

Substituted for by SF 404

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(P. 940)

COMMERCE AND REGULATION

HOUSE FILE  
BY JACOBS

424

WITHDRAWN

3/30/99

(P. 941)

(COMPANION TO LSB 1665SS  
BY JOHNSON)

Passed House, Date \_\_\_\_\_

Passed Senate, Date \_\_\_\_\_

Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_

Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_

Approved \_\_\_\_\_

A BILL FOR

1 An Act relating to a relationship involving real estate licensees  
2 and real estate clients, and establishing restrictions on the  
3 payment of commissions or other consideration.

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

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HE 424

1 Section 1. Section 543B.34, subsection 9, Code 1999, is  
2 amended to read as follows:

3 9. a. Paying a commission or other valuable consideration  
4 or any part of a such commission or consideration for  
5 performing any of the acts specified in this chapter to a  
6 person who is not a licensed broker or salesperson under this  
7 chapter or who is not engaged in the real estate business in  
8 another state or foreign country, or paying a commission or  
9 other valuable consideration for performing any of the acts  
10 specified in this chapter to a licensee knowing that the  
11 licensee will pay a portion of or all of such commission or  
12 consideration to a person or party who is not licensed  
13 pursuant to this chapter, provided that the provisions of this  
14 section shall not be construed to prohibit the payment of  
15 earned commissions or consideration to any of the following:

16 (1) a. The estate or heirs of a deceased real estate  
17 licensee when such licensee had a valid real estate license in  
18 effect at the time the commission or consideration was earned.

19 (2) b. A citizen of another country acting as a referral  
20 agent if that country does not license real estate brokers and  
21 if the Iowa licensee paying the commission or compensation  
22 consideration obtains and maintains reasonable written  
23 evidence that the payee is a citizen of the other country, is  
24 not a resident of this country, and is in the business of  
25 brokering real estate in that other country.

26 (3) ~~--A corporation pursuant to paragraph "b",~~

27 ~~b.--A broker may pay a commission to a corporation which is~~  
28 ~~wholly owned, or owned with a spouse, by a salesperson or~~  
29 ~~broker associate employed by or otherwise associated with the~~  
30 ~~broker, if all of the following conditions are met:~~

31 (1) ~~--The corporation does not engage in real estate~~  
32 ~~transactions as a third party agent or in any other activity~~  
33 ~~requiring a license under this chapter.~~

34 (2) ~~--The employing broker is not relieved of any obligation~~  
35 ~~to supervise the employed licensee or any other requirement of~~

1 ~~this chapter or the rules adopted pursuant to this chapter.~~  
2 ~~(3) -- The employed broker associate or salesperson is not~~  
3 ~~relieved from any personal civil liability for any licensed~~  
4 ~~activities by interposing the corporate form.~~

5 Sec. 2. NEW SECTION. 543B.60A RESTRICTIONS ON PAYMENT OF  
6 COMMISSION TO OTHERS.

7 1. A person or licensee shall not require that a person,  
8 party, client, or customer negotiate a listing or purchase  
9 agreement or contract of real estate through a particular  
10 broker or group of brokers, salesperson or group of  
11 salespersons, or agent or group of agents.

12 2. A licensee shall not pay a commission, or portion of a  
13 commission, or other valuable consideration to a person or  
14 other licensee as described in subsection 1.

15 3. A violation of this section shall be considered a  
16 violation under section 543B.34, subsection 4. In addition to  
17 any other penalty applicable, a license to practice the  
18 profession of real estate broker or salesperson may be revoked  
19 or suspended for a violation of this section.

20 4. For purposes of this section, "person" means an  
21 individual, corporation, association, partnership, or other  
22 legal entity.

23 EXPLANATION

24 This bill relates to the relationship between a real estate  
25 licensee and a client, and the payment of a commission,  
26 portion of a commission, or other valuable consideration to  
27 certain persons.

28 This bill amends Code section 543B.34 and provides that the  
29 real estate commission may suspend or revoke a real estate  
30 license if the licensee is found to be guilty of paying a  
31 commission or other valuable consideration for performing any  
32 acts of a real estate broker or salesperson to another  
33 licensed person knowing that such person will pay a portion or  
34 all of such commission or consideration to a person who is not  
35 licensed by the real estate commission.

1 The bill also amends Code section 543B.34 by striking  
2 language which permits a real estate broker to pay a  
3 commission to a corporation which is wholly owned, or owned  
4 with a spouse, by a salesperson or broker associate employed  
5 by or otherwise associated with the broker.

6 The bill creates new Code section 543B.60A and provides  
7 that a person or licensee shall not require that a person,  
8 party, client, or customer negotiate a listing or purchase  
9 agreement or contract of real estate through a particular  
10 broker or group of brokers, salesperson or group of  
11 salespersons, or agent or group of agents.

12 A licensee who violates this section would be subject to  
13 license suspension or revocation. Additionally, a person  
14 found guilty of a first offense would be guilty of a simple  
15 misdemeanor.

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H-1249

1 Amend House File 424 as follows:

- 2 1. By striking page 1, line 26, through page 2,  
3 line 4, and inserting the following:  
4 "(3) A corporation pursuant to paragraph "b".  
5 b. A broker may pay a commission to a corporation  
6 which is wholly owned, or owned with a spouse, by a  
7 salesperson or broker associate employed by or  
8 otherwise associated with the broker, if all of the  
9 following conditions are met:  
10 (1) The corporation does not engage in real estate  
11 transactions as a third-party agent or in any other  
12 activity requiring a license under this chapter.  
13 (2) The employing broker is not relieved of any  
14 obligation to supervise the employed licensee or any  
15 other requirement of this chapter or the rules adopted  
16 pursuant to this chapter.  
17 (3) The employed broker associate or salesperson  
18 is not relieved from any personal civil liability for  
19 any licensed activities by interposing the corporate  
20 form."  
21 2. Page 2, line 7, by striking the words "person  
22 or".  
23 3. Page 2, by inserting after line 14 the  
24 following:  
25 "3. A licensee shall not request a referral fee  
26 after a bona fide offer to purchase is accepted.  
27 4. A licensee shall not request a referral fee  
28 after a bona fide listing agreement has been signed."  
29 4. Page 2, by striking lines 20 through 22.  
30 5. By renumbering as necessary.

By JACOBS of Polk

H-1249 FILED MARCH 25, 1999

*Adopted*

*3/30/99*

*(p. 940)*