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FEB 10 1981

Place On Calendar

HOUSE FILE 348

BY COMMITTEE ON STATE GOVERNMENT

(Formerly Study Bill 86)

Passed House, Date 3-2-81 (p. 25) Passed Senate, Date _____

Vote: Ayes 87 Nays 5 Vote: Ayes _____ Nays _____

Approved May 19, 1981

A BILL FOR

1 An Act relating to the licensing of real estate salespersons,
2 associate brokers and brokers.

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

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348

1 Section 1. Section 117.1, Code 1981, is amended to read
2 as follows:

3 117.1 LICENSE MANDATORY. ~~No~~ A person shall not act as
4 a real estate broker, or real estate salesperson ~~or real~~
5 ~~estate-apprentice-salesperson~~ without first obtaining a license
6 as provided in this chapter. The word "person" as ~~provided~~
7 used in said this chapter shall-mean-and-include means an
8 individual, partnership, association, or corporation.

9 Sec. 2. Section 117.2, Code 1981, is amended to read as
10 follows:

11 117.2 INDIVIDUAL LICENSES NECESSARY. ~~No-eopartnership~~
12 A partnership, association, or corporation shall not be granted
13 a license, unless every member or officer of the ~~eopartnership~~
14 partnership, association, or corporation, who actively
15 participates in the brokerage business of the ~~eopartnership~~
16 partnership, association, or corporation, ~~shall-held~~ holds
17 a license as a real estate broker, or salesperson ~~or-apprentice~~
18 ~~salesperson~~, and unless every employee who acts as a
19 salesperson for the ~~eopartnership~~ partnership, association,
20 or corporation ~~shall-held~~ holds a license as a real estate
21 broker, or salesperson ~~or-apprentice-salesperson~~. At least
22 one member or officer of each ~~eopartnership~~ partnership,
23 association, or corporation shall be a real estate broker.

24 Sec. 3. Section 117.5, Code 1981, is amended by striking
25 the section and inserting in lieu thereof the following:

26 117.5 "BROKER ASSOCIATE", "SALESPERSON", AND "INACTIVE
27 LICENSE" DEFINED. As used in this chapter:

28 1. "Broker Associate" means a person who has a broker's
29 license but is employed by or otherwise associated with another
30 broker as a salesperson.

31 2. "Salesperson" means a person employed by or otherwise
32 associated with a real estate broker, as a selling, renting,
33 or listing agent or representative of the broker.

34 3. "Inactive License" means either a broker or salesperson
35 license certificate that is on file with the commission in

1 the commission office and during which the time the licensee
2 is precluded from engaging in any of the acts of this chapter.

3 Sec. 4. Section 117.6, Code 1981, is amended to read as
4 follows:

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

19 Sec. 5. Section 117.7, subsection 1, Code 1981, is amended
20 to read as follows:

21 1. Owners ~~or~~, lessors, or ~~to the~~ their regular employees
22 ~~thereof~~, who are not licensed real estate brokers or
23 salespersons with respect to the property owned and leased
24 where such acts are performed in the regular course of or
25 incident to the management of property owned and the investment
26 therein.

27 Sec. 6. Section 117.8, Code 1981, is amended to read as
28 follows:

29 117.8 COMMISSION ESTABLISHED. There is established the
30 Iowa real estate commission which shall consist of three
31 members licensed under this chapter and two members not
32 licensed under this chapter and who shall represent the general
33 public. At least one of the licensed members shall be a
34 licensed real estate salesperson, except that if the licensed
35 real estate salesperson becomes a licensed real estate broker

1 during ~~his-er-her~~ a term of office, ~~he-er-she-shall-be-allowed~~
 2 ~~to~~ that person may complete the term, but ~~shall~~ is not be
 3 eligible for reappointment on the commission as a licensed
 4 real estate salesperson. A licensed member shall be actively
 5 engaged in the real estate business and shall have been so
 6 engaged for five years preceding the appointment, the last
 7 two of which shall have been in Iowa. Professional
 8 associations or societies of real estate brokers, or real
 9 estate salespersons ~~er-real-estate-apprentice-salespersons~~
 10 may recommend the names of potential commission members to
 11 the governor, but the governor ~~shall~~ is not be bound by their
 12 recommendations. A commission member ~~shall~~ is not be required
 13 to be a member of any professional association or society
 14 composed of real estate brokers or salespersons. Commissioners
 15 shall be appointed by the governor subject to confirmation
 16 by the senate. Appointments shall be for three-year terms
 17 and shall commence and end as provided in section 69.19.
 18 A commissioner shall serve no more than three terms or nine
 19 years, whichever is less. No more than one commissioner shall
 20 be appointed from a county. A commissioner shall not hold
 21 any other elective or appointive state or federal office.
 22 Vacancies shall be filled for the unexpired term by appointment
 23 of the governor and are subject to senate confirmation. A
 24 majority of the commissioners constitutes a quorum.

25 Sec. 7. Section 117.15, unnumbered paragraphs 1, 2 and
 26 3, Code 1981, are amended to read as follows:

27 Except as provided in section 117.20 an applicant for a
 28 real estate ~~broker,~~ broker's or salesperson's ~~er-apprentice~~
 29 ~~salesperson's~~ license must be a person whose application has
 30 not been rejected for licensure in this or any other state
 31 within six months prior to the date of application, ~~er~~ and
 32 whose real estate license has not been revoked in this or
 33 any other state within two years prior to date of application.

34 ~~Every-applicant~~ To qualify for a license as a real estate
 35 broker, or salesperson ~~er-apprentice-salesperson~~ a person

1 shall be ~~of-the-age-of~~ eighteen years or over. ~~Provided,~~
2 ~~however~~ However, an applicant ~~shall~~ is not be ineligible
3 because of citizenship, sex, race, religion, marital status
4 or national origin, although the application form may require
5 citizenship information. The commission may consider the
6 past felony record of an applicant only if the felony
7 conviction relates directly to the practice of real estate
8 selling. Character references may be required but shall not
9 be obtained from licensed real estate brokers, or salespersons
10 ~~ex-apprentice-salespersons~~.

11 ~~Every-applicant~~ To qualify for a license as a real estate
12 broker, a person shall have been a licensed real estate
13 salesperson for a period of at least twelve months preceding
14 the date of application; or ~~he~~ shall have had experience
15 substantially equal to that which a licensed real estate
16 salesperson would ordinarily receive during a period of twelve
17 months, whether as a former broker or salesperson, a manager
18 of real estate, or otherwise. ~~Notwithstanding-the-foregoing~~
19 ~~provisions~~ However, if the commission ~~shall-find~~ finds that
20 any applicant could not acquire employment as a licensed real
21 estate salesperson because of conditions existing in the area
22 where ~~he~~ the person resides, ~~then,~~ the ~~foregoing~~ provisions
23 of this paragraph shall be waived by the commission.

24 Sec. 8. Section 117.15, unnumbered paragraph 4, Code 1981,
25 is amended by striking the unnumbered paragraph and inserting
26 in lieu thereof the following:

27 A qualified applicant for a license as a real estate
28 salesperson shall complete a commission approved short course
29 in real estate education of at least thirty hours at a facility
30 approved by the commission during the twelve months preceding
31 the issuance of the license.

32 Sec. 9. Section 117.16, unnumbered paragraph 3, Code 1981,
33 is amended to read as follows:

34 The commission shall prepare and furnish written application
35 blanks for the salesperson's license ~~and-for-apprentice~~

1 ~~salesperson's license, to contain request for such~~ requesting
2 information as the commission may require. The commission
3 shall not require that a recent photograph of the applicant
4 be attached to the application. The application for ~~both~~
5 the salesperson's license ~~and for the apprentice salesperson's~~
6 ~~license~~ shall be accompanied by a written statement by the
7 broker ~~in~~ whose service ~~he~~ the applicant is about to enter
8 recommending that the license be granted to the applicant.

9 Sec. 10. Section 117.20, Code 1981, is amended to read
10 as follows:

11 117.20 WRITTEN EXAMINATION. Examinations for registration
12 shall be given as often as deemed necessary by the board,
13 but no less than one time per year. Each applicant for a
14 license must pass a written examination authorized by the
15 commission and administered by the commission or persons
16 designated by the commission. The examination shall be of
17 scope and wording sufficient in the judgment of the commission
18 to establish the competency of the applicant to act as a real
19 estate broker, ~~salesperson~~ or ~~apprentice~~ salesperson in ~~such~~
20 a manner as to protect the interests of the public. An
21 examination for a real estate broker shall be of a more
22 exacting nature than that for a real estate ~~apprentice~~
23 salesperson and require higher standards of knowledge of real
24 estate. All examinations in real estate theory shall be in
25 writing and the identity of the ~~person~~ persons taking the
26 ~~examination~~ examinations shall be concealed until after the
27 examination papers have been graded. For examinations in
28 practice, the identity of the ~~person~~ persons taking the
29 ~~examination~~ examinations shall also be concealed as far as
30 possible. A person who fails to pass either written
31 examination once may immediately apply to take the next
32 available examination at the next scheduled time. Thereafter,
33 ~~the applicant shall be allowed to~~ may take the examination
34 at the discretion of the commission. An applicant who has
35 failed either examination may request in writing information

1 from the commission concerning ~~his~~ the applicant's examination
2 grade and subject areas or questions which ~~he~~ the applicant
3 failed to answer correctly, except that if the commission
4 administers a uniform, standardized examination, the commission
5 ~~shall~~ is only be required to provide the examination grade
6 and ~~such~~ other information concerning the applicant's
7 examination results which ~~are~~ is available to the commission.

8 Sec. 11. Section 117.21, Code 1981, is amended to read
9 as follows:

10 117.21 NONRESIDENT LICENSE. A nonresident of this state
11 may be licensed as a real estate broker, or a real estate
12 salesperson, ~~or a real estate apprentice salesperson~~, upon
13 complying with all requirements of law and with all the
14 provisions and conditions of this chapter relative to resident
15 brokers, or salespersons ~~and apprentice salespersons~~, and
16 the filing by the applicant with the commission of a
17 certification from the state of original licensure signed
18 by the duly qualified and authorized official or officials
19 of ~~such~~ that state that the applicant is there currently
20 licensed, that no charges against the applicant are there
21 pending, and that applicant's record in ~~such~~ that state
22 justifies the issuance of a license to ~~such~~ the applicant
23 in Iowa. The commission may waive the requirement of an
24 examination in the case of a nonresident broker who is licensed
25 under the laws of a state having similar requirements and
26 where similar recognition and courtesies ~~may be~~ are extended
27 to licensed real estate brokers, and salespersons ~~and~~
28 ~~apprentice salespersons~~ of this state.

29 Sec. 12. Section 117.22, Code 1981, is amended to read
30 as follows:

31 117.22 NONRESIDENT'S PLACE OF BUSINESS. A nonresident
32 to whom a license is issued upon compliance with all the other
33 requirements of law and provisions of this chapter, ~~shall~~
34 is not be required to maintain a definite place of business
35 within this state. Provided, that ~~such~~ the nonresident, if

1 a broker, shall maintain an active place of business within
2 the state of ~~his~~ the nonresident's domicile, and ~~provided~~
3 ~~further~~, that the privilege of ~~so~~ submitting a certification
4 of licensure certified to by the qualified and authorized
5 official or officials of the state of original licensure,
6 in lieu of the recommendations and statements otherwise
7 required, ~~shall only apply~~ applies to licensed real estate
8 brokers, and real estate salespersons ~~and-real-estate~~
9 ~~apprentice-salespersons~~ of those states under the laws of
10 which similar recognition and courtesies are extended to
11 licensed real estate brokers, and real estate salespersons
12 ~~and-real-estate-apprentice-salespersons~~ of this state.

13 Sec. 13. Section 117.24, Code 1981, is amended to read
14 as follows:

15 117.24 CUSTODY OF SALESPERSON'S ~~OR-APPRENTICE'S~~ LICENSE.

16 The license of ~~such a~~ real estate salesperson ~~or-real-estate~~
17 ~~apprentice-salesperson~~ shall be delivered or mailed to the
18 real estate broker by whom ~~such~~ the real estate salesperson
19 ~~or-real-estate-apprentice-salesperson~~ is employed and shall
20 be kept in the custody and control of ~~such~~ the broker.

21 Sec. 14. Section 117.25, Code 1981, is amended to read
22 as follows:

23 117.25 DISPLAY OF LICENSE. ~~It shall be the duty of every~~
24 A real estate broker ~~to~~ shall conspicuously display in ~~his~~
25 the broker's place of business the current real estate broker's
26 license issued to ~~him~~ the broker and the licenses issued to
27 ~~his~~ the broker's employees.

28 Sec. 15. Section 117.27, Code 1981, is amended to read
29 as follows:

30 117.27 FEES. The commission shall set fees, for
31 examination and licensing of real estate brokers, and real
32 estate salespersons ~~and-real-estate-apprentice-salespersons~~.
33 The commission shall determine the annual cost of administering
34 the examination and shall set the examination fee accordingly.
35 The commission shall set the fees for the real estate broker's

1 licenses, and for real estate salesperson's licenses ~~and for~~
2 ~~real-estate-apprentice-salesperson's licenses~~ based upon the
3 administrative costs of sustaining the commission. The fees
4 shall include, but shall not be limited to, the costs for:

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

8 Sec. 16. Section 117.28, Code 1981, is amended to read
9 as follows:

10 117.28 EXPIRATION OF LICENSE. Every license, ~~except a~~
11 ~~license as a real-estate-apprentice-salesperson which shall~~
12 ~~expire as provided in section 117.15,~~ shall expire in multiyear
13 intervals as determined by the commission. A person who fails
14 to renew a real estate broker's or real estate salesperson's
15 license by the expiration date shall be allowed to do so
16 within thirty days following its expiration, but the commission
17 may assess a reasonable penalty. The commission ~~shall~~ upon
18 the written request of the applicant on forms prescribed by
19 the commission, and payment of the fee ~~therefor as herein~~
20 ~~required,~~ shall issue a new license for each ensuing license
21 period except as provided in section 117.15, in the absence
22 of any reason or condition which might warrant the revocation
23 of a license after a hearing as provided in sections 117.34
24 and 117.35.

25 Sec. 17. Section 117.29, unnumbered paragraph 2, Code
26 1981, is amended to read as follows:

27 The revocation of a broker's license shall automatically
28 suspend every ~~real-estate-salesperson's~~ license ~~and every~~
29 ~~real-estate-apprentice-salesperson's license~~ granted to any
30 person by virtue of his or her employment by the broker whose
31 license has been revoked, pending a change of employer and
32 the issuance of a new license. ~~Such~~ The new license shall
33 be issued upon payment of a fee in an amount determined by
34 the commission based upon the administrative costs involved,
35 if granted during the same license period in which the original

1 license was granted.

2 Sec. 18. Section 117.30, Code 1981, is amended to read
3 as follows:

4 117.30 ACTIONS--LICENSE AS PREREQUISITE. ~~No~~ A person,
5 ~~partnership, association, or corporation~~ engaged in the
6 business or acting in the capacity of a real estate broker,
7 or a real estate salesperson ~~or real-estate-apprentice~~
8 ~~salesperson~~ within this state shall not bring or maintain
9 any action in the courts of this state for the collection
10 of compensation for any services performed as a real estate
11 broker or salesperson without alleging and proving that ~~such~~
12 the person, partnership, association, or corporation was
13 a duly licensed real estate broker, or real estate salesperson
14 ~~or real-estate-apprentice-salesperson~~ at the time the alleged
15 cause of action arose.

16 Sec. 19. Section 117.32, Code 1981, is amended to read
17 as follows:

18 117.32 CHANGE OF LOCATION. Notice in writing shall be
19 given to the commission by each licensee of any change of
20 principal business location, whereupon the commission shall
21 issue a new license for the unexpired period upon the payment
22 of a fee ~~of one dollar~~ established by rule to cover the cost
23 of issuing the license.

24 Sec. 20. Section 117.33, Code 1981, is amended to read
25 as follows:

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

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

28 Sec. 21. Section 117.34, unnumbered paragraph 1,
29 subsections 5, 8, and 9, and unnumbered paragraph 2, Code
30 1981, are amended to read as follows:

31 The commission may upon its own motion and shall upon the
32 verified complaint in writing of any person, provided such
33 the complaint together with evidence, documentary or otherwise
34 presented in connection ~~therewith~~ with the complaint, makes
35 out a prima-facie case, investigate the actions of any real

1 estate broker, real estate salesperson, ~~real-estate-apprentice~~
2 ~~salesperson~~, or any person who shall assume to act in either
3 such capacity within this state and ~~shall-have-the-power-to~~
4 may suspend or to revoke any license issued under the
5 provisions of this chapter, at any time ~~where~~ if the licensee
6 has by false or fraudulent representation obtained a license,
7 or ~~where~~ if the licensee ~~in-performing-or-attempting-to-perform~~
8 ~~any-of-the-acts-mentioned-herein~~ is found to be guilty of:

9 5. Accepting a commission or valuable consideration as
10 a real estate broker associate or salesperson ~~or real-estate~~
11 ~~apprentice-salesperson~~ for the performance of any of the acts
12 specified in this chapter, from any person, except ~~his~~ the
13 broker associate's or salesperson's employer, who must be
14 a licensed real estate broker.

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

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

24 Any unlawful act or violation of any of the provisions
25 of this chapter by any real estate broker associate or
26 salesperson, ~~real-estate-apprentice-salesperson~~, employee,
27 or partnership partner or associate of a licensed real estate
28 broker, ~~shall~~ is not be cause for the revocation of the license
29 of any real estate broker, ~~partial-or-otherwise~~, unless the
30 commission finds that ~~said-employer, partner, or associate~~
31 the real estate broker had guilty knowledge ~~thereof~~ of the
32 unlawful act or violation.

33 Sec. 22. Section 117.45, Code 1981, is amended by striking
34 the section and inserting in lieu thereof the following:

35 117.45 DUAL CONTRACTS FOR SALE OF REAL PROPERTY. A per-

1 son licensed under this chapter shall not knowingly make,
 2 issue, deliver, receive, or permit the use of two or more
 3 written or oral contracts for the purpose of sale concerning
 4 the same parcel of real estate one of which is not made known
 5 to the prospective lender or loan guarantor to enable the
 6 purchaser to obtain a larger loan than the true sales price
 7 would allow or to enable the purchaser to qualify for a loan
 8 which the purchaser otherwise could not obtain.

9 Sec. 23. Section 117.46, subsection 1, Code 1981, is
 10 amended to read as follows:

11 1. Each real estate broker shall maintain a common trust
 12 account in a bank or a savings and loan association for the
 13 deposit of all down payments, earnest money deposits, or other
 14 trust funds received by the broker or ~~his~~ the broker's
 15 salespersons ~~or-apprentice-salespersons~~ on behalf of ~~his~~ the
 16 broker's principal, except that a broker acting as a
 17 salesperson shall deposit these funds in the common trust
 18 account of the broker for whom he or she acts as salesperson.

19 Sec. 24. Section 117.53, unnumbered paragraph 2, Code
 20 1981, is amended by striking the unnumbered paragraph.

21 Sec. 25. Section 117.26, Code 1981, is repealed.

22 Sec. 26. A real estate apprentice salesperson's license
 23 which is valid on the effective date of this Act continues
 24 to be valid and effective subject to chapter 117, Code 1981,
 25 until that license expires or is suspended, revoked, or
 26 surrendered pursuant to those provisions.

27 EXPLANATION

28 This bill revises several of the laws governing the li-
 29 censing of real estate brokers and salespersons. The bill
 30 defines "broker associates" and modifies the provisions on
 31 compensation and trust accounts to cover a person having a
 32 broker's license but who is employed by another broker as
 33 a salesperson. The bill narrows the exemption from coverage
 34 by the chapter for owners and lessors of property by excluding
 35 licensed brokers and salespersons from the exemption. The

1 bill eliminates the use of the pocket cards. The bill allows
2 the fee for the issuance of a new license after a change of
3 business address to be set by rule. The bill revises the
4 prohibition on dual contracts to prohibit not only the use
5 of a false, higher contract to obtain a larger loan but also
6 the use of a supplementary contract unknown to the lender
7 for the purpose of obtaining a loan or larger loan than the
8 purchaser could otherwise obtain.

9 This bill eliminates the real estate apprentice
10 salesperson's license. Section 26 provides that a real estate
11 apprentice salesperson's license which is valid when the bill
12 becomes effective continues to be valid until it terminates
13 under the provisions of the existing law. Presently a real
14 estate apprentice salesperson's license is valid for only
15 one year.

16 The bill takes effect July 1 following enactment.

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HOUSE FILE 348

BY COMMITTEE ON STATE GOVERNMENT

(As Amended and Passed by the House)
Substituted for S.F. 295

Passed House, Date 5-6-81 (p. 1701) Passed Senate, Date 3-13-81 (p. 787)
Vote: Ayes 93 Nays 4 Vote: Ayes 38 Nays 2
Approved May 19, 1981

A BILL FOR

1 An Act relating to the licensing of real estate salespersons,
2 associate brokers and brokers.

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

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_____ House Amendments

HOUSE FILE 348

S-3150

1 Amend House File 348, as amended, passed and
2 reprinted by the House as follows:

- 3 1. Page 2, by striking lines 19 through 26.
- 4 2. Page 8, by inserting after line 24 the
- 5 following:

6 "Sec. ____ . Section 117.29, Code 1981, is amended
7 by adding the following new unnumbered paragraph:
8 NEW UNNUMBERED PARAGRAPH. A real estate broker
9 or salesperson who is an owner or lessor of property
10 or an employee of an owner or lessor may have his
11 or her license revoked or suspended for violations
12 of this section or section 117.34, except subsections
13 4, 5, 6 and 9, with respect to that property."

14 2. By renumbering the sections to conform with
15 this amendment.

S-3150 FILED
MARCH 6, 1981

BY EDGAR H. HOLDEN

Adopted 3/13/81 (p. 774)

1 Section 1. Section 117.1, Code 1981, is amended to read
2 as follows:

3 117.1 LICENSE MANDATORY. ~~No~~ A person shall not act as
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5 estate-apprentice-salesperson without first obtaining a license
6 as provided in this chapter. The word "person" as ~~provided~~,
7 used in said this chapter shall-mean-and-include means an
8 individual, partnership, association, or corporation.

9 Sec. 2. Section 117.2, Code 1981, is amended to read as
10 follows:

11 117.2 INDIVIDUAL LICENSES NECESSARY. ~~No~~ ~~partnership~~
12 A partnership, association, or corporation shall not be granted
13 a license, unless every member or officer of the ~~partnership~~
14 partnership, association, or corporation, who actively
15 participates in the brokerage business of the ~~partnership~~
16 partnership, association, or corporation, ~~shall~~ holds
17 a license as a real estate broker, or salesperson ~~or~~ apprentice
18 salesperson, and unless every employee who acts as a
19 salesperson for the ~~partnership~~ partnership, association,
20 or corporation ~~shall~~ holds a license as a real estate
21 broker, or salesperson ~~or~~ apprentice-salesperson. At least
22 one member or officer of each ~~partnership~~ partnership,
23 association, or corporation shall be a real estate broker.

24 Sec. 3. Section 117.5, Code 1981, is amended by striking
25 the section and inserting in lieu thereof the following:

26 117.5 "BROKER ASSOCIATE", "SALESPERSON", AND "INACTIVE
27 LICENSE" DEFINED. As used in this chapter:

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30 broker as a salesperson.

31 2. "Salesperson" means a person employed by or otherwise
32 associated with a real estate broker, as a selling, renting,
33 or listing agent or representative of the broker.

34 3. "Inactive License" means either a broker or salesperson
35 license certificate that is on file with the commission in

1 the commission office and during which the time the licensee
2 is precluded from engaging in any of the acts of this chapter.

3 Sec. 4. Section 117.6, Code 1981, is amended to read as
4 follows:

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

19 Sec. 5. Section 117.7, subsection 1, Code 1981, is amended
20 to read as follows:

21 1. Owners ~~or~~ lessors, or ~~to the~~ their regular employees
22 thereof, who are not licensed real estate brokers or
23 salespersons with respect to the property owned and leased
24 where such acts are performed in the regular course of or
25 incident to the management of property owned and the investment
26 therein.

27 Sec. 6. Section 117.8, Code 1981, is amended to read as
28 follows:

29 117.8 COMMISSION ESTABLISHED. There is established the
30 Iowa real estate commission which shall consist of three
31 members licensed under this chapter and two members not
32 licensed under this chapter and who shall represent the general
33 public. At least one of the licensed members shall be a
34 licensed real estate salesperson, except that if the licensed
35 real estate salesperson becomes a licensed real estate broker

1 during ~~his-or-her~~ a term of office, ~~he-or-she-shall-be-allowed~~
2 ~~to~~ that person may complete the term, but ~~shall~~ is not be
3 eligible for reappointment on the commission as a licensed
4 real estate salesperson. A licensed member shall be actively
5 engaged in the real estate business and shall have been so
6 engaged for five years preceding the appointment, the last
7 two of which shall have been in Iowa. Professional
8 associations or societies of real estate brokers, or real
9 estate salespersons ~~or-real-estate-apprentice-salespersons~~
10 may recommend the names of potential commission members to
11 the governor, but the governor ~~shall~~ is not be bound by their
12 recommendations. A commission member ~~shall~~ is not be required
13 to be a member of any professional association or society
14 composed of real estate brokers or salespersons. Commissioners
15 shall be appointed by the governor subject to confirmation
16 by the senate. Appointments shall be for three-year terms
17 and shall commence and end as provided in section 69.19.
18 A commissioner shall serve no more than three terms or nine
19 years, whichever is less. No more than one commissioner shall
20 be appointed from a county. A commissioner shall not hold
21 any other elective or appointive state or federal office.
22 Vacancies shall be filled for the unexpired term by appointment
23 of the governor and are subject to senate confirmation. A
24 majority of the commissioners constitutes a quorum.

25 Sec. 7. Section 117.15, unnumbered paragraphs 1, 2 and
26 3, Code 1981, are amended to read as follows:

27 Except as provided in section 117.20 an applicant for a
28 real estate ~~broker,~~ broker's or salesperson's ~~or-apprentice~~
29 ~~salesperson's~~ license must be a person whose application has
30 not been rejected for licensure in this or any other state
31 within six months prior to the date of application, ~~or~~ and
32 whose real estate license has not been revoked in this or
33 any other state within two years prior to date of application.

34 ~~Every-applicant~~ To qualify for a license as a real estate
35 broker, or salesperson ~~or-apprentice-salesperson~~ a person

1 shall be ~~of-the-age-of~~ eighteen years or over. ~~Provided,~~
2 ~~however~~ However, an applicant shall is not be ineligible
3 because of citizenship, sex, race, religion, marital status
4 or national origin, although the application form may require
5 citizenship information. The commission may consider the
6 past felony record of an applicant only if the felony
7 conviction relates directly to the practice of real estate
8 selling. Character references may be required but shall not
9 be obtained from licensed real estate brokers, or salespersons
10 ~~ex-apprentice-salespersons~~.

11 ~~Every-applicant~~ To qualify for a license as a real estate
12 broker, a person shall have been a licensed real estate
13 salesperson for a period of at least twelve months preceding
14 the date of application; or he shall have had experience
15 substantially equal to that which a licensed real estate
16 salesperson would ordinarily receive during a period of twelve
17 months, whether as a former broker or salesperson, a manager
18 of real estate, or otherwise. ~~Notwithstanding-the-foregoing~~
19 ~~provisions~~ However, if the commission shall ~~find~~ finds that
20 any applicant could not acquire employment as a licensed real
21 estate salesperson because of conditions existing in the area
22 where ~~he~~ the person resides, ~~then,~~ the ~~foregoing~~ provisions
23 of this paragraph shall be waived by the commission.

24 Sec. 8. Section 117.15, unnumbered paragraph 4, Code 1981,
25 is amended by striking the unnumbered paragraph and inserting
26 in lieu thereof the following:

27 A qualified applicant for a license as a real estate
28 salesperson shall complete a commission approved short course
* 29 in real estate education of at least thirty hours approved
30 by the commission during the twelve months preceding the
31 issuance of the license.

32 Sec. 9. Section 117.16, unnumbered paragraph 3, Code 1981,
33 is amended to read as follows:

34 The commission shall prepare and furnish written application
35 blanks for the salesperson's license ~~and-for-apprentice~~

1 ~~salesperson's license, to contain request for such~~ requesting
2 information as the commission may require. The commission
3 shall not require that a recent photograph of the applicant
4 be attached to the application. The application for ~~both~~
5 the salesperson's license ~~and for the apprentice salesperson's~~
6 ~~license~~ shall be accompanied by a written statement by the
7 broker ~~in~~ whose service ~~he~~ the applicant is about to enter
8 recommending that the license be granted to the applicant.

9 Sec. 10. Section 117.20, Code 1981, is amended to read
10 as follows:

11 117.20 WRITTEN EXAMINATION. Examinations for registration
12 shall be given as often as deemed necessary by the board,
13 but no less than one time per year. Each applicant for a
14 license must pass a written examination authorized by the
15 commission and administered by the commission or persons
16 designated by the commission. The examination shall be of
17 scope and wording sufficient in the judgment of the commission
18 to establish the competency of the applicant to act as a real
19 estate broker, ~~salesperson~~ or ~~apprentice~~ salesperson in ~~such~~
20 a manner as to protect the interests of the public. An
21 examination for a real estate broker shall be of a more
22 exacting nature than that for a real estate ~~apprentice~~
23 salesperson and require higher standards of knowledge of real
24 estate. All examinations in real estate theory shall be in
25 writing and the identity of the ~~person~~ persons taking the
26 ~~examination~~ examinations shall be concealed until after the
27 examination papers have been graded. For examinations in
28 practice, the identity of the ~~person~~ persons taking the
29 ~~examination~~ examinations shall also be concealed as far as
30 possible. A person who fails to pass either written
31 examination once may immediately apply to take the next
32 available examination at the next scheduled time. Thereafter,
33 the applicant ~~shall be allowed to~~ may take the examination
34 at the discretion of the commission. An applicant who has
35 failed either examination may request in writing information

1 from the commission concerning ~~his~~ the applicant's examination
2 grade and subject areas or questions which ~~he~~ the applicant
3 failed to answer correctly, except that if the commission
4 administers a uniform, standardized examination, the commission
5 ~~shall~~ is only be required to provide the examination grade
6 and ~~such~~ other information concerning the applicant's
7 examination results which ~~are~~ is available to the commission.

8 Sec. 11. Section 117.21, Code 1981, is amended to read
9 as follows:

10 117.21 NONRESIDENT LICENSE. A nonresident of this state
11 may be licensed as a real estate broker, or a real estate
12 salesperson, ~~or a real estate apprentice salesperson~~, upon
13 complying with all requirements of law and with all the
14 provisions and conditions of this chapter relative to resident
15 brokers, or salespersons ~~and apprentice salespersons~~, and
16 the filing by the applicant with the commission of a
17 certification from the state of original licensure signed
18 by the duly qualified and authorized official or officials
19 of ~~such~~ that state that the applicant is there currently
20 licensed, that no charges against the applicant are there
21 pending, and that applicant's record in ~~such~~ that state
22 justifies the issuance of a license to ~~such~~ the applicant
23 in Iowa. The commission may waive the requirement of an
24 examination in the case of a nonresident broker who is licensed
25 under the laws of a state having similar requirements and
26 where similar recognition and courtesies ~~may be~~ are extended
27 to licensed real estate brokers, and salespersons ~~and~~
28 ~~apprentice salespersons~~ of this state.

29 Sec. 12. Section 117.22, Code 1981, is amended to read
30 as follows:

31 117.22 NONRESIDENT'S PLACE OF BUSINESS. A nonresident
32 to whom a license is issued upon compliance with all the other
33 requirements of law and provisions of this chapter, ~~shall~~
34 is not be required to maintain a definite place of business
35 within this state. Provided, that ~~such~~ the nonresident, if

1 a broker, shall maintain an active place of business within
2 the state of ~~his~~ the nonresident's domicile, and ~~provided~~
3 ~~further,~~ that the privilege of ~~so~~ submitting a certification
4 of licensure certified to by the qualified and authorized
5 official or officials of the state of original licensure,
6 in lieu of the recommendations and statements otherwise
7 required, ~~shall~~ only ~~apply~~ applies to licensed real estate
8 brokers, and real estate salespersons ~~and-real-estate~~
9 ~~apprentice-salespersons~~ of those states under the laws of
10 which similar recognition and courtesies are extended to
11 licensed real estate brokers, and real estate salespersons
12 ~~and-real-estate-apprentice-salespersons~~ of this state.

13 Sec. 13. Section 117.24, Code 1981, is amended to read
14 as follows:

15 117.24 CUSTODY OF SALESPERSON'S ~~OR-APPRENTICE'S~~ LICENSE.
16 The license of ~~such a~~ real estate salesperson ~~or-real-estate~~
17 ~~apprentice-salesperson~~ shall be delivered or mailed to the
18 real estate broker by whom ~~such~~ the real estate salesperson
19 ~~or-real-estate-apprentice-salesperson~~ is employed and shall
20 be kept in the custody and control of ~~such~~ the broker.

21 Sec. 14. Section 117.25, Code 1981, is amended to read
22 as follows:

23 117.25 DISPLAY OF LICENSE. ~~It-shall-be-the-duty-of-every~~
24 A real estate broker ~~to~~ shall conspicuously display in ~~his~~
25 the broker's place of business the current real estate broker's
26 license issued to ~~him~~ the broker and the licenses issued to
27 ~~his~~ the broker's employees.

28 Sec. 15. Section 117.27, Code 1981, is amended to read
29 as follows:

30 117.27 FEES. The commission shall set fees, for
31 examination and licensing of real estate brokers, and real
32 estate salespersons ~~and-real-estate-apprentice-salespersons~~.
33 The commission shall determine the annual cost of administering
34 the examination and shall set the examination fee accordingly.
35 The commission shall set the fees for the real estate broker's

1 licenses, and for real estate salesperson's licenses ~~and for~~
 2 ~~real-estate-apprentice-salesperson's-licenses~~ based upon the
 3 administrative costs of sustaining the commission. The fees
 4 shall include, but shall not be limited to, the costs for:

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

8 Sec. 16. Section 117.28, Code 1981, is amended to read
 9 as follows:

10 117.28 EXPIRATION OF LICENSE. Every license, ~~except a~~
 11 ~~license-as-a-real-estate-apprentice-salesperson-which-shall~~
 12 ~~expire-as-provided-in-section-117-15~~, shall expire in multiyear
 13 intervals as determined by the commission. A person who fails
 14 to renew a real estate broker's or real estate salesperson's
 15 license by the expiration date shall be allowed to do so
 16 within thirty days following its expiration, but the commission
 17 may assess a reasonable penalty. The commission ~~shall~~ upon
 18 the written request of the applicant on forms prescribed by
 19 the commission, and payment of the fee ~~therefor-as-herein~~
 20 required, shall issue a new license for each ensuing license
 21 period except as provided in section 117.15, in the absence
 22 of any reason or condition which might warrant the revocation
 23 of a license after a hearing as provided in sections 117.34
 24 and 117.35.

25 Sec. 17. Section 117.29, unnumbered paragraph 2, Code
 26 1981, is amended to read as follows:

27 The revocation of a broker's license shall automatically
 28 suspend every ~~real-estate-salesperson's~~ license ~~and every~~
 29 ~~real-estate-apprentice-salesperson's-licenses~~ granted to any
 30 person by virtue of his or her employment by the broker whose
 31 license has been revoked, pending a change of employer and
 32 the issuance of a new license. ~~Such~~ The new license shall
 33 be issued upon payment of a fee in an amount determined by
 34 the commission based upon the administrative costs involved,
 35 if granted during the same license period in which the original

1 license was granted.

2 Sec. 18. Section 117.30, Code 1981, is amended to read
3 as follows:

4 117.30 ACTIONS--LICENSE AS PREREQUISITE. No A person,
5 ~~copartnership, association, or corporation~~ engaged in the
6 business or acting in the capacity of a real estate broker,
7 or a real estate salesperson or real estate apprentice
8 ~~salesperson~~ within this state shall not bring or maintain
9 any action in the courts of this state for the collection
10 of compensation for any services performed as a real estate
11 broker or salesperson without alleging and proving that ~~such~~
12 the person, copartnership, association, or corporation was
13 a duly licensed real estate broker, or real estate salesperson
14 ~~or real estate apprentice salesperson~~ at the time the alleged
15 cause of action arose.

16 Sec. 19. Section 117.32, Code 1981, is amended to read
17 as follows:

18 117.32 CHANGE OF LOCATION. Notice in writing shall be
19 given to the commission by each licensee of any change of
20 principal business location, whereupon the commission shall
21 issue a new license for the unexpired period upon the payment
22 of a fee ~~of one dollar~~ established by rule to cover the cost
23 of issuing the license.

24 Sec. 20. Section 117.33, Code 1981, is amended to read
25 as follows:

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

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

28 Sec. 21. Section 117.34, unnumbered paragraph 1,
29 subsections 5, 8, and 9, and unnumbered paragraph 2, Code
30 1981, are amended to read as follows:

31 The commission may upon its own motion and shall upon the
32 verified complaint in writing of any person, provided ~~such~~
33 the complaint together with evidence, documentary or otherwise
34 presented in connection ~~therewith~~ with the complaint, makes
35 out a prima-facie case, investigate the actions of any real

1 estate broker, real estate salesperson, ~~real-estate-apprentice~~
2 ~~salesperson~~, or any person who shall assume to act in either
3 such capacity within this state and ~~shall-have-the-power-to~~
4 may suspend or ~~to~~ revoke any license issued under the
5 provisions of this chapter, at any time where if the licensee
6 has by false or fraudulent representation obtained a license,
7 or where if the licensee ~~in-performing-or-attempting-to-perform~~
8 ~~any-of-the-acts-mentioned-herein~~ is found to be guilty of:

9 5. Accepting a commission or valuable consideration as
10 a real estate broker associate or salesperson ~~or-real-estate~~
11 ~~apprentice-salesperson~~ for the performance of any of the acts
12 specified in this chapter, from any person, except ~~his~~ the
13 broker associate's or salesperson's employer, who must be
14 a licensed real estate broker.

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

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

24 Any unlawful act or violation of any of the provisions
25 of this chapter by any real estate broker associate or
26 salesperson, ~~real-estate-apprentice-salesperson~~, employee,
27 or partnership partner or associate of a licensed real estate
28 broker, ~~shall~~ is not be cause for the revocation of the license
29 of any real estate broker, ~~partial-or-otherwise~~, unless the
30 commission finds that ~~said-employer,-partner,-or-associate~~
31 the real estate broker had guilty knowledge ~~thereof~~ of the
32 unlawful act or violation.

33 Sec. 22. Section 117.45, Code 1981, is amended by striking
34 the section and inserting in lieu thereof the following:

35 117.45 DUAL CONTRACTS FOR SALE OF REAL PROPERTY. A per-

1 son licensed under this chapter shall not knowingly make,
2 issue, deliver, receive, or permit the use of two or more
3 written or oral contracts for the purpose of sale concerning
4 the same parcel of real estate one of which is not made known
5 to the prospective lender or loan guarantor to enable the
6 purchaser to obtain a larger loan than the true sales price
7 would allow or to enable the purchaser to qualify for a loan
8 which the purchaser otherwise could not obtain.

9 Any person who shall violate the provisions of this section
10 shall be guilty of a fraudulent practice.

11 Sec. 23. Section 117.46, subsection 1, Code 1981, is
12 amended to read as follows:

13 1. Each real estate broker shall maintain a common trust
14 account in a bank or a savings and loan association for the
15 deposit of all down payments, earnest money deposits, or other
16 trust funds received by the broker or ~~his~~ the broker's
17 ~~salespersons or apprentice-salespersons~~ on behalf of ~~his~~ the
18 broker's principal, except that a broker acting as a
19 salesperson shall deposit these funds in the common trust
20 account of the broker for whom he or she acts as salesperson.

21 Sec. 24. Section 117.53, unnumbered paragraph 2, Code
22 1981, is amended by striking the unnumbered paragraph.

23 Sec. 25. Section 117.26, Code 1981, is repealed.

24 Sec. 26. A real estate apprentice salesperson's license
25 which is valid on the effective date of this Act continues
26 to be valid and effective subject to chapter 117, Code 1981,
27 until that license expires or is suspended, revoked, or
28 surrendered pursuant to those provisions.

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HOUSE FILE 348

FISCAL NOTE

REQUESTED BY SENATOR DRAKE

In compliance with a written request there is hereby submitted a Fiscal Note for House File 348 pursuant to Joint Rule 16.

House File 348, An Act relating to the licensing of real estate salespersons, associate brokers and brokers.

Section 19 of the bill states that a notice in writing shall be given to the Real Estate Commission by each licensee of change of principal business location. The Commission would then issue a new license for the unexpired period upon the payment of a fee established by rule to cover the cost of issuing the license.

Under the current law, there were 2,400 changes made during calendar year 1980 at the one dollar fee.

Under House File 348, the fee would be established by rule. The Real Estate Commission has indicated that this fee would be considerably higher than the present one dollar fee. The higher fee could reduce the number of change requests to as few as 400 which would also reduce administration costs to the Commission.

SOURCE: REAL ESTATE COMMISSION

FILED
MARCH 4, 1981

BY GERRY RANKIN, DIRECTOR
LEGISLATIVE FISCAL BUREAU

SENATE AMENDMENT TO
HOUSE FILE 348

H-3308

- 1 Amend House File 348 as amended, passed and
- 2 reprinted by the House as follows:
- 3 1. Page 2, by striking lines 19 through 26.
- 4 2. Page 8, by inserting after line 24 the
- 5 following:
- 6 "Sec. ____ Section 117.29, Code 1981, is amended
- 7 by adding the following new unnumbered paragraph:
- 8 NEW UNNUMBERED PARAGRAPH. A real estate broker
- 9 or salesperson who is an owner or lessor of property
- 10 or an employee of an owner or lessor may have his
- 11 or her license revoked or suspended for violations
- 12 of this section or section 117.34, except subsections
- 13 4, 5, 6 and 9, with respect to that property."
- 14 2. By renumbering the sections to conform with
- 15 this amendment.

H-3308 FILED MARCH 17, 1981

RECEIVED FROM THE SENATE
House concurred 5/6/81 (p 1700)

HOUSE FILE 348

H-3065

- 1 Amend House File 348 as follows:
- 2 1. Page 4, line 30, by striking the word
- 3 "preceding" and inserting in lieu thereof the word
- 4 "following".

H-3065 FILED FEBRUARY 11, 1981 BY JOHNSON of Linn
H/O 3/2 (p. 624)

HOUSE FILE 348

H-3086

- 1 Amend House File 348 as follows:
- 2 1. Page 2, by striking lines 3 through 18 and
- 3 inserting in lieu thereof the following:
- 4 "Sec. 4. Section 117.6, Code 1981, is repealed."

H-3086 FILED BY RITSEMA of Sioux
FEBRUARY 13, 1981
H/O 3/2 (p. 623)

HOUSE FILE 348

H-3087

- 1 Amend House File 348 as follows:
- 2 1. Page 2, by striking lines 3 through 18 and
- 3 inserting in lieu thereof the following:
- 4 "Sec. 4. Section 117.6, Code 1981, is amended by
- 5 striking the section and inserting in lieu thereof
- 6 the following:
- 7 117.6 ACTS CONSTITUTING DEALING IN REAL ESTATE.
- 8 Any single act or transaction contained in the definition
- 9 of real estate broker as set out in section 117.3
- 10 constitutes dealing in real estate."

H-3087 FILED BY RITSEMA of Sioux
FEBRUARY 13, 1981
Last 3/2 (p. 624)

HOUSE FILE 348

H-3094

- 1 Amend House File 348 as follows:
- 2 1. Page 4, line 29, by striking the words "at
- 3 a facility".

H-3094 FILED BY DODERER of Johnson
FEBRUARY 16, 1981
Adopted 2/2 (p. 624)

HOUSE FILE 348

H-3098

- 1 Amend House File 348 as follows:
- 2 1. Page 12, by inserting after line 8 the following:
- 3 "Any person who shall violate the provisions of this
- 4 section shall be guilty of a fraudulent practice."

H-3098 FILED FEBRUARY 17, 1981

BY HOFFMANN of Muscatine

Adopted 3/2 (p. 624) ---

HOUSE FILE 348

AN ACT
RELATING TO THE LICENSING OF REAL ESTATE SALESPERSONS, AS-
SOCIATE BROKERS AND BROKERS.

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

Section 1. Section 117.1, Code 1981, is amended to read as follows:

117.1 LICENSE MANDATORY. No A person shall not act as a real estate broker, or real estate salesperson or real estate-apprentice-salesperson without first obtaining a license as provided in this chapter. The word "person" as provided used in said this chapter shall-mean-and-include means an individual, partnership, association, or corporation.

Sec. 2. Section 117.2, Code 1981, is amended to read as follows:

117.2 INDIVIDUAL LICENSES NECESSARY. No-copartnership A partnership, association, or corporation shall not be granted a license, unless every member or officer of the separtnership partnership, association, or corporation, who actively participates in the brokerage business of the separtnership partnership, association, or corporation, shall-hold holds a license as a real estate broker, or salesperson or apprentice salesperson, and unless every employee who acts as a salesperson for the separtnership partnership, association, or corporation shall-hold holds a license as a real estate broker, or salesperson or apprentice-salesperson. At least one member or officer of each separtnership partnership, association, or corporation shall be a real estate broker.

Sec. 3. Section 117.5, Code 1981, is amended by striking the section and inserting in lieu thereof the following:

117.5 "BROKER ASSOCIATE", "SALESPERSON", AND "INACTIVE LICENSE" DEFINED. As used in this chapter:

1. "Broker Associate" means a person who has a broker's license but is employed by or otherwise associated with another broker as a salesperson.

2. "Salesperson" 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.

3. "Inactive License" means either a broker or salesperson license certificate that is on file with the commission in the commission office and during which the time the licensee is precluded from engaging in any of the acts of this chapter.

Sec. 4. Section 117.6, Code 1981, is amended to read as follows:

117.6 ACTS CONSTITUTING DEALING IN REAL ESTATE. Any A 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 the act be an incidental part of a transaction, or the entire transaction, shall-constitute-such person, partnership, association, or corporation is a real estate broker, or real estate salesperson or real-estate apprentice-salesperson within the meaning of this chapter.

Sec. 5. Section 117.8, Code 1981, 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 salesperson, except that if the licensed real estate salesperson becomes a licensed real estate broker during ~~his-or-her~~ a term of office, ~~he-or-she-shall-be-allowed~~ to that person may complete the term, but ~~shall~~ is not be eligible for reappointment on the commission as a licensed real estate salesperson. A licensed member shall be actively engaged in the real estate business and shall have been so engaged for five years preceding the appointment, the last two of which shall have been in Iowa. Professional associations or societies of real estate brokers, or real estate salespersons ~~or-real-estate-apprentice-salespersons~~ may recommend the names of potential commission members to the governor, but the governor ~~shall~~ is not be bound by their recommendations. A commission member ~~shall~~ is not be required to be a member of any professional association or society composed of real estate brokers or salespersons. Commissioners shall be appointed by the governor subject to confirmation by the senate. Appointments shall be for three-year terms and shall commence and end as provided in section 69.19. 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 are subject to senate confirmation. A majority of the commissioners constitutes a quorum.

Sec. 6. Section 117.15, unnumbered paragraphs 1, 2 and 3, Code 1981, are amended to read as follows:

Except as provided in section 117.20 an applicant for a real estate ~~broker, broker's or salesperson's or-apprentice salesperson'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 and whose real estate license has not been revoked in this or any other state within two years prior to date of application.

~~Every-applicant To qualify~~ for a license as a real estate broker, or salesperson ~~or-apprentice-salesperson~~ a person shall be ~~of-the-age-of~~ eighteen years or over. ~~Provided,~~ however ~~However,~~ an applicant ~~shall~~ is 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 salespersons ~~or-apprentice-salespersons~~.

~~Every-applicant To qualify~~ for a license as a real estate broker, a person shall have been a licensed real estate salesperson 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 salesperson would ordinarily receive during a period of twelve months, whether as a former broker or salesperson, a manager of real estate, or otherwise. ~~Notwithstanding-the-foregoing provisions~~ ~~However,~~ if the commission ~~shall-find~~ finds that any applicant could not acquire employment as a licensed real estate salesperson because of conditions existing in the area where ~~he~~ the person resides, ~~then,~~ the ~~foregoing~~ provisions of this paragraph shall be waived by the commission.

Sec. 7. Section 117.15, unnumbered paragraph 4, Code 1981, is amended by striking the unnumbered paragraph and inserting in lieu thereof the following:

A qualified applicant for a license as a real estate salesperson shall complete a commission approved short course in real estate education of at least thirty hours approved by the commission during the twelve months preceding the issuance of the license.

Sec. 8. Section 117.16, unnumbered paragraph 3, Code 1981, is amended to read as follows:

The commission shall prepare and furnish written application blanks for ~~the salesperson's license and-for-apprentice salesperson's license-to-contain-request-for-such~~ requesting 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 salesperson's license and-for-the-apprentice-salesperson's license~~ shall be accompanied by a written statement by the broker ~~in whose service he~~ the applicant is about to enter recommending that the license be granted to the applicant.

Sec. 9. Section 117.20, Code 1981, 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, ~~salesperson~~ or ~~apprentice salesperson~~ in such a 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 salesperson~~ and require higher standards of knowledge of real estate. All examinations in real estate theory shall be in writing and the identity of the ~~person persons~~ taking the ~~examination examinations~~ shall be concealed until after the examination papers have been graded. For examinations in practice, the identity of the ~~person persons~~ taking the ~~examination examinations~~ shall also be concealed as far as possible. A person who fails to pass either written examination once may immediately apply to take the next available examination at the next scheduled time. Thereafter, the applicant ~~shall-be-allowed-to~~ may 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~~ the applicant's examination grade and subject areas or questions which ~~he~~ the applicant failed to answer correctly, except that if the commission administers a uniform, standardized examination, the commission ~~shall~~ is only be required to provide the examination grade and such other information concerning the applicant's examination results which ~~are~~ is available to the commission.

Sec. 10. Section 117.21, Code 1981, 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 ~~salesperson-or-a-real-estate-apprentice-salesperson~~, upon complying with all requirements of law and with all the provisions and conditions of this chapter relative to resident broker, or salespersons ~~and-apprentice-salespersons~~, 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 that state that the applicant is there currently licensed, that no charges against the applicant are there pending, and that applicant's record in such that state justifies the issuance of a license to such the 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~~ are extended to licensed real estate brokers, and salespersons and ~~apprentice-salespersons~~ of this state.

Sec. 11. Section 117.22, Code 1981, 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~~

is not be required to maintain a definite place of business within this state. Provided, that ~~such~~ the nonresident, if a broker, shall maintain an active place of business within the state of ~~his~~ the nonresident's 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 ~~applies~~ to licensed real estate brokers, and real estate salespersons ~~and real-estate apprentice-salespersons~~ of those states under the laws of which similar recognition and courtesies are extended to licensed real estate brokers, and real estate salespersons ~~and real-estate-apprentice-salespersons~~ of this state.

Sec. 12. Section 117.24, Code 1981, is amended to read as follows:

117.24 CUSTODY OF SALESPERSON'S ~~OR-APPRENTICE'S~~ LICENSE. The license of ~~such a~~ a real estate salesperson ~~or real-estate apprentice-salesperson~~ shall be delivered or mailed to the real estate broker by whom ~~such~~ the real estate salesperson ~~or real-estate-apprentice-salesperson~~ is employed and shall be kept in the custody and control of ~~such~~ the broker.

Sec. 13. Section 117.25, Code 1981, is amended to read as follows:

117.25 DISPLAY OF LICENSE. ~~It shall be the duty of every~~ A real estate broker ~~to~~ shall conspicuously display in ~~his~~ the broker's place of business the current real estate broker's license issued to ~~him~~ the broker and the licenses issued to ~~his~~ the broker's employees.

Sec. 14. Section 117.27, Code 1981, is amended to read as follows:

117.27 FEES. The commission shall set fees, for examination and licensing of real estate brokers, and real estate salespersons ~~and real-estate-apprentice-salespersons~~. 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 salesperson's licenses ~~and for real-estate-apprentice-salesperson'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. 15. Section 117.28, Code 1981, is amended to read as follows:

117.28 EXPIRATION OF LICENSE. Every license, ~~except a license as a real-estate-apprentice-salesperson which shall expire as provided in section 117.15,~~ shall expire in multiyear intervals as determined by the commission. A person who fails to renew a real estate broker's or real estate salesperson'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 fee ~~therefor as herein required,~~ shall issue a new license for each ensuing license period except as provided in section 117.15, 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. 16. Section 117.29, Code 1981, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A real estate broker or salesperson who is an owner or lessor of property or an employee of an owner or lessor may have his or her license revoked or suspended for violations of this section or section 117.34, except subsections 4, 5, 6 and 9, with respect to that property.

Sec. 17. Section 117.29, unnumbered paragraph 2, Code 1981, is amended to read as follows:

The revocation of a broker's license shall automatically suspend every ~~real-estate-salesperson's~~ license and ~~every real-estate-apprentice-salesperson's~~ license granted to any person by virtue of his or her employment by the broker whose license has been revoked, pending a change of employer and the issuance of a new license. ~~Such~~ The 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 license period in which the original license was granted.

Sec. 18. Section 117.30, Code 1981, is amended to read as follows:

117.30 ACTIONS--LICENSE AS PREREQUISITE. No A person, ~~partnership, association, or corporation~~ engaged in the business or acting in the capacity of a real estate broker, ~~or a real estate salesperson or real-estate-apprentice salesperson~~ within this state shall not 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 salesperson without alleging and proving that ~~such~~ the person, ~~partnership, association, or corporation~~ was a duly licensed real estate broker, ~~or real estate salesperson or real-estate-apprentice-salesperson~~ at the time the alleged cause of action arose.

Sec. 19. Section 117.32, Code 1981, is amended to read as follows:

117.32 CHANGE OF LOCATION. Notice in writing shall be given to the commission by each licensee of any change of principal business location, whereupon the commission shall issue a new license for the unexpired period upon the payment of a fee ~~of one dollar~~ established by rule to cover the cost of issuing the license.

Sec. 20. Section 117.33, Code 1981, is amended to read as follows:

117.33 SALESPERSONS OR-APPRENTICES--CHANGE OF EMPLOYMENT. When any real estate salesperson ~~or real-estate-apprentice salesperson~~ shall be is discharged or shall ~~terminate~~ terminates employment with the real estate broker by whom he or she is employed, ~~it shall be~~ the duty ~~of such~~ real estate broker ~~to~~ shall immediately deliver or mail by certified mail to the commission ~~such~~ the real estate salesperson's ~~or real-estate-apprentice-salesperson'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~~ the real estate salesperson's ~~or real-estate-apprentice-salesperson's~~ license to the commission shall address a communication to the last known residence address of ~~such~~ the real estate salesperson ~~or real-estate-apprentice-salesperson~~ stating that the license has been delivered or mailed to the commission. A copy of ~~such~~ the communication to the real estate salesperson ~~or real-estate-apprentice-salesperson~~ shall accompany the license when mailed or delivered to the commission. ~~It shall be~~ is unlawful for any real estate salesperson ~~or real-estate apprentice-salesperson~~ to perform any of the acts contemplated by this chapter either directly or indirectly under authority of said a license from and after the date of receipt of said the license by the commission, ~~provided, that another license shall not be issued to such real-estate-salesperson or real-estate-apprentice-salesperson until he or she shall return the former pocket card to the commission or shall satisfactorily account to them for the same.~~ The commission shall upon presentation of evidence by the salesperson ~~or apprentice-salesperson~~ that he or she has been employed by another broker, issue another license ~~and pocket card~~ for the balance of the current license period showing each change of employment. A fee as determined by the commission will

shall be charged for the issuance of ~~such-a~~ the license. Not more than one license shall be issued to any real estate salesperson ~~or-real-estate-apprentice-salesperson~~ for the same period of time.

Sec. 21. Section 117.34, unnumbered paragraph 1, subsections 5, 8, and 9, and unnumbered paragraph 2, Code 1981, are amended to read as follows:

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

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

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

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

Any unlawful act or violation of any of the provisions of this chapter by any real estate broker associate or salesperson, ~~real-estate-apprentice-salesperson~~, employee, or partnership partner or associate of a licensed real estate broker, ~~shall~~ is 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~~ the real estate broker had guilty knowledge ~~thereof~~ of the unlawful act or violation.

Sec. 22. Section 117.45, Code 1981, is amended by striking the section and inserting in lieu thereof the following:

117.45 DUAL CONTRACTS FOR SALE OF REAL PROPERTY. A person licensed under this chapter shall not knowingly make, issue, deliver, receive, or permit the use of two or more written or oral contracts for the purpose of sale concerning the same parcel of real estate one of which is not made known to the prospective lender or loan guarantor to enable the purchaser to obtain a larger loan than the true sales price would allow or to enable the purchaser to qualify for a loan which the purchaser otherwise could not obtain.

Any person who shall violate the provisions of this section shall be guilty of a fraudulent practice.

Sec. 23. Section 117.46, subsection 1, Code 1981, is amended to read as follows:

1. Each real estate broker shall maintain a common trust account in a bank or a savings and loan association for the deposit of all down payments, earnest money deposits, or other trust funds received by the broker or ~~his~~ the broker's salespersons ~~or-apprentice-salespersons~~ on behalf of ~~his~~ the broker's principal, except that a broker acting as a salesperson shall deposit these funds in the common trust account of the broker for whom he or she acts as salesperson.

Sec. 24. Section 117.53, unnumbered paragraph 2, Code 1981, is amended by striking the unnumbered paragraph.

Sec. 25. Section 117.26, Code 1981, is repealed.

Sec. 26. A real estate apprentice salesperson's license which is valid on the effective date of this Act continues to be valid and effective subject to chapter 117, Code 1981, until that license expires or is suspended, revoked, or surrendered pursuant to those provisions.

DELWYN STROMER
Speaker of the House

TERRY E. BRANSTAD
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 348, Sixty-ninth General Assembly.

PAT H. HARPER
Chief Clerk of the House

Approved May 19, 1981

ROBERT D. RAY
Governor