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MAR 14 1997

Place On Calendar

HOUSE FILE 644
BY COMMITTEE ON COMMERCE AND
REGULATION

(SUCCESSOR TO HF 98)

Passed House, Date ^(P911) 3-31-97 Passed Senate, Date ^(P.1172) 4-15-97
Vote: Ayes 94 Nays 1 Vote: Ayes 47 Nays 2
Approved April 23, 1997

A BILL FOR

1 An Act relating to the relationship between a real estate broker
2 or salesperson and parties to residential property real estate
3 transactions.

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

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HF 644

1 Section 1. Section 543B.5, Code 1997, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 18A. "Residential property" means real
4 property located in this state which is occupied, used, or
5 intended to be occupied or used, for residential purposes, and
6 having four or fewer dwelling units.

7 Sec. 2. Section 543B.56, subsection 1, unnumbered
8 paragraph 1, Code 1997, is amended to read as follows:

9 In providing brokerage services to all parties to a
10 residential property transaction, a licensee shall do all of
11 the following:

12 Sec. 3. Section 543B.56, subsection 2, unnumbered
13 paragraph 1, Code 1997, is amended to read as follows:

14 In addition to the licensee's duties under subsection 1, a
15 licensee providing brokerage services to a client with respect
16 to a residential property transaction shall do all of the
17 following:

18 Sec. 4. Section 543B.56, subsection 3, unnumbered
19 paragraph 1, Code 1997, is amended to read as follows:

20 In providing brokerage services with respect to a
21 residential property transaction, a licensee shall not do
22 either of the following:

23 Sec. 5. Section 543B.57, subsections 1 and 2, Code 1997,
24 are amended to read as follows:

25 1. A licensee shall not represent any party or parties to
26 a residential property transaction or otherwise as a licensee
27 unless that licensee makes an affirmative written disclosure
28 to all parties to the transaction identifying which party that
29 person represents in the transaction. The disclosure shall be
30 acknowledged by separate signatures of all parties to the
31 transaction.

32 2. a. The disclosure required in subsection 1 shall be
33 made by the licensee at the time the licensee provides
34 specific assistance to the client, or prior to any offer being
35 made or accepted by any party to a the residential property

1 transaction, whichever is sooner. A change in a licensee's
2 representation that makes the initial disclosure incomplete,
3 misleading, or inaccurate requires that a new disclosure be
4 made immediately.

5 b. For purposes of this section, "specific assistance"
6 means eliciting or accepting confidential information about a
7 party's real estate needs, motivation, or financial
8 qualifications. "Specific assistance" does not mean an open
9 house showing, preliminary conversations concerning price
10 range, location, and property styles, or responding to general
11 factual questions concerning properties which have been
12 advertised for sale or lease.

13 Sec. 6. Section 543B.58, Code 1997, is amended to read as
14 follows:

15 543B.58 LICENSEES REPRESENTING MORE THAN ONE CLIENT IN A
16 RESIDENTIAL PROPERTY TRANSACTION.

17 1. A licensee shall not be the agent for both a buyer and
18 a seller to a residential property transaction without
19 obtaining the written consent of both the buyer and the
20 seller. The written consent shall state that the licensee has
21 made a full disclosure of the type of representation the
22 licensee will provide. The consent to multiple representation
23 shall contain a statement of the licensee's duties under
24 section 543B.56, subsection 1, a statement of the licensee's
25 duties to the client under section 543B.56, subsection 2,
26 paragraphs "b" and "c", and a statement that the clients
27 understand the licensee's duties and consent to the licensee's
28 providing brokerage services to more than one client.

29 2. A consent to multiple representation may contain
30 additional disclosures by the licensee or additional
31 agreements between the licensee and the clients that do not
32 violate any duty of a licensee under this chapter.

33 Sec. 7. Section 543B.59, Code 1997, is amended to read as
34 follows:

35 543B.59 APPOINTED AGENTS WITHIN A FIRM.

1 1. APPOINTED AGENTS. A real estate brokerage agency
2 entering into a residential property brokerage agreement,
3 through a designated broker, may notify a client in writing of
4 those affiliated licensees within the real estate brokerage
5 agency who will be acting as appointed agents of that client
6 to the exclusion of all other affiliated licensees within the
7 real estate brokerage agency.

8 2. DUAL AGENT. A real estate brokerage agency and a
9 designated broker are not considered to be dual agents solely
10 because of an appointment under the provisions of this
11 section. However, an affiliated licensee who personally
12 represents both the seller and the buyer in a particular
13 residential property transaction is considered to be a
14 disclosed dual agent and is required to comply with the
15 provisions of this subchapter governing disclosed dual agents.

16 3. ACTUAL KNOWLEDGE -- INFORMATION. A client, a real
17 estate brokerage agency, and its appointed agents are deemed
18 to possess only actual knowledge and information at the time
19 the appointed agents are appointed. Knowledge or information
20 is not imparted by operation of law among the clients, the
21 real estate brokerage agency, and its appointed agents.

22 4. APPOINTMENTS -- ROLES. The commission shall define by
23 rule the methods of appointment and the role of the real
24 estate brokerage agency and the designated broker. The rules
25 must include a requirement that clients be informed as to the
26 real estate brokerage agency's appointed agent policy and be
27 given written notice of that policy in advance of entering
28 into a residential property brokerage agreement.

29 Sec. 8. Section 543B.60, Code 1997, is amended to read as
30 follows:

31 543B.60 LICENSEES PROVIDING SERVICES IN MORE THAN ONE
32 RESIDENTIAL PROPERTY TRANSACTION.

33 A licensee may provide brokerage services simultaneously to
34 more than one party in different residential property
35 transactions unless the licensee agrees with a client that the

1 licensee is to provide brokerage services only to that client.
2 If the licensee and a client agree that the licensee is to
3 provide brokerage services only to that client, the agency
4 agreement disclosure required under section 543B.57,
5 subsection 1, shall contain a statement of that agreement.

6 EXPLANATION

7 This bill provides that certain sections of Code chapter
8 543B regarding the relationship between a real estate broker
9 or salesperson (licensee) and the parties to a transaction are
10 only applicable where the real estate transaction involves
11 residential property. Those Code sections include section
12 543B.56, which establishes certain duties owed by the licensee
13 to all parties to the transaction and to the licensee's
14 client; section 543B.57, which requires the licensee to make
15 written disclosure to all parties to the transaction
16 identifying which party the licensee represents; section
17 543B.58, which requires the licensee to obtain the written
18 consent of the buyer and seller in the transaction if the
19 licensee intends to represent both parties; section 543B.59,
20 relating to appointed agents; and section 543B.60, which
21 provides that a licensee may provide brokerage services
22 simultaneously to more than one party in different
23 transactions unless the licensee is under agreement with a
24 client to provide such services only to that client.

25 The bill defines residential property as real property
26 occupied, used, or intended to be occupied or used, for
27 residential purposes, and having four or fewer dwelling units.

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HOUSE FILE 644

H-1390

- 1 Amend House File 644 as follows:
- 2 1. Page 1, line 10, by inserting after the word
3 "transaction" the following: "or to a commercial real
4 estate transaction of one million dollars or greater".
- 5 2. Page 1, line 16, by inserting after the word
6 "transaction" the following: "or with respect to a
7 commercial real estate transaction of one million
8 dollars or greater".
- 9 3. Page 1, line 21, by inserting after the word
10 "transaction" the following: "or with respect to a
11 commercial real estate transaction of one million
12 dollars or greater".
- 13 4. Page 1, line 26, by inserting after the word
14 "transaction" the following: "or to a commercial real
15 estate transaction of one million dollars or greater".
- 16 5. Page 2, line 1, by inserting after the word
17 "transaction" the following: "or to the commercial
18 real estate transaction of one million dollars or
19 greater".
- 20 6. Page 2, line 16, by inserting after the word
21 "TRANSACTION" the following: "OR CERTAIN COMMERCIAL
22 TRANSACTIONS".
- 23 7. Page 2, line 18, by inserting after the word
24 "transaction" the following: "or to a commercial real
25 estate transaction of one million dollars or greater".
- 26 8. Page 3, line 2, by inserting after the word
27 "agreement" the following: "or into a commercial real
28 estate brokerage agreement for a transaction of one
29 million dollars or greater".
- 30 9. Page 3, line 13, by inserting after the word
31 "transaction" the following: "or in a commercial real
32 estate transaction of one million dollars or greater".
- 33 10. Page 3, line 28, by inserting after the word
34 "agreement" the following: "or into a commercial real
35 estate brokerage agreement for a transaction of one
36 million dollars or greater".
- 37 11. Page 3, line 32, by inserting after the word
38 "TRANSACTION" the following: "OR CERTAIN COMMERCIAL
39 TRANSACTIONS".
- 40 12. Page 3, line 35, by inserting after the word
41 "transactions" the following: "or in commercial real
42 estate transactions of one million dollars or
43 greater".
- 44 13. Title page, line 2, by striking the word
45 "residential".

By HOLVECK of Polk

H-1390 FILED MARCH 25, 1997

o/oder 3-31-97

HOUSE FILE 644

H-1344

- 1 Amend House File 644 as follows:
- 2 1. Page 1, line 5, by striking the word
3 "residential" and inserting the following:
4 "habitation".
- 5 2. By striking page 1, line 25, through page 2,
6 line 12, and inserting the following:
7 "1. A licensee shall not represent any party or
8 parties to a residential property transaction or
9 otherwise as a licensee unless that licensee makes an
10 ~~affirmative-written~~ a disclosure to all parties to the
11 transaction identifying which party that person
12 represents in the transaction. ~~The disclosure shall~~
13 ~~be acknowledged by separate signatures of all parties~~
14 ~~to the transaction.~~
- 15 2. a. The disclosure required in subsection 1
16 shall be made by the licensee at the time the licensee
17 provides specific assistance to the client, ~~or prior~~
18 ~~to any offer being made or accepted by any party to a~~
19 ~~transaction, whichever is sooner. A change in a~~
20 ~~licensee's representation that makes the initial~~
21 ~~disclosure incomplete, misleading, or inaccurate~~
22 ~~requires that a new disclosure be made immediately.~~
- 23 b. For purposes of this section, "specific
24 assistance" means eliciting or accepting confidential
25 information about a party's real estate needs,
26 motivation, or financial qualifications. "Specific
27 assistance" does not mean an open house showing,
28 preliminary conversations concerning price range,
29 location, and property styles, or responding to
30 general factual questions concerning properties which
31 have been advertised for sale or lease.
- 32 c. A written disclosure for residential property
33 shall be acknowledged by separate signatures of all
34 parties to the transaction prior to any offer being
35 made or accepted by any party to a transaction."
- 36 3. Page 4, by inserting after line 5 the
37 following:
38 "Sec. ____ . EFFECTIVE DATE. This Act, being deemed
39 of immediate importance, takes effect upon enactment."
40 4. Title page, line 3, by inserting after the
41 word "transactions" the following: ", and providing
42 an effective date".
- 43 5. By renumbering as necessary.

By JACOBS of Polk

H-1344 FILED MARCH 25, 1997

o/order 3/31/97
(p. 911)

HOUSE FILE 644

H-1396

- 1 Amend the amendment, H-1344, to House File 644 as
 2 follows:
 3 1. Page 1, line 8, by inserting after the word
 4 "transaction" the following: "or to a commercial real
 5 estate transaction of five hundred thousand dollars or
 6 less".
 7 2. Page 1, line 10, by striking the words
 8 "written a" and inserting the following: "a written".
 9 3. Page 1, line 32, by striking the words "for
 10 residential property".
 11 4. Page 1, by inserting after line 39 the
 12 following:
 13 "_____. Title page, line 2, by striking the word
 14 "residential".
 15 5. By renumbering as necessary.

By HOLVECK of Polk

H-1396 FILED MARCH 26, 1997

o/order 3-31-97

HOUSE FILE 644

H-1397

- 1 Amend the amendment, H-1344, to House File 644, as
 2 follows:
 3 1. Page 1, line 8, by inserting after the word
 4 "transaction" the following: "or to a commercial real
 5 estate transaction of one million dollars or less".
 6 2. Page 1, line 10, by striking the words
 7 "written a" and inserting the following: "a written".
 8 3. Page 1, line 32, by striking the words "for
 9 residential property".
 10 4. Page 1, by inserting after line 39 the
 11 following:
 12 "_____. Title page, line 2, by striking the word
 13 "residential".
 14 5. By renumbering as necessary.

By HOLVECK of Polk

H-1397 FILED MARCH 26, 1997

o/order 3-31-97

HOUSE FILE 644

H-1443

- 1 Amend the amendment, H-1435, to House File 644 as
 2 follows:
 3 1. Page 1, line 8, by striking the words "an
 4 affirmative-written a" and inserting the following:
 5 "an affirmative written".
 6 2. Page 1, line 24, by inserting after the word
 7 "qualifications" the following: ", or eliciting or
 8 accepting information involving a proposed or
 9 preliminary offer associated with specific real
 10 estate".

By HOLVECK of Polk

H-1443 FILED MARCH 26, 1997

*A. w/d 3-31-97 (p.911)**B. adopted 3-31-97 (p.911)*

HOUSE FILE 644

H-1398

1 Amend the amendment, H-1390, to House File 644 as
2 follows:
3 1. Page 1, by striking lines 2 through 12 and
4 inserting the following:
5 " . Page 1, line 10, by inserting after the
6 word "transaction" the following: "or to a commercial
7 real estate transaction of five hundred thousand
8 dollars or less".
9 " . Page 1, line 16, by inserting after the word
10 "transaction" the following: "or with respect to a
11 commercial real estate transaction of five hundred
12 thousand dollars or less".
13 " . Page 1, line 21, by inserting after the word
14 "transaction" the following: "or with respect to a
15 commercial real estate transaction of five hundred
16 thousand dollars or less"."
17 2. Page 1, by striking lines 13 through 19 and
18 inserting the following:
19 " . Page 1, line 26, by inserting after the
20 word "transaction" the following: "or to a commercial
21 real estate transaction of five hundred thousand
22 dollars or less".
23 " . Page 2, line 1, by inserting after the word
24 "transaction" the following: "or to the commercial
25 real estate transaction of five hundred thousand
26 dollars or less"."
27 3. Page 1, by striking lines 20 through 45 and
28 inserting the following:
29 " . Page 2, line 16, by inserting after the
30 word "TRANSACTION" the following: "OR CERTAIN
31 COMMERCIAL TRANSACTIONS".
32 " . Page 2, line 18, by inserting after the word
33 "transaction" the following: "or to a commercial real
34 estate transaction of five hundred thousand dollars or
35 less".
36 " . Page 3, line 2, by inserting after the word
37 "agreement" the following: "or into a commercial real
38 estate brokerage agreement for a transaction of five
39 hundred thousand dollars or less".
40 " . Page 3, line 13, by inserting after the word
41 "transaction" the following: "or in a commercial real
42 estate transaction of five hundred thousand dollars or
43 less".
44 " . Page 3, line 28, by inserting after the word
45 "agreement" the following: "or into a commercial real
46 estate brokerage agreement for a transaction of five
47 hundred thousand dollars or less".
48 " . Page 3, line 32, by inserting after the word
49 "TRANSACTION" the following: "OR CERTAIN COMMERCIAL
50 TRANSACTIONS".

H-1398

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H-1398

Page 2

- 1 _____. Page 3, line 35, by inserting after the word
- 2 "transactions" the following: "or in commercial real
- 3 estate transactions of five hundred thousand dollars
- 4 or less".
- 5 _____. Title page, line 2, by striking the word
- 6 "residential".
- 7 4. By renumbering as necessary.

By HOLVECK of Polk

H-1398 FILED MARCH 26, 1997

o/orden 3/31/97

H-1399

Page 2

- 1 estate transactions of one million dollars or less".
- 2 _____. Title page, line 2, by striking the word
- 3 "residential".
- 4 4. By renumbering as necessary.

By HOLVECK of Polk

H-1399 FILED MARCH 26, 1997

of order 3-31-97

HOUSE FILE 644

H-1435

- 1 Amend House File 644 as follows:
- 2 1. By striking everything after the enacting
- 3 clause and inserting the following:
- 4 "Section 1. Section 543B.57, subsections 1 and 2,
- 5 Code 1997, are amended to read as follows:
- 6 1. A licensee shall not represent any party or
- 7 parties to a transaction or otherwise as a licensee
- 8 unless that licensee makes ~~an affirmative written a~~
- 9 disclosure to all parties to the transaction
- 10 identifying which party that person represents in the
- 11 transaction. ~~The disclosure shall be acknowledged by~~
- 12 ~~separate signatures of all parties to the transaction.~~
- 13 2. a. The disclosure required in subsection 1
- 14 shall be made by the licensee at the time the licensee
- 15 provides specific assistance to the client, ~~or prior~~
- 16 ~~to any offer being made or accepted by any party to a~~
- 17 ~~transaction, whichever is sooner.~~ A change in a
- 18 licensee's representation that makes the initial
- 19 disclosure incomplete, misleading, or inaccurate
- 20 requires that a new disclosure be made immediately.
- 21 b. For purposes of this section, "specific
- 22 assistance" means eliciting or accepting confidential
- 23 information about a party's real estate needs,
- 24 motivation, or financial qualifications. "Specific
- 25 assistance" does not mean an open house showing,
- 26 preliminary conversations concerning price range,
- 27 location, and property styles, or responding to
- 28 general factual questions concerning properties which
- 29 have been advertised for sale or lease.
- 30 c. A written disclosure shall be acknowledged by
- 31 separate signatures of all parties to the transaction
- 32 prior to any offer being made or accepted by any party
- 33 to a transaction.
- 34 Sec. 2. EFFECTIVE DATE. This Act, being deemed of
- 35 immediate importance, takes effect upon enactment."
- 36 2. Title page, by striking lines 2 and 3 and
- 37 inserting the following: "or salesperson and parties
- 38 to certain real estate transactions and providing an
- 39 effective date."

By JACOBS of Polk

H-1435 FILED MARCH 26, 1997

adopted
3/31/97 (p. 910)

5-4/1/97 Commerce
5-4/2/97 Do Pass
5-4/10/97 Unfinished Business Calendar

HOUSE FILE **644**
BY COMMITTEE ON COMMERCE AND
REGULATION

(SUCCESSOR TO HF 98)

(As Amended and Passed by the House, March 31, 1997)

Passed House, Date 4/16/97 (p.1270) Passed Senate, Date 4-15-97 (P.1172)
Vote: Ayes 97 Nays 0 Vote: Ayes 47 Nays 2
Approved April 23, 1997

A BILL FOR

1 An Act relating to the relationship between a real estate broker
2 or salesperson and parties to certain real estate transactions
3 and providing an effective date.

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

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New Language by the House

House Amendments _____

1 Section 1. Section 543B.57, subsections 1 and 2, Code
2 1997, are amended to read as follows:

3 1. A licensee shall not represent any party or parties to
4 a transaction or otherwise as a licensee unless that licensee
5 makes ~~an affirmative-written~~ a disclosure to all parties to
6 the transaction identifying which party that person represents
7 in the transaction. ~~The disclosure shall be acknowledged by~~
8 ~~separate signatures of all parties to the transaction.~~

9 2. a. The disclosure required in subsection 1 shall be
10 made by the licensee at the time the licensee provides
11 specific assistance to the client, ~~or prior to any offer being~~
12 ~~made or accepted by any party to a transaction, whichever is~~
13 sooner. A change in a licensee's representation that makes
14 the initial disclosure incomplete, misleading, or inaccurate
15 requires that a new disclosure be made immediately.

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

26 c. A written disclosure shall be acknowledged by separate
27 signatures of all parties to the transaction prior to any
28 offer being made or accepted by any party to a transaction.

29 Sec. 2. EFFECTIVE DATE. This Act, being deemed of
30 immediate importance, takes effect upon enactment.

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HOUSE FILE 644

S-3512

1 Amend House File 644, as amended, passed, and
2 reprinted by the House, as follows:
3 1. Page 1, line 26, by striking the word "A" and
4 inserting the following: "A written disclosure is
5 required to be made prior to an offer being made or
6 accepted by any party to a transaction. The".

By TOM VILSACK

S-3512 FILED APRIL 14, 1997

*Adopted 4-15-97**(P.1171)*

HOUSE FILE 644

S-3511

1 Amend House File 644, as amended, passed, and
2 reprinted by the House, as follows:
3 1. Page 1, by inserting after line 28 the
4 following:
5 "d. The board shall adopt rules establishing the
6 form and contents of the written disclosure required
7 under this subsection. The written disclosure shall
8 include a statement indicating that the licensee
9 should have made the disclosure identifying the party
10 the licensee represents in the transaction, as
11 required under subsection 1, at the time the licensee
12 provided specific assistance to the client."

By ROD HALVORSON

S-3511 FILED APRIL 14, 1997

*Lost 4-15-97**(P.1172)*

SENATE AMENDMENT TO HOUSE FILE 644

H-1726

1 Amend House File 644, as amended, passed, and
2 reprinted by the House, as follows:
3 1. Page 1, line 26, by striking the word "A" and
4 inserting the following: "A written disclosure is
5 required to be made prior to an offer being made or
6 accepted by any party to a transaction. The".

RECEIVED FROM THE SENATE

H-1726 FILED APRIL 15, 1997

House concurred 4/16/97 (p.1269)

HOUSE FILE 644

AN ACT

RELATING TO THE RELATIONSHIP BETWEEN A REAL ESTATE BROKER
OR SALESPERSON AND PARTIES TO CERTAIN REAL ESTATE
TRANSACTIONS AND PROVIDING AN EFFECTIVE DATE.

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

Section 1. Section 543B.57, subsections 1 and 2, Code
1997, are amended to read as follows:

1. A licensee shall not represent any party or parties to
a transaction or otherwise as a licensee unless that licensee
makes ~~an affirmative-written~~ a disclosure to all parties to
the transaction identifying which party that person represents
in the transaction. ~~The disclosure shall be acknowledged by
separate signatures of all parties to the transaction.~~

2. a. The disclosure required in subsection 1 shall be
made by the licensee at the time the licensee provides
specific assistance to the client, ~~or prior to any offer being
made or accepted by any party to a transaction, whichever is
sooner.~~ A change in a licensee's representation that makes
the initial disclosure incomplete, misleading, or inaccurate
requires that a new disclosure be made immediately.

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

c. A written disclosure is required to be made prior to an
offer being made or accepted by any party to a transaction.
The written disclosure shall be acknowledged by separate
signatures of all parties to the transaction prior to any
offer being made or accepted by any party to a transaction.

Sec. 2. EFFECTIVE DATE. This Act, being deemed of
immediate importance, takes effect upon enactment.

RON J. CORBETT
Speaker of the House

MARY E. KRAMER
President of the Senate

I hereby certify that this bill originated in the House and
is known as House File 644, Seventy-seventh General Assembly.

ELIZABETH ISAACSON
Chief Clerk of the House
Approved April 23, 1997

TERRY E. BRANSTAD
Governor