
15 a commission approved short course in real estate education
16 of not less than thirty hours at a facility approved by the
17 commission and subsequently successfully passes the required
18 examination, the completion of the short course shall be
19 credited toward completion of requirements of a real estate
20 apprentice salesman to become a real estate salesman. In
21 the event that a real estate apprentice salesman should not
22 successfully complete the thirty-hour course within the twelve-
23 month period of licensure as a real estate apprentice salesman,
24 he shall not be eligible to reapply for a real estate
25 apprentice salesman's license until six months have elapsed.

26 Every applicant for a license as a real estate broker shall
27 have been a licensed real estate salesman for a period of
28 at least twelve months preceding the date of application;
29 or he shall have had experience substantially equal to that
30 which a licensed real estate salesman would ordinarily receive
31 during a period of twelve months, whether as a former broker
32 or salesman, a manager of real estate, or otherwise.
33 Notwithstanding the foregoing provisions, if the commission
34 shall find that any applicant could not acquire employment
35 as a licensed real estate salesman because of conditions

1 existing in the area where he resides, then, the foregoing
2 provisions shall be waived by the commission.

3 Sec. 7. Section one hundred seventeen point sixteen
4 (117.16), unnumbered paragraph three (3), Code 1975, is amended
5 to read as follows:

6 The commission shall prepare and furnish written application
7 blanks for salesman's license and for apprentice salesman's
8 license, to contain request for such information as the
9 commission may require. The commission shall not require
10 that a recent photograph of the applicant be attached to the
11 application. The application for both the salesman's license
12 and for the apprentice salesman's license shall be accompanied
13 by a written statement by the broker in whose service he is
14 about to enter recommending that the license be granted to
15 the applicant.

16 Sec. 8. Section one hundred seventeen point twenty
17 (117.20), Code 1975, is amended to read as follows:

18 117.20 WRITTEN EXAMINATION. Examinations for registration
19 shall be given as often as deemed necessary by the board,
20 but no less than one time per year. Each applicant for a
21 license must pass a written examination authorized by the
22 commission and administered by the commission or persons
23 designated by the commission. The examination shall be of
24 scope and wording sufficient in the judgment of the commission
25 to establish the competency of the applicant to act as a real
26 estate broker ~~or~~, salesman or apprentice salesman in such
27 manner as to protect the interests of the public. An
28 examination for a real estate broker shall be of a more
29 exacting nature than that for a real estate apprentice salesman
30 and require higher standards of knowledge of real estate.
31 All examinations in theory shall be in writing and the identity
32 of the person taking the examination shall be concealed until
33 after the examination papers have been graded. For
34 examinations in practice, the identity of the person taking
35 the examination shall also be concealed as far as possible.

1 A person who fails to pass either written examination once
2 may take the examination at the next scheduled time.
3 Thereafter, the applicant shall be allowed to take the
4 examination at the discretion of the commission. An applicant
5 who has failed either examination may request in writing
6 information from the commission concerning his examination
7 grade and subject areas or questions which he failed to answer
8 correctly, except that if the commission administers a uniform,
9 standardized examination, the commission shall only be required
10 to provide the examination grade and such other information
11 concerning the applicant's examination results which are
12 available to the commission.

13 Sec. 9. Section one hundred seventeen point twenty-one
14 (117.21), Code 1975, is amended to read as follows:

15 117.21 NONRESIDENT LICENSE. A nonresident of this state
16 may be licensed as a real estate broker, ~~or~~ a real estate
17 salesman, or a real estate apprentice salesman, upon complying
18 with all requirements of law and with all the provisions and
19 conditions of this chapter relative to resident brokers and,
20 salesmen, and apprentice salesmen, and the filing by the
21 applicant with the commission of a certification from the
22 state of original licensure signed by the duly qualified and
23 authorized official or officials of such state that the
24 applicant is there currently licensed, that no charges against
25 the applicant are there pending, and that applicant's record
26 in such state justifies the issuance of a license to such
27 applicant in Iowa. The commission may waive the requirement
28 of an examination in the case of a nonresident broker who
29 is licensed under the laws of a state having similar
30 requirements and where similar recognition and courtesies
31 may be extended to licensed real estate brokers and, salesmen
32 and apprentice salesmen of this state.

33 Sec. 10. Section one hundred seventeen point twenty-two
34 (117.22), Code 1975, is amended to read as follows:

35 117.22 NONRESIDENT'S PLACE OF BUSINESS. A nonresident

1 to whom a license is issued upon compliance with all the other
2 requirements of law and provisions of this chapter, shall
3 not be required to maintain a definite place of business
4 within this state. Provided, that such nonresident, if a
5 broker, shall maintain an active place of business within
6 the state of his domicile, and provided further, that the
7 privilege of so submitting a certification of licensure
8 certified to by the qualified and authorized official or
9 officials of the state of original licensure, in lieu of the
10 recommendations and statements otherwise required, shall only
11 apply to licensed real estate brokers and, real estate salesmen
12 and real estate apprentice salesmen of those states under
13 the laws of which similar recognition and courtesies are
14 extended to licensed real estate brokers and, real estate
15 salesmen and real estate apprentice salesmen of this state.

16 Sec. 11. Section one hundred seventeen point twenty-four
17 (117.24), Code 1975, is amended to read as follows:

18 117.24 CUSTODY OF SALESMAN'S LICENSE. The license of
19 such real estate salesman or real estate apprentice salesman
20 shall be delivered or mailed to the real estate broker by
21 whom such real estate salesman or real estate apprentice
22 salesman is employed and shall be kept in the custody and
23 control of such broker.

24 Sec. 12. Section one hundred seventeen point twenty-six
25 (117.26), Code 1975, is amended to read as follows:

26 117.26 POCKET CARDS. The commission shall prepare and
27 deliver to each licensee a pocket card, which card among other
28 things shall contain an imprint of the seal of the commission
29 and shall certify that the person whose name appears thereon
30 is a licensed real estate broker or, real estate salesman,
31 or real estate apprentice salesman, as the case may be, and
32 if it is a real estate salesman's, or real estate apprentice
33 salesman's, card it shall also contain the name and address
34 of his employer. The matter to be printed on such pocket
35 card, except as above set forth, shall be prescribed by the

1 commission.

2 Sec. 13. Section one hundred seventeen point twenty-seven
3 (117.27), Code 1975, is amended to read as follows:

4 117.27 FEES. The commission shall set annual fees for
5 examination and licensing of real estate brokers and, real
6 estate salesmen and real estate apprentice salesmen. The
7 commission shall determine the annual cost of administering
8 the examination and shall set the examination fee accordingly.
9 The commission shall set the fees for the real estate broker's
10 licenses and, for real estate salesmen's licenses and for
11 real estate apprentice salesmen's licenses based upon the
12 administrative costs of sustaining the commission. The fees
13 shall include, but shall not be limited to, the costs for:

- 14 1. Per diem, expenses, and travel for commission members.
- 15 2. Office facilities, supplies, and equipment.
- 16 3. Director, assistants, and clerical assistance.

17 Sec. 14. Section one hundred seventeen point twenty-eight
18 (117.28), Code 1975, is amended to read as follows:

19 117.28 EXPIRATION OF LICENSE. Every license, except a
20 license as a real estate apprentice salesman which shall
21 expire as provided in section six (6) of this Act, shall
22 expire annually as determined by the commission. A person
23 who fails to renew his real estate broker's or real estate
24 salesman's license by the expiration date shall be allowed
25 to do so within thirty days following its expiration, but
26 the commission may assess a reasonable penalty. The com-
27 mission shall upon the written request of the applicant on
28 forms prescribed by the commission, and payment of the annual
29 fee therefor as herein required, issue a new license for each
30 ensuing year, except as provided in section six (6) of this
31 Act, in the absence of any reason or condition which might
32 warrant the revocation of a license after a hearing as provided
33 in sections 117.34 and 117.35.

34 Sec. 15. Section one hundred seventeen point twenty-nine
35 (117.29), Code 1975, is amended to read as follows:

1 117.29 REVOCATION OF LICENSE. The revocation of a broker's
2 license shall automatically suspend every real estate
3 salesman's license and every real estate apprentice salesman's
4 license granted to any person by virtue of his employment
5 by the broker whose license has been revoked, pending a change
6 of employer and the issuance of a new license. Such new
7 license shall be issued upon payment of a fee in an amount
8 determined by the commission based upon the administrative
9 costs involved, if granted during the same year in which the
10 original license was granted.

11 Sec. 16. Section one hundred seventeen point thirty
12 (117.30), Code 1975, is amended to read as follows:

13 117.30 ACTIONS--LICENSE AS PREREQUISITE. No person,
14 copartnership, association, or corporation engaged in the
15 business or acting in the capacity of a real estate broker
16 ~~or~~, a real estate salesman or real estate apprentice salesman
17 within this state shall bring or maintain any action in the
18 courts of this state for the collection of compensation for
19 any services performed as a real estate broker or salesman
20 without alleging and proving that such person, copartnership,
21 association, or corporation was a duly licensed real estate
22 broker ~~or~~, real estate salesman or real estate apprentice
23 salesman at the time the alleged cause of action arose.

24 Sec. 17. Section one hundred seventeen point thirty-three
25 (117.33), Code 1975, is amended to read as follows:

26 117.33 SALESMEN--CHANGE OF EMPLOYMENT. When any real
27 estate salesman or real estate apprentice salesman shall be
28 discharged or shall terminate his employment with the real
29 estate broker by whom he is employed, it shall be the duty
30 of such real estate broker to immediately deliver or mail
31 by certified mail to the commission such real estate salesman's
32 or real estate apprentice salesman's license on the reverse
33 side of which the employing broker shall set out the date
34 and cause of termination of employment. The real estate
35 broker shall at the time of mailing such real estate salesman's

1 or real estate apprentice salesman's license to the commission
2 address a communication to the last known residence address
3 of such real estate salesman or real estate apprentice salesman
4 stating that his license has been delivered or mailed to the
5 commission. A copy of such communication to the real estate
6 salesman or real estate apprentice salesman shall accompany
7 the license when mailed or delivered to the commission. It
8 shall be unlawful for any real estate salesman or real estate
9 apprentice salesman to perform any of the acts contemplated
10 by this chapter either directly or indirectly under authority
11 of said license from and after the date of receipt of said
12 license by the commission; provided, that another license
13 shall not be issued to such real estate salesman or real
14 estate apprentice salesman until he shall return his former
15 pocket card to the commission or shall satisfactorily account
16 to them for the same. The commission shall upon presentation
17 of evidence by the salesman or apprentice salesman that he
18 has been employed by another broker issue another license
19 and pocket card for the balance of the current year showing
20 each change of employment. A fee as determined by the
21 commission will be charged for the issuance of such a license.
22 Not more than one license shall be issued to any real estate
23 salesman or real estate apprentice salesman for the same
24 period of time.

25 Sec. 18. Section one hundred seventeen point thirty-four
26 (117.34), Code 1975, is amended to read as follows:

27 117.34 INVESTIGATION BY COMMISSION. The commission may
28 upon its own motion and shall upon the verified complaint
29 in writing of any person, provided such complaint together
30 with evidence, documentary or otherwise presented in connection
31 therewith, makes out a prima-facie case, investigate the
32 actions of any real estate broker ~~or~~, real estate salesman,
33 real estate apprentice salesman, or any person who shall
34 assume to act in ~~either~~ such capacity within this state and
35 shall have the power to suspend or to revoke any license

1 issued under the provisions of this chapter, at any time where
2 the licensee has by false or fraudulent representation obtained
3 a license, or where the licensee in performing or attempting
4 to perform any of the acts mentioned herein is found to be
5 guilty of:

6 1. Making any substantial misrepresentation.

7 2. Making any false promise of a character likely to
8 influence, persuade or induce.

9 3. Pursuing a continued and flagrant course of
10 misrepresentation, or making of false promises through agents
11 or salesmen or advertising or otherwise.

12 4. Acting for more than one party in a transaction without
13 the knowledge of all parties for whom he acts.

14 5. Accepting a commission or valuable consideration as
15 a real estate salesman or real estate apprentice salesman
16 for the performance of any of the acts specified in this
17 chapter, from any person, except his employer, who must be
18 a licensed real estate broker.

19 6. Representing or attempting to represent a real estate
20 broker other than his employer, without the express knowledge
21 and consent of the employer.

22 7. Failing, within a reasonable time, to account for or
23 to remit any moneys coming into his possession which belong
24 to others.

25 8. Being unworthy or incompetent to act as a real estate
26 broker ~~or~~, salesman or apprentice salesman in such manner
27 as to safeguard the interests of the public.

28 9. Paying a commission or any part thereof for performing
29 any of the acts specified in this chapter to any person who
30 is not a licensed broker ~~or~~, salesman or apprentice salesman
31 under the provisions of this chapter or who is not engaged
32 in the real estate business in another state.

33 10. Failing, within a reasonable time, to provide
34 information requested by the commission as the result of a
35 formal or informal complaint to the commission which would

1 indicate a violation of this chapter.

2 11. Any other conduct, whether of the same or different
3 character from that hereinbefore specified, or demonstrates
4 such bad faith, improper, fraudulent, or dishonest dealings
5 as would have disqualified him from securing a license under
6 this chapter.

7 Any unlawful act or violation of any of the provisions
8 of this chapter by any real estate salesman, real estate
9 apprentice salesman, employee, or partnership or associate
10 of a licensed real estate broker, shall not be cause for the
11 revocation of the license of any real estate broker, partial
12 or otherwise, unless the commission finds that said employer,
13 partner, or associate had guilty knowledge thereof.

14 Sec. 19. Section one hundred seventeen point forty-six
15 (117.46), subsection one (1), Code 1975, is amended to read
16 as follows:

17 1. Each broker shall maintain a common trust account in
18 a bank for the deposit of all down payments, earnest money
19 deposits, or other trust funds received by the broker or his
20 salesmen or apprentice salesmen on behalf of his principal,
21 except that a broker acting as a salesman shall deposit these
22 funds in the common trust account of the broker for whom he
23 acts as salesman.

24 Sec. 20. APPLICATION OF ACT. The provisions of this Act
25 which require successful completion of a real estate education
26 course before being licensed as a real estate salesman shall
27 not apply to persons who hold real estate salesmen's licenses
28 on the effective date of this Act or to the issuance of new
29 licenses to these persons under the provisions of section
30 one hundred seventeen point twenty-eight (117.28) of the Code.

31 Sec. 21. The provisions of this Act shall become effective
32 January 1, 1976.

33 EXPLANATION

34 This bill provides that after January 1, 1976 persons
35 seeking to be real estate salesmen must first be licensed

1 as real estate apprentice salesmen. The apprentice license
2 is valid for 12 months during which time the apprentice
3 salesman must successfully complete an approved 30-hour real
4 estate education course. The education requirements will
5 allow for reciprocity of real estate salesmen in states
6 adjoining Iowa.

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S-3439 [REDACTED]

1 Amend Senate File 53, page 4, line 25, by in-
2 serting after the word "elapsed" the words "except
3 that the commission may waive the time requirement
4 for reapplication if the real estate apprentice
5 salesman shows just cause to the commission why the
6 thirty-hour course was not completed".

S-3439 FILED - *Adopted 4/28(1126)* BY WILLIAM E. GLUBA
APRIL 2, 1975

16

S-3450

1 Amend the Junkins amendment S-3292 to page 12 of
2 Senate File 53 in line 7 by inserting after the word
3 "examination" the words "within one year".

S-3450 FILED - *Adopted 4/28(1126)* BY LOWELL JUNKINS
APRIL 2, 1975

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S-3086

1 Amend Senate File 53, page 12, by striking lines
2 31 and 32.

S-3086 FILED - *Adopted 2/14*
FEBRUARY 12, 1975

BY WILLIAM E. GLUBA

S-3103

1 Amend Senate File 53 as follows:
2 1. Page 4, line 35, by inserting after the word
3 "salesman" the words "or apprentice salesman".
4 2. Page 12, by inserting after line 23 the follow-
5 ing section and renumbering remaining sections:
6 "Sec. _____. Chapter one hundred seventeen (117),
7 Code 1975, is amended by adding the following new
8 section:
9 NEW SECTION. Notwithstanding the provisions of
10 this chapter which relate to the licensing and
11 activities of brokers, a salesman or apprentice
12 salesman who is licensed under this chapter, or who
13 has passed the required examination and seeks to be
14 licensed under this chapter, who certifies to the
15 commission that he has attempted to obtain employ-
16 ment from at least three licensed persons, copart-
17 nerships, associations, or corporations and has been
18 unsuccessful because of conditions existing in the
19 area where the salesman or apprentice salesman
20 resides shall be granted special permission by the
21 commission to operate as a real estate broker under
22 this chapter."

S-3103 FILED AND WITHDRAWN
FEBRUARY 14, 1975

BY BERL E. PRIEBE

S-3113

1 Amend the Priebe amendment S-3103 to Senate File
2 53 in line 20 by striking the word "shall" and inserting
3 in lieu thereof the word "may".

S-3113 FILED AND ADOPTED
FEBRUARY 14, 1975

BY RAY TAYLOR

S-3116

1 Amend Senate File 53, page 4, line 25, by inserting
2 after the word "elapsed." the sentence "The provisions
3 of this paragraph shall not apply to applicants for
4 a real estate license who have taken an examination
5 prior to the effective date of this Act."

FILED AND ADOPTED, *Reconsidered and*
FEBRUARY 14, 1975 *withdrawn 7/28(1126)* BY LOWELL JUNKINS

S-3117

1 Amend Senate File 53, page 12, by inserting after
2 line 23 the following section:
3 "Sec. _____. Chapter one hundred seventeen (117),
4 Code 1975, is amended by adding the following new
5 section:

6 NEW SECTION. CONTINUING EDUCATION. In addition
7 to payment of the annual renewal fee, each real estate
8 salesman and real estate broker applying for the re-
9 newal of license shall furnish to the commission
10 satisfactory evidence that the salesman or broker has
11 completed not less than ten hours of continuing educa-
12 tion approved by the board. The continuing education
13 may include either courses conducted by an institution
14 of higher education or seminars approved by the com-
15 mission. The commission shall prescribe the subject
16 areas for continuing education.

17 The commission shall send written notice concerning
18 the continuing education requirement to each person
19 holding a valid license under this chapter.

20 If any person licensed under this chapter fails to
21 meet the annual educational requirement, the license
22 shall not be renewed. The board shall reinstate the
23 license upon the presentation of satisfactory evidence
24 of completion of the continuing education required under
25 this section and upon payment of the required fees."

S-3117 FILED AND RULED OUT OF ORDER BY ELIZABETH SHAW
FEBRUARY 14, 1975

S-3292

1 Amend Senate File 53, page 12, by inserting after
2 line 30 the following new paragraph:
3 "The provisions of this Act which require successful
4 completion of a real estate education course before
5 being licensed as a real estate apprentice salesman
6 shall not apply within six months of the effective date
7 of this Act to persons who have taken an examination
8 prior to the effective date of this Act who have not
9 successfully passed the required examination."

S-3292 FILED - *Adopted as amended* BY LOWELL JUNKINS
MARCH 10, 1975 *by 3450 4/28 (1126)*

SENATE FILE 53

S-3294

1 Amend Senate File 53, page 12, by inserting before
2 line 31 the following section:
3 "Sec. _____. The Code editor is directed to strike
4 all references to "salesman" or "salesmen" in chapter one
5 hundred seventeen (117) of the Code and insert in lieu
6 thereof the word "salesperson" or the word "salespersons",
7 whichever is applicable."

S-3294 FILED - *Adopted 4/28 (1126)* BY WILLIAM E. GLUBA
MARCH 10, 1975

SENATE FILE 53

H-5217

Amend Senate File 53 as follows:

A 2 1. Page 2, by inserting after line 17 the follow-
 Withdraw 3 ind section:
 1/23(615) 4 "Sec. _____. Section one hundred seventeen point
 5 seven (117.7), subsection three (3), Code 1975, is
 6 repealed.

B-Sub 7 2. Page 12, by striking lines 24 through 30,
 (616) 8 inclusive, and inserting in lieu thereof the follow-
 17-61 9 ing:
 10 "Sec. 20. In addition, each person possessing a
 11 license as a real estate salesman on January 1, 1976
 12 shall complete the education requirements for real
 13 estate apprentice salesmen as provided in section six
 14 (6) of this Act. and shall so inform the commission by
 15 December 31, 1977, or the license shall expire on
 16 December 31, 1977 and the person shall not be eligible
 17 for license renewal."

H-5217 FILED BY SCHROEDER of Pottawattamie
FEBRUARY 13, 1976

SENATE FILE 53

H-5219

Amend Senate File 53 as follows:

1 1. Page 2, by inserting the following new section
 2 after line 17;
 3 "Sec. _____. Section one hundred seventeen point
 4 seven (117.7), subsections 3 and 5, Code 1975, are
 5 amended to read as follows:
 6 3. Nor shall the provisions of this chapter
 7 apply to an attorney, who has completed a short
 8 course in real estate education of not less than
 9 thirty hours, pursuant to section one hundred seven-
 10 teen point fifteen (117.15) of the Code, admitted
 11 to practice in Iowa.
 12 5. The acts of an auctioneer, who has completed
 13 a short course in real estate education of not less
 14 than thirty hours pursuant to section one hundred
 15 seventeen point fifteen (117.15) of the Code, in
 16 conducting a public sale or auction."
 17

H-5219 FILED - Sub 2/25 (p. 663) BY SCHROEDER of Pottawattamie
FEBRUARY 13, 1976

SENATE FILE 53

H-5319

1 Amend Senate File 53, as amended and passed by
 2 the Senate, page 2, by striking lines 29 through
 3 32, and inserting in lieu thereof the following:
 4 "commission as a licensed real estate salesman.
 5 A licensed member shall be actively engaged in
 6 the real estate business and shall have been so
 7 engaged for five years preceding his appointment,
 8 the last two of which shall have been in Iowa this
 9 state."

H-5319 FILED - Sub 2/25 (p. 663) BY SCHROEDER of Pottawattamie
FEBRUARY 24, 1976 39-45

SENATE FILE 53

H-5220

- 1 Amend Senate File 53 as follows:
2 1. Page 2, by adding the following new section
3 after line 17:
4 "Sec. _____. Section one hundred seventeen point
5 seven (117.7), Code 1975, is amended by striking
6 subsections 3 and 5."

H-5220 FILED - *Withdrawn 2/25* BY SCHROEDER of Pottawattamie
FEBRUARY 13, 1976

SENATE FILE 53

H-5320

- 1 Amend Senate File 53, as amended and passed by
2 the Senate, as follows:
3 1. Page 8, line 4, by inserting after the word
4 "fees" the words ", except renewal fees which need
5 not be annual,".
6 2. Page 8, line 22, by striking the word
7 "annually" and inserting in lieu thereof the word
8 "~~annually~~".
9 3. Page 8, line 28, by striking the word
10 "annual" and inserting in lieu thereof the word
11 "~~annual~~".

H-5320 FILED - *Adopted 2/25* BY SCHROEDER of Pottawattamie
FEBRUARY 24, 1976 *60-26*
(p. 664)

HOUSE AMENDMENT TO SENATE FILE 53

S-5232

- 1 Amend Senate File 53, as amended and passed by
2 the Senate, as follows:
3 1. Page 8, line 4, by inserting after the word
4 "fees" the words ", except renewal fees which need
5 not be annual,".
6 2. Page 8, line 22, by striking the word
7 "annually" and inserting in lieu thereof the word
8 "~~annually~~".
9 3. Page 8, line 28, by striking the word
10 "annual" and inserting in lieu thereof the word
11 "~~annual~~".

S-5232 FILED
FEBRUARY 27, 1976

RECEIVED FROM THE HOUSE

Senate concurred 2/5

SENATE FILE 53

AN ACT

TO ESTABLISH THE LICENSE AND QUALIFICATIONS OF REAL ESTATE
APPRENTICE SALESMEN.

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

Section 1. Section one hundred seventeen point one (117.1), Code 1975, is amended to read as follows:

117.1 LICENSE MANDATORY. No person shall act as a real estate broker ~~or~~, real estate salesman or real estate apprentice salesman without first obtaining a license as provided in this chapter. The word "person" as provided in said chapter shall mean and include an individual, partnership, association, or corporation.

Sec. 2. Section one hundred seventeen point two (117.2), Code 1975, is amended to read as follows:

117.2 INDIVIDUAL LICENSES NECESSARY. No copartnership, association, or corporation shall be granted a license, unless every member or officer of the copartnership, association, or corporation, who actively participates in the brokerage business of the copartnership, association, or corporation, shall hold a license as a real estate broker ~~or~~, salesman or apprentice salesman, and unless every employee who acts as a salesman for the copartnership, association, or corporation shall hold a license as a real estate broker ~~or~~, salesman or apprentice salesman. At least one member or officer of each copartnership, association, or corporation shall be a real estate broker.

Sec. 3. Section one hundred seventeen point five (117.5), Code 1975, is amended by striking the section and inserting in lieu thereof the following:

117.5 SALESMAN AND APPRENTICE SALESMAN DEFINED. As used in this chapter:

1. "Real estate salesman" means a person employed by or otherwise associated with a real estate broker, as a selling,

renting, or listing agent or representative of the broker.

2. "Real estate apprentice salesman" means a person employed by or otherwise associated with a real estate broker, as a selling, renting, or listing agent or representative of the broker and who is subject to the educational requirements provided in section one hundred seventeen point fifteen (117.15) of the Code.

Sec. 4. Section one hundred seventeen point six (117.6), Code 1975, is amended to read as follows:

117.6 ACTS CONSTITUTING DEALING IN REAL ESTATE. Any person, partnership, association, or corporation, who, for another, in consideration of compensation, by fee, commission, salary, or otherwise, or with the intention or in the expectation or upon the promise of receiving or collecting a fee, does, offers or attempts or agrees to do, engages in or offers or attempts or agrees to engage in, either directly or indirectly, any single act or transaction contained in the definition of a real estate broker as set out in section 117.3, whether said act be an incidental part of a transaction, or the entire transaction, shall constitute such person, partnership, association, or corporation a real estate broker ~~or~~, real estate salesman or real estate apprentice salesman within the meaning of this chapter.

Sec. 5. Section one hundred seventeen point eight (117.8), Code 1975, is amended to read as follows:

117.8 COMMISSION ESTABLISHED. There is established the Iowa real estate commission which shall consist of three members licensed under this chapter and two members not licensed under this chapter and who shall represent the general public. At least one of the licensed members shall be a licensed real estate salesman, except that if the licensed real estate salesman becomes a licensed real estate broker during his term of office, he shall be allowed to complete ~~his term~~, but shall not be eligible for reappointment on the commission as a licensed real estate salesman. A licensed member shall be actively engaged in the real estate business and shall have been so engaged for five years preceding his

appointment, the last two of which shall have been in Iowa. Professional associations or societies of real estate brokers or, real estate salesmen or real estate apprentice salesmen may recommend the names of potential commission members to the governor, but the governor shall not be bound by their recommendations. A commission member shall not be required to be a member of any professional association or society composed of real estate brokers or salesmen. Commissioners shall be appointed by the governor subject to the approval of two-thirds of the members of the senate. Appointments shall be for three-year terms and shall commence on July 4 first of the year in which the appointment is made. A commissioner shall serve no more than three terms or nine years, whichever is less. No more than one commissioner shall be appointed from a county. A commissioner shall not hold any other elective or appointive state or federal office. Vacancies shall be filled for the unexpired term by appointment of the governor and shall be subject to senate confirmation. A majority of the commissioners shall constitute a quorum.

Sec. 6. Section one hundred seventeen point fifteen (117.15), Code 1975, is amended to read as follows:

117.15 QUALIFICATIONS. Except as provided in section 117.20 an applicant for a real estate broker or, salesman's or apprentice salesman's license must be a person whose application has not been rejected for licensure in this or any other state within six months prior to the date of application, or whose real estate license has not been revoked in this or any other state within two years prior to date of application.

Every applicant for a license as a real estate broker or, salesman or apprentice salesman shall be of the age of eighteen years or over. Provided, however, an applicant shall not be ineligible because of citizenship, sex, race, religion, marital status, or national origin, although the application form may require citizenship information. The commission may consider the past felony record of an applicant only if the felony conviction relates directly to the practice of

real estate selling. Character references may be required but shall not be obtained from licensed real estate brokers or, salesmen or apprentice salesmen.

A qualified applicant for a license as a real estate apprentice salesman who successfully passes the required written examination shall be issued a real estate apprentice salesman's license which shall expire on the last day of the twelfth calendar month following the month in which the license is issued. Each real estate apprentice salesman who has completed or shall have successfully completed a commission approved short course in real estate education of not less than thirty hours at a facility approved by the commission shall be issued a real estate salesman's license for the remainder of the year on payment of the appropriate fee and return of his unexpired real estate apprentice salesman's license. If a qualified applicant successfully completes a commission approved short course in real estate education of not less than thirty hours at a facility approved by the commission and subsequently successfully passes the required examination, the completion of the short course shall be credited toward completion of requirements of a real estate apprentice salesman to become a real estate salesman. In the event that a real estate apprentice salesman should not successfully complete the thirty-hour course within the twelve-month period of licensure as a real estate apprentice salesman, he shall not be eligible to reapply for a real estate apprentice salesman's license until six months have elapsed, except that the commission may waive the time requirement for reapplication if the real estate apprentice salesman shows just cause to the commission why the thirty-hour course was not completed.

Every applicant for a license as a real estate broker shall have been a licensed real estate salesman for a period of at least twelve months preceding the date of application; or he shall have had experience substantially equal to that which a licensed real estate salesman would ordinarily receive during a period of twelve months, whether as a former broker.

or salesman, a manager of real estate, or otherwise. Notwithstanding the foregoing provisions, if the commission shall find that any applicant could not acquire employment as a licensed real estate salesman because of conditions existing in the area where he resides, then, the foregoing provisions shall be waived by the commission.

Sec. 7. Section one hundred seventeen point sixteen (117.16), unnumbered paragraph three (3), Code 1975, is amended to read as follows:

The commission shall prepare and furnish written application blanks for salesman's license and for apprentice salesman's license, to contain request for such information as the commission may require. The commission shall not require that a recent photograph of the applicant be attached to the application. The application for both the salesman's license and for the apprentice salesman's license shall be accompanied by a written statement by the broker in whose service he is about to enter recommending that the license be granted to the applicant.

Sec. 8. Section one hundred seventeen point twenty (117.20), Code 1975, is amended to read as follows:

117.20 WRITTEN EXAMINATION. Examinations for registration shall be given as often as deemed necessary by the board, but no less than one time per year. Each applicant for a license must pass a written examination authorized by the commission and administered by the commission or persons designated by the commission. The examination shall be of scope and wording sufficient in the judgment of the commission to establish the competency of the applicant to act as a real estate broker ~~or~~, salesman or apprentice salesman in such manner as to protect the interests of the public. An examination for a real estate broker shall be of a more exacting nature than that for a real estate apprentice salesman and require higher standards of knowledge of real estate. All examinations in theory shall be in writing and the identity of the person taking the examination shall be concealed until after the examination papers have been graded. For

examinations in practice, the identity of the person taking the examination shall also be concealed as far as possible. A person who fails to pass either written examination once may take the examination at the next scheduled time. Thereafter, the applicant shall be allowed to take the examination at the discretion of the commission. An applicant who has failed either examination may request in writing information from the commission concerning his examination grade and subject areas or questions which he failed to answer correctly, except that if the commission administers a uniform, standardized examination, the commission shall only be required to provide the examination grade and such other information concerning the applicant's examination results which are available to the commission.

Sec. 9. Section one hundred seventeen point twenty-one (117.21), Code 1975, is amended to read as follows:

117.21 NONRESIDENT LICENSE. A nonresident of this state may be licensed as a real estate broker, ~~or~~ a real estate salesman, or a real estate apprentice salesman, upon complying with all requirements of law and with all the provisions and conditions of this chapter relative to resident brokers ~~and~~, salesmen, and apprentice salesmen, and the filing by the applicant with the commission of a certification from the state of original licensure signed by the duly qualified and authorized official or officials of such state that the applicant is there currently licensed, that no charges against the applicant are there pending, and that applicant's record in such state justifies the issuance of a license to such applicant in Iowa. The commission may waive the requirement of an examination in the case of a nonresident broker who is licensed under the laws of a state having similar requirements and where similar recognition and courtesies may be extended to licensed real estate brokers ~~and~~, salesmen and apprentice salesmen of this state.

Sec. 10. Section one hundred seventeen point twenty-two (117.22), Code 1975, is amended to read as follows:

117.22 NONRESIDENT'S PLACE OF BUSINESS. A nonresident

to whom a license is issued upon compliance with all the other requirements of law and provisions of this chapter, shall not be required to maintain a definite place of business within this state. Provided, that such nonresident, if a broker, shall maintain an active place of business within the state of his domicile, and provided further, that the privilege of so submitting a certification of licensure certified to by the qualified and authorized official or officials of the state of original licensure, in lieu of the recommendations and statements otherwise required, shall only apply to licensed real estate brokers and, real estate salesmen and real estate apprentice salesmen of those states under the laws of which similar recognition and courtesies are extended to licensed real estate brokers and, real estate salesmen and real estate apprentice salesmen of this state.

Sec. 11. Section one hundred seventeen point twenty-four (117.24), Code 1975, is amended to read as follows:

117.24 CUSTODY OF SALESMAN'S LICENSE. The license of such real estate salesman or real estate apprentice salesman shall be delivered or mailed to the real estate broker by whom such real estate salesman or real estate apprentice salesman is employed and shall be kept in the custody and control of such broker.

Sec. 12. Section one hundred seventeen point twenty-six (117.26), Code 1975, is amended to read as follows:

117.26 POCKET CARDS. The commission shall prepare and deliver to each licensee a pocket card, which card among other things shall contain an imprint of the seal of the commission and shall certify that the person whose name appears thereon is a licensed real estate broker or, real estate salesman, or real estate apprentice salesman, as the case may be, and if it is a real estate salesman's, or real estate apprentice salesman's, card it shall also contain the name and address of his employer. The matter to be printed on such pocket card, except as above set forth, shall be prescribed by the commission.

Sec. 13. Section one hundred seventeen point twenty-seven

(117.27), Code 1975, is amended to read as follows:

117.27 FEES. The commission shall set annual fees, except renewal fees which need not be annual, for examination and licensing of real estate brokers and, real estate salesmen and real estate apprentice salesmen. The commission shall determine the annual cost of administering the examination and shall set the examination fee accordingly. The commission shall set the fees for the real estate broker's licenses and, for real estate salesmen's licenses and for real estate apprentice salesmen's licenses based upon the administrative costs of sustaining the commission. The fees shall include, but shall not be limited to, the costs for:

1. Per diem, expenses, and travel for commission members.
2. Office facilities, supplies, and equipment.
3. Director, assistants, and clerical assistance.

Sec. 14. Section one hundred seventeen point twenty-eight (117.28), Code 1975, is amended to read as follows:

117.28 EXPIRATION OF LICENSE. Every license, except a license as a real estate apprentice salesman which shall expire as provided in section six (6) of this Act, shall expire annually as determined by the commission. A person who fails to renew his real estate broker's or real estate salesman's license by the expiration date shall be allowed to do so within thirty days following its expiration, but the commission may assess a reasonable penalty. The commission shall upon the written request of the applicant on forms prescribed by the commission, and payment of the annual fee therefor as herein required, issue a new license for each ensuing year, except as provided in section six (6) of this Act, in the absence of any reason or condition which might warrant the revocation of a license after a hearing as provided in sections 117.34 and 117.35.

Sec. 15. Section one hundred seventeen point twenty-nine (117.29), Code 1975, is amended to read as follows:

117.29 REVOCATION OF LICENSE. The revocation of a broker's license shall automatically suspend every real estate salesman's license and every real estate apprentice salesman's

license granted to any person by virtue of his employment by the broker whose license has been revoked, pending a change of employer and the issuance of a new license. Such new license shall be issued upon payment of a fee in an amount determined by the commission based upon the administrative costs involved, if granted during the same year in which the original license was granted.

Sec. 16. Section one hundred seventeen point thirty (117.30), Code 1975, is amended to read as follows:

117.30 ACTIONS--LICENSE AS PREREQUISITE. No person, copartnership, association, or corporation engaged in the business or acting in the capacity of a real estate broker ~~or~~, a real estate salesman or real estate apprentice salesman within this state shall bring or maintain any action in the courts of this state for the collection of compensation for any services performed as a real estate broker or salesman without alleging and proving that such person, copartnership, association, or corporation was a duly licensed real estate broker ~~or~~, real estate salesman or real estate apprentice salesman at the time the alleged cause of action arose.

Sec. 17. Section one hundred seventeen point thirty-three (117.33), Code 1975, is amended to read as follows:

117.33 SALESMEN--CHANGE OF EMPLOYMENT. When any real estate salesman or real estate apprentice salesman shall be discharged or shall terminate his employment with the real estate broker by whom he is employed, it shall be the duty of such real estate broker to immediately deliver or mail by certified mail to the commission such real estate salesman's or real estate apprentice salesman's license on the reverse side of which the employing broker shall set out the date and cause of termination of employment. The real estate broker shall at the time of mailing such real estate salesman's or real estate apprentice salesman's license to the commission address a communication to the last known residence address of such real estate salesman or real estate apprentice salesman stating that his license has been delivered or mailed to the commission. A copy of such communication to the real estate

salesman or real estate apprentice salesman shall accompany the license when mailed or delivered to the commission. It shall be unlawful for any real estate salesman or real estate apprentice salesman to perform any of the acts contemplated by this chapter either directly or indirectly under authority of said license from and after the date of receipt of said license by the commission; provided, that another license shall not be issued to such real estate salesman or real estate apprentice salesman until he shall return his former pocket card to the commission or shall satisfactorily account to them for the same. The commission shall upon presentation of evidence by the salesman or apprentice salesman that he has been employed by another broker issue another license and pocket card for the balance of the current year showing each change of employment. A fee as determined by the commission will be charged for the issuance of such a license. Not more than one license shall be issued to any real estate salesman or real estate apprentice salesman for the same period of time.

Sec. 18. Section one hundred seventeen point thirty-four (117.34), Code 1975, is amended to read as follows:

117.34 INVESTIGATION BY COMMISSION. The commission may upon its own motion and shall upon the verified complaint in writing of any person, provided such complaint together with evidence, documentary or otherwise presented in connection therewith, makes out a prima-facie case, investigate the actions of any real estate broker ~~or~~, real estate salesman, real estate apprentice salesman, or any person who shall assume to act in ~~either~~ such capacity within this state and shall have the power to suspend or to revoke any license issued under the provisions of this chapter, at any time where the licensee has by false or fraudulent representation obtained a license, or where the licensee in performing or attempting to perform any of the acts mentioned herein is found to be guilty of:

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 salesmen or advertising or otherwise.

4. Acting for more than one party in a transaction without the knowledge of all parties for whom he acts.

5. Accepting a commission or valuable consideration as a real estate salesman or real estate apprentice salesman for the performance of any of the acts specified in this chapter, from any person, except his employer, who must be a licensed real estate broker.

6. Representing or attempting to represent a real estate broker other than his 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 his possession which belong to others.

8. Being unworthy or incompetent to act as a real estate broker ~~or~~, salesman or apprentice salesman in such manner as to safeguard the interests of the public.

9. Paying a commission or any part thereof for performing any of the acts specified in this chapter to any person who is not a licensed broker ~~or~~, salesman or apprentice salesman under the provisions of this chapter or who is not engaged in the real estate business in another state.

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 hereinbefore specified, or demonstrates such bad faith, improper, fraudulent, or dishonest dealings as would have disqualified him from securing a license under this chapter.

Any unlawful act or violation of any of the provisions of this chapter by any real estate salesman, real estate apprentice salesman, employee, or partnership or associate

of a licensed real estate broker, shall not be cause for the revocation of the license of any real estate broker, partial or otherwise, unless the commission finds that said employer, partner, or associate had guilty knowledge thereof.

Sec. 19. Section one hundred seventeen point forty-six (117.46), subsection one (1), Code 1975, is amended to read as follows:

1. Each broker shall maintain a common trust account in a bank for the deposit of all down payments, earnest money deposits, or other trust funds received by the broker or his salesmen or apprentice salesmen on behalf of his principal, except that a broker acting as a salesman shall deposit these funds in the common trust account of the broker for whom he acts as salesman.

Sec. 20. APPLICATION OF ACT. The provisions of this Act which require successful completion of a real estate education course before being licensed as a real estate salesman shall not apply to persons who hold real estate salesmen's licenses on the effective date of this Act or to the issuance of new licenses to these persons under the provisions of section one hundred seventeen point twenty-eight (117.28) of the Code.

The provisions of this Act which require successful completion of a real estate education course before being licensed as a real estate apprentice salesman shall not apply within six months of the effective date of this Act to persons who have taken an examination within one year prior to the effective date of this Act who have not successfully passed the required examination.

Sec. 21. The Code editor is directed to strike all references to "salesman" or "salesmen" in chapter one hundred seventeen (117) of the Code and insert in lieu thereof the

word "salesperson" or the word "salespersons", whichever is applicable.

ARTHUR A. NEU
President of the Senate

DALE M. COCHRAN
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 53, Sixty-sixth General Assembly.

STEVEN C. CROSS
Secretary of the Senate

Approved *J* March 19, 1976

ROBERT D. RAY
Governor