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MAR 22 1989

HOUSE FILE 730

Place On Calendar

BY COMMITTEE ON STATE GOVERNMENT

(SUCCESSOR TO HSB 328)

Passed House, Date 4-3-89 (p.120) Passed Senate, Date 2/12/90 ^(p.470)
 Vote: Ayes 79 Nays 19 Vote: Ayes 28 Nays 14
 Approved March 30, 1990

A BILL FOR

1 An Act relating to the adoption of rules by the real estate
 2 commission imposing certain requirements on real estate
 3 brokers and salespersons, and providing an effective date.
 4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 730

37167

1 Section 1. NEW SECTION. 117.47 INSURANCE REQUIREMENT.

2 1. The real estate commission shall adopt rules requiring
3 as a condition of licensure that all real estate licensees,
4 except those who hold inactive licenses, carry errors and
5 omissions insurance covering all activities contemplated under
6 this chapter.

7 2. Except as otherwise provided in subsection 7, the
8 commission shall contract with an insurance provider for a
9 group policy under which coverage is available to all
10 licensees. The contract shall be solicited by competitive,
11 sealed bid.

12 3. The group policy shall be made available to all
13 licensees and shall not include any right on the part of the
14 insurance provider to cancel coverage for a licensee.

15 4. A licensee shall have the option of obtaining insurance
16 independently, if the coverage contained in an independently
17 obtained policy complies with the minimum requirements adopted
18 by rule of the commission.

19 5. The commission shall determine the terms and conditions
20 of coverage required by subsection 1, including but not
21 limited to the minimum limits of coverage, the permissible
22 deductible, and the permissible exceptions.

23 6. Each licensee shall be notified of the required terms
24 and conditions of coverage for the annual policy at least
25 thirty days prior to the license renewal date or the
26 anniversary of the license renewal date. A certificate of
27 coverage, showing compliance with the required terms and
28 conditions of coverage, must be filed with the commission by
29 the license renewal date or the anniversary of the license
30 renewal date by each licensee who elects not to participate in
31 the group insurance program administered by the commission.

367932 7. If for a particular contract year the commission is
33 unable to obtain at a reasonable premium, not to exceed one
34 hundred dollars per licensee per year, a group policy of
35 errors and omissions insurance coverage to insure all

1 licensees who choose to participate in the group insurance
2 program, the insurance requirements of this section shall not
3 apply during that contract year.

4 Sec. 2. NEW SECTION. 117.54 DISCLOSURE OF RELATIONSHIP.

5 The real estate commission shall adopt rules requiring that
6 each real estate broker or salesperson in a real estate trans-
7 action disclose in writing the broker's or salesperson's
8 agency relationship with the buyer or seller in the
9 transaction.

3680

10 Sec. 3. EFFECTIVE DATES. This Act, being deemed of
11 immediate importance, takes effect upon enactment for purposes
12 of rulemaking, administrative preparation, and competitive
13 bidding procedures, and on July 1, 1991, for all other
14 purposes.

15 EXPLANATION

16 This bill requires the real estate commission to adopt
17 rules requiring as a condition of licensure that all real
18 estate licensees carry errors and omissions insurance. The
19 commission would contract with an insurance provider for a
20 group policy under which coverage would be available to all
21 licensees. Coverage could not be canceled for any licensee.
22 A licensee could elect to obtain insurance independently if
23 the insurance complies with minimum standards set by the
24 commission.

25 If for any contract year the commission is unable to obtain
26 a group policy at a reasonable premium, not to exceed \$100 per
27 licensee per year, the insurance requirement would not apply
28 during that contract year.

29 The bill also requires the real estate commission to adopt
30 rules requiring real estate brokers and salespersons to make
31 written disclosures of their agency relationships with buyers
32 and sellers.

33 The bill would take effect upon enactment for rulemaking,
34 administrative preparation, and competitive bidding
35 procedures, and on July 1, 1991, for all other purposes.

HOUSE FILE 730

H-3679

- 1 Amend House File 730 as follows:
 - 2 1. Page 1, lines 33 and 34, by striking the words
 - 3 "one hundred dollars per licensee per year" and in-
 - 4 serting the following: "ten dollars per transaction".
- By HALVORSON of Webster

H-3679 FILED MARCH 28, 1989

lost 4-3-89 (p. 1200)

HOUSE FILE 730

H-3680

- 1 Amend House File 730 as follows:
 - 2 1. Page 2, by inserting after line 9 the
 - 3 following:
 - 4 "Sec. ____ FEES. In setting the fees for real
 - 5 estate broker's licenses and real estate salesperson's
 - 6 licenses pursuant to section 117.27, the real estate
 - 7 commission shall take into account the anticipated
 - 8 costs of implementing this Act and shall increase the
 - 9 fees accordingly."
 - 10 2. By numbering and renumbering as necessary.
- By HALVORSON of Webster

H-3680 FILED MARCH 28, 1989

Adopted 4-3-89 (p. 1200)

HOUSE FILE 730

H-3716

- 1 Amend House File 730 as follows:
- 2 1. Page 1, by inserting before line 1 the
- 3 following:
- 4 "Section 1. Section 117.29, Code 1989, is amended
- 5 by adding the following new subsection:
- 6 NEW SUBSECTION. 9. Noncompliance with insurance
- 7 requirements under section 117.47."
- 8 2. Page 1, line 6, by inserting after the word
- 9 "chapter." the following: "The rules shall provide
- 10 for administration of the insurance requirements of
- 11 this section within the multiyear licensing structure
- 12 required by section 117.28. However, the rules shall
- 13 require licensees to submit evidence of compliance
- 14 with this section at least annually and shall provide
- 15 for review and determination of compliance on an
- 16 annual basis."
- 17 3. By renumbering as necessary.

By PETERSON of Carroll

H-3716 FILED MARCH 30, 1989

Adopted 4-3-89 (p. 1199)

**HOUSE FILE 730
FISCAL NOTE**

A fiscal note for **HOUSE FILE 730** is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

House File 730 requires the Real Estate Commission to adopt rules requiring as a condition of licensure that all real estate licensees carry errors and omissions insurance. The Commission would contract with an insurance provider for a group policy under which coverage would be available to all licensees. Coverage could not be canceled for any licensee. A licensee could elect to obtain insurance independently if the insurance complies with minimum standards set by the Commission.

If for any contract year the Commission is unable to obtain a group policy at a reasonable premium, not to exceed \$100 per licensee per year, the insurance requirement would not apply during that contract year.

The Bill also requires the Commission to adopt rules requiring real estate brokers and salespersons to make written disclosures of their agency relationships with buyers and sellers.

The Bill will take effect upon enactment for rulemaking, administrative preparation, and competitive bidding procedures, and on July 1, 1991 for other purposes.

ASSUMPTIONS: The analysis assumes a 50% reduction in salespersons and a 35% reduction in brokers based on the experience of Kentucky (the only state that requires errors and omissions insurance for this type of licensure).

FISCAL EFFECT: It is anticipated that a one year delay would be necessary for the Division to operationalize this Bill. Therefore, for FY 1990, there would be no change in revenues and minimal costs to send out Requests for Proposals and establish rules.

In FY 1991 and ensuing years, additional staff and support to operate the program would cost \$60,000 to \$70,000. Additionally, salespersons and brokers currently pay license fees for a three year period and the Bill changes that to an annual fee. This will result in losses in revenues for the first two years (FY 1991 and FY 1992) of \$262,560 and \$132,224 respectively. As 20% of receipts goes to the General Fund, the loss in revenue to the General Fund is expected to be approximately \$80,000 over the two year period. By the third year of the program all brokers and sales persons will be on the annual schedule and no further revenue loss is anticipated.

(Source: Professional Licensing)

(LSB 2626hv, DPW)

FILED MARCH 27, 1989

BY DENNIS PROUTY, FISCAL DIRECTOR

Sen. State Court
Re. Pass 1/24/90 (p. 221)

HOUSE FILE 730

BY COMMITTEE ON STATE GOVERNMENT

(SUCCESSOR TO HSB 328)

(As Amended and Passed by the House April 3, 1989)

Re Passed House, Date 3/19/90 (p. 1176) Passed Senate, Date 2/12/90 (p. 470)
Vote: Ayes 71 Nays 18 Vote: Ayes 28 Nays 14
Approved March 30, 1990

A BILL FOR

1 An Act relating to the adoption of rules by the real estate
2 commission imposing certain requirements on real estate
3 brokers and salespersons, and providing an effective date.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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House Amendments _____

HOUSE FILE 730

S-5052

1 Amend House File 730, as amended, passed, and
2 reprinted by the House, as follows:
3 1. Page 2, by striking lines 7 through 13.

By WILLIAM PALMER
ALVIN MILLER
C. JOSEPH COLEMAN

S-5052 FILED FEBRUARY 6, 1990

Adopted 2/9 (p. 452)

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TLSB 2626HV 73

jw/jw/5

1 Section 1. Section 117.29, Code 1989, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 9. Noncompliance with insurance
4 requirements under section 117.47.

5 Sec. 2. NEW SECTION. 117.47 INSURANCE REQUIREMENT.

6 1. The real estate commission shall adopt rules requiring
7 as a condition of licensure that all real estate licensees,
8 except those who hold inactive licenses, carry errors and
9 omissions insurance covering all activities contemplated under
10 this chapter. The rules shall provide for administration of
11 the insurance requirements of this section within the
12 multiyear licensing structure required by section 117.28.
13 However, the rules shall require licensees to submit evidence
14 of compliance with this section at least annually and shall
15 provide for review and determination of compliance on an
16 annual basis.

17 2. Except as otherwise provided in subsection 7, the
18 commission shall contract with an insurance provider for a
19 group policy under which coverage is available to all
20 licensees. The contract shall be solicited by competitive,
21 sealed bid.

22 3. The group policy shall be made available to all
23 licensees and shall not include any right on the part of the
24 insurance provider to cancel coverage for a licensee.

25 4. A licensee shall have the option of obtaining insurance
26 independently, if the coverage contained in an independently
27 obtained policy complies with the minimum requirements adopted
28 by rule of the commission.

29 5. The commission shall determine the terms and conditions
30 of coverage required by subsection 1, including but not
31 limited to the minimum limits of coverage, the permissible
32 deductible, and the permissible exceptions.

33 6. Each licensee shall be notified of the required terms
34 and conditions of coverage for the annual policy at least
35 thirty days prior to the license renewal date or the

1 anniversary of the license renewal date. A certificate of
2 coverage, showing compliance with the required terms and
3 conditions of coverage, must be filed with the commission by
4 the license renewal date or the anniversary of the license
5 renewal date by each licensee who elects not to participate in
6 the group insurance program administered by the commission.

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7. If for a particular contract year the commission is
8 unable to obtain at a reasonable premium, not to exceed one
9 hundred dollars per licensee per year, a group policy of
10 errors and omissions insurance coverage to insure all
11 licensees who choose to participate in the group insurance
12 program, the insurance requirements of this section shall not
13 apply during that contract year.

14 Sec. 3. NEW SECTION. 117.54 DISCLOSURE OF RELATIONSHIP.

15 The real estate commission shall adopt rules requiring that
16 each real estate broker or salesperson in a real estate trans-
17 action disclose in writing the broker's or salesperson's
18 agency relationship with the buyer or seller in the
19 transaction.

20 Sec. 4. FEES. In setting the fees for real estate
21 broker's licenses and real estate salesperson's licenses
22 pursuant to section 117.27, the real estate commission shall
23 take into account the anticipated costs of implementing this
24 Act and shall increase the fees accordingly.

25 Sec. 5. EFFECTIVE DATES. This Act, being deemed of
26 immediate importance, takes effect upon enactment for purposes
27 of rulemaking, administrative preparation, and competitive
28 bidding procedures, and on July 1, 1991, for all other
29 purposes.

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SENATE AMENDMENT TO HOUSE FILE 730

H-5156

- 1 Amend House File 730, as amended, passed, and
- 2 reprinted by the House, as follows:
- 3 1. Page 2, by striking lines 7 through 13.

RECEIVED FROM THE SENATE

H-5156 FILED FEBRUARY 15, 1990

House Concurred 3/19 (p. 1175)

HOUSE FILE 730

H-5174

- 1 Amend the Senate amendment, H-5156, to House File
- 2 730, as amended, passed, and reprinted by the House,
- 3 as follows:

- 4 1. Page 1, by inserting after line 3 the
- 5 following:

6 "____". Page 2, line 14, by striking the figure

7 "117.54" and inserting the following: "117.55".

- 8 2. By numbering as necessary.

By PETERSON of Carroll

H-5174 FILED FEBRUARY 16, 1990

w/15 3/19 (p. 1175)

NSB 328

STATE GOVERNMENT

Now

HOUSE FILE 730

BY (PROPOSED COMMITTEE ON
STATE GOVERNMENT BILL)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the adoption of rules by the real estate
2 commission imposing certain requirements on real estate
3 brokers and salespersons.

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

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1 Section 1. NEW SECTION. 117.54 DISCLOSURE OF RELATION-
2 SHIP.

3 The real estate commission shall adopt rules requiring that
4 each real estate broker or salesperson in a real estate trans-
5 action disclose in writing the broker's or salesperson's
6 agency relationship with the buyer or seller in the
7 transaction.

8 EXPLANATION

9 This bill requires the real estate commission to adopt
10 rules requiring real estate brokers and salespersons to make
11 written disclosures of their agency relationships with buyers
12 and sellers.

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HOUSE FILE 730

AN ACT

RELATING TO THE ADOPTION OF RULES BY THE REAL ESTATE COMMISSION IMPOSING CERTAIN REQUIREMENTS ON REAL ESTATE BROKERS AND SALESPERSONS, AND PROVIDING AN EFFECTIVE DATE.

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

Section 1. Section 117.29, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 9. Noncompliance with insurance requirements under section 117.47.

Sec. 2. NEW SECTION. 117.47 INSURANCE REQUIREMENT.

1. The real estate commission shall adopt rules requiring as a condition of licensure that all real estate licensees, except those who hold inactive licenses, carry errors and omissions insurance covering all activities contemplated under this chapter. The rules shall provide for administration of the insurance requirements of this section within the multiyear licensing structure required by section 117.28. However, the rules shall require licensees to submit evidence of compliance with this section at least annually and shall provide for review and determination of compliance on an annual basis.

2. Except as otherwise provided in subsection 7, the commission shall contract with an insurance provider for a group policy under which coverage is available to all

licensees. The contract shall be solicited by competitive, sealed bid.

3. The group policy shall be made available to all licensees and shall not include any right on the part of the insurance provider to cancel coverage for a licensee.

4. A licensee shall have the option of obtaining insurance independently, if the coverage contained in an independently obtained policy complies with the minimum requirements adopted by rule of the commission.

5. The commission shall determine the terms and conditions of coverage required by subsection 1, including but not limited to the minimum limits of coverage, the permissible deductible, and the permissible exceptions.

6. Each licensee shall be notified of the required terms and conditions of coverage for the annual policy at least thirty days prior to the license renewal date or the anniversary of the license renewal date. A certificate of coverage, showing compliance with the required terms and conditions of coverage, must be filed with the commission by the license renewal date or the anniversary of the license renewal date by each licensee who elects not to participate in the group insurance program administered by the commission.

Sec. 3. NEW SECTION. 117.54 DISCLOSURE OF RELATIONSHIP.

The real estate commission shall adopt rules requiring that each real estate broker or salesperson in a real estate transaction disclose in writing the broker's or salesperson's agency relationship with the buyer or seller in the transaction.

Sec. 4. FEES. In setting the fees for real estate broker's licenses and real estate salesperson's licenses pursuant to section 117.27, the real estate commission shall take into account the anticipated costs of implementing this Act and shall increase the fees accordingly.

Sec. 5. EFFECTIVE DATES. This Act, being deemed of immediate importance, takes effect upon enactment for purposes

of rulemaking, administrative preparation, and competitive bidding procedures, and on July 1, 1991, for all other purposes.

DONALD D. AVENSON
Speaker of the House

JO ANN ZIMMERMAN
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 730, Seventy-third General Assembly.

JOSEPH O'HERN
Chief Clerk of the House

Approved March 30, 1990

TERRY E. BRANSTAD
Governor