

MAR 17 2003
Place On Calendar

HOUSE FILE 606
BY COMMITTEE ON STATE GOVERNMENT

(SUCCESSOR TO HSB 248)

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

A BILL FOR

1 An Act providing for transfer of the professional licensing and
2 regulation division of the department of commerce to the
3 secretary of state's office.

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

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HF 606

1 Section 1. Section 9.1, Code 2003, is amended to read as
2 follows:

3 9.1 DUTIES -- RECORDS.

4 The secretary of state shall keep the secretary of state's
5 office at the seat of government, and perform all duties
6 required by law; the secretary shall have charge of and keep
7 all the Acts and resolutions of the territorial legislature
8 and of the general assembly of the state, the enrolled copies
9 of the Constitutions of the state, and all bonds, books,
10 records, maps, registers, and papers which are now or may
11 hereafter be deposited to be kept in the secretary of state's
12 office, including all books, records, papers, and property
13 pertaining to the state land office. The secretary shall
14 additionally oversee the administration of the professional
15 licensing and regulation division of the secretary of state's
16 office.

17 Sec. 2. NEW SECTION. 9.8 PROFESSIONAL LICENSING AND
18 REGULATION DIVISION -- SUPERINTENDENT OF SAVINGS AND LOAN
19 ASSOCIATIONS.

20 1. A professional licensing and regulation division is
21 established within the secretary of state's office. The
22 division shall administer and coordinate the licensing and
23 regulation of several professions by bringing together the
24 following licensing boards:

25 a. The Iowa accountancy examining board created pursuant
26 to chapter 542.

27 b. The engineering and land surveying examining board
28 created pursuant to chapter 542B.

29 c. The real estate commission created pursuant to chapter
30 543B.

31 d. The real estate appraiser examining board created
32 pursuant to chapter 543D.

33 e. The architectural examining board created pursuant to
34 chapter 544A.

35 f. The landscape architectural examining board created

1 pursuant to chapter 544B.

2 2. The division is headed by the administrator of
3 professional licensing and regulation, who shall be an
4 employee of the secretary of state. The administrator shall
5 report to the secretary of state, and shall hire and supervise
6 staff and shall coordinate activities for the licensing boards
7 within the division. The administrator may act as a staff
8 person to one or more of the licensing boards.

9 3. The licensing boards included in the division pursuant
10 to subsection 1 retain the powers granted them pursuant to the
11 chapters in which they are created, except for budgetary and
12 personnel matters, which shall be handled by the
13 administrator. Each licensing board shall adopt rules
14 pursuant to chapter 17A. Decisions by a licensing board are
15 final agency actions for purposes of chapter 17A.

16 Notwithstanding subsection 5, eighty-five percent of the
17 funds received annually resulting from an increase in
18 licensing fees implemented on or after April 1, 2002, by a
19 licensing board or commission listed in subsection 1, is
20 appropriated to the professional licensing and regulation
21 division to be allocated to the board or commission for each
22 fiscal year, for purposes related to the duties of the board
23 or commission, including but not limited to additional full-
24 time equivalent positions. The director of revenue and
25 finance shall draw warrants upon the treasurer of state from
26 the funds appropriated as provided in this subsection and
27 shall make the funds available to the professional licensing
28 and regulation division on a monthly basis during each fiscal
29 year.

30 4. The professional licensing and regulation division of
31 the secretary of state's office may expend additional funds,
32 including funds for additional personnel, if those additional
33 expenditures are directly the cause of actual examination
34 expenses exceeding funds budgeted for examinations.

35 5. Fees collected under chapters 542, 542B, 543B, 543D,

1 544A, and 544B shall be paid to the treasurer of state and
2 credited to the general fund of the state. All expenses
3 required in the discharge of the duties and responsibilities
4 imposed upon the professional licensing and regulation
5 division of the secretary of state's office, the
6 administrator, and the licensing boards by the laws of this
7 state shall be paid from moneys appropriated by the general
8 assembly for those purposes. All fees deposited into the
9 general fund of the state, as provided in this subsection,
10 shall be subject to the requirements of section 8.60.

11 6. The administrator of professional licensing and
12 regulation is the superintendent of savings and loan
13 associations. The administrator may appoint an individual to
14 act as the superintendent who shall serve as the
15 superintendent at the pleasure of the administrator.

16 7. All licensing boards in the division may refuse to
17 grant or renew a license to practice a profession to any
18 person otherwise qualified upon any of the grounds for which a
19 license may be revoked or suspended.

20 8. All licensing boards in the division may suspend,
21 revoke, or otherwise discipline a licensee, or refuse to renew
22 a license, based on the revocation or suspension of, or other
23 disciplinary action against a professional license by a
24 licensing authority in this or another state, the United
25 States, a territory, or other country. A certified copy of
26 the record or order of suspension, revocation, or other
27 disciplinary action is prima facie evidence of such fact.

28 9. Notwithstanding section 272C.3 or any other provision
29 of law, the maximum amount of a civil penalty imposed as a
30 disciplinary measure by licensing boards in the division may,
31 in the discretion of the board and taking into account the
32 severity of the violation, be increased from one thousand
33 dollars per occurrence to up to twenty-five thousand dollars
34 per occurrence.

35 10. Staff members in the division shall be employed

1 subject to the merit system provisions of chapter 19A.

2 Sec. 3. Section 534.401, subsection 1, Code 2003, is
3 amended to read as follows:

4 1. SUPERINTENDENT OF SAVINGS AND LOAN ASSOCIATIONS. The
5 superintendent of savings and loan associations is the
6 administrator of professional licensing and regulation
7 appointed pursuant to section ~~546.10~~ 9.8, subsection 2, or an
8 individual appointed by the administrator as provided in
9 section ~~546.10~~ 9.8, subsection 6.

10 Sec. 4. Section 542.4, subsections 1 and 6, Code 2003, are
11 amended to read as follows:

12 1. An Iowa accountancy examining board is created within
13 the professional licensing ~~and-regulation~~ division of the
14 ~~department-of-commerce~~ secretary of state's office to
15 administer and enforce this chapter. The board shall consist
16 of eight members, appointed by the governor and subject to
17 senate confirmation, all of whom shall be residents of this
18 state. Five of the eight members shall be holders of
19 certificates issued under section 542.6, one member shall be
20 the holder of a license issued under section 542.8, and two
21 shall not be certified public accountants or licensed public
22 accountants and shall represent the general public. At least
23 three of the holders of certificates issued under section
24 542.6 shall also be qualified to supervise attest services as
25 provided in section 542.7. A certified or licensed member of
26 the board shall be actively engaged in practice as a certified
27 public accountant or as a licensed public accountant and shall
28 have been so engaged for five years preceding appointment, the
29 last two of which shall have been in this state. Professional
30 associations or societies composed of certified public
31 accountants or licensed public accountants may recommend the
32 names of potential board members to the governor. However,
33 the governor is not bound by the recommendations. A board
34 member is not required to be a member of any professional
35 association or society composed of certified public

1 accountants or licensed public accountants. The term of each
2 member of the board shall be three years, as designated by the
3 governor, and appointments to the board are subject to the
4 requirements of sections 69.16, 69.16A, and 69.19. Members of
5 the board appointed and serving pursuant to chapter 542C, Code
6 2001, on July 1, 2002, shall serve out the terms for which
7 they were appointed. Vacancies occurring during a term shall
8 be filled by appointment by the governor for the unexpired
9 term. Upon the expiration of the member's term of office, a
10 member shall continue to serve until a successor shall have
11 been appointed and taken office. The public members of the
12 board shall be allowed to participate in administrative,
13 clerical, or ministerial functions incident to giving the
14 examinations, but shall not determine the content or determine
15 the correctness of the answers. The licensed public
16 accountant member shall not determine the content of the
17 certified public accountant examination or determine the
18 correctness of the answers. Any member of the board whose
19 certificate under section 542.6 or license under section 542.8
20 is revoked or suspended shall automatically cease to be a
21 member of the board, and the governor may, after a hearing,
22 remove any member of the board for neglect of duty or other
23 just cause. A person who has served three successive complete
24 terms shall not be eligible for reappointment, but appointment
25 to fill an unexpired term shall not be considered a complete
26 term for this purpose.

27 6. The administrator of the professional licensing and
28 regulation division of the department-of-commerce secretary of
29 state's office shall provide staffing assistance to the board
30 for implementing this chapter.

31 Sec. 5. Section 542B.3, Code 2003, is amended to read as
32 follows:

33 542B.3 ENGINEERING AND LAND SURVEYING EXAMINING BOARD
34 CREATED.

35 An engineering and land surveying examining board is

1 created within the professional licensing and regulation
2 division of the department-of-commerce secretary of state's
3 office. The board consists of four members who are licensed
4 professional engineers, one member who is a licensed land
5 surveyor or a professional engineer who is also a licensed
6 land surveyor, and two members who are not licensed
7 professional engineers or land surveyors and who shall
8 represent the general public. Members shall be appointed by
9 the governor subject to confirmation by the senate. A
10 licensed member shall be actively engaged in the practice of
11 engineering or land surveying and shall have been so engaged
12 for five years preceding the appointment, the last two of
13 which shall have been in Iowa. Insofar as practicable,
14 licensed engineer members of the board shall be from different
15 branches of the profession of engineering. Professional
16 associations or societies composed of licensed engineers or
17 licensed land surveyors may recommend the names of potential
18 board members whose profession is representative of that
19 association or society to the governor. However, the governor
20 is not bound by the recommendations. A board member shall not
21 be required to be a member of any professional association or
22 society composed of professional engineers or land surveyors.

23 Sec. 6. Section 542B.9, Code 2003, is amended to read as
24 follows:

25 542B.9 ORGANIZATION OF THE BOARD -- STAFF.

26 The board shall elect annually from its members a
27 chairperson and a vice chairperson. The administrator of the
28 professional licensing and regulation division of the
29 department-of-commerce secretary of state's office shall hire
30 and provide staff to assist the board in implementing this
31 chapter. The board shall hold at least one meeting at the
32 location of the board's principal office, and meetings shall
33 be called at other times by the administrator at the request
34 of the chairperson or four members of the board. At any
35 meeting of the board, a majority of members constitutes a

1 quorum.

2 Sec. 7. Section 542B.22, Code 2003, is amended to read as
3 follows:

4 542B.22 PROCEDURE.

5 Proceedings for any action under section 542B.21 shall be
6 begun by filing with the board written charges against the
7 accused. Upon the filing of charges the board may ~~request-the~~
8 ~~department-of-inspections-and-appeals-to~~ conduct an
9 investigation into the charges. ~~The-department-of-inspections~~
10 ~~and-appeals-shall-report-its-findings-to-the-board,--and-the~~
11 ~~board-shall,~~ designate a time and place for a hearing, and
12 shall notify the accused of this action and furnish the
13 accused a copy of all charges at least thirty days prior to
14 the date of the hearing. The accused has the right to appear
15 personally or by counsel, to cross-examine witnesses, or to
16 produce witnesses in defense.

17 Sec. 8. Section 543B.8, Code 2003, is amended to read as
18 follows:

19 543B.8 REAL ESTATE COMMISSION CREATED -- STAFF.

20 A real estate commission is created within the professional
21 licensing and regulation division of the ~~department-of~~
22 ~~commerce secretary of state's office~~. The commission consists
23 of three members licensed under this chapter and two members
24 not licensed under this chapter and who shall represent the
25 general public. At least one of the licensed members shall be
26 a licensed real estate salesperson, except that if the
27 licensed real estate salesperson becomes a licensed real
28 estate broker during a term of office, that person may
29 complete the term, but is not eligible for reappointment on
30 the commission as a licensed real estate salesperson. A
31 licensed member shall be actively engaged in the real estate
32 business and shall have been so engaged for five years
33 preceding the appointment, the last two of which shall have
34 been in Iowa. Professional associations or societies of real
35 estate brokers or real estate salespersons may recommend the

1 names of potential commission members to the governor.
2 However, the governor is not bound by their recommendations.
3 A commission member shall not be required to be a member of
4 any professional association or society composed of real
5 estate brokers or salespersons. Commission members shall be
6 appointed by the governor subject to confirmation by the
7 senate. Appointments shall be for three-year terms and shall
8 commence and end as provided in section 69.19. A member shall
9 serve no more than three terms or nine years, whichever is
10 less. No more than one member shall be appointed from a
11 county. A commission member shall not hold any other elective
12 or appointive state or federal office. Vacancies shall be
13 filled for the unexpired term by appointment of the governor
14 and are subject to senate confirmation. A majority of the
15 commission members constitutes a quorum. The administrator of
16 the professional licensing and regulation division shall hire
17 and provide staff to assist the commission with implementing
18 this chapter.

19 The administrator of the professional licensing and
20 regulation division of the ~~department-of-commerce~~ secretary of
21 state's office shall hire a real estate education director to
22 assist the commission in administering education programs for
23 the commission.

24 Sec. 9. Section 543B.14, Code 2003, is amended to read as
25 follows:

26 543B.14 FEES AND EXPENSES -- FUNDS.

27 All fees and charges collected by the real estate
28 commission under this chapter shall be paid into the general
29 fund of the state, except that ~~the-equivalent-of-the-greater~~
30 ~~of-ten-dollars-or-forty-percent-per-year-of-the-fees-for-each~~
31 ~~real-estate-salesperson's-license, plus-the-equivalent-of-the~~
32 ~~greater-of-ten-dollars-or-twenty-five-percent-per-year-of-the~~
33 ~~fees-for-each-broker's-license~~ thirty dollars of each fee for
34 the renewal of a salesperson's license or broker's license
35 shall be paid into the Iowa real estate education fund created

1 in section 543B.54. All expenses incurred by the commission
2 under this chapter, including compensation of staff assigned
3 to the commission, shall be paid from funds appropriated for
4 those purposes, except for expenses incurred and compensation
5 paid for the real estate education director, which shall be
6 paid out of the real estate education fund.

7 Sec. 10. Section 543B.54, Code 2003, is amended to read as
8 follows:

9 543B.54 REAL ESTATE EDUCATION FUND.

10 The Iowa real estate education fund is created as a
11 financial assurance mechanism to assist in the establishment
12 and maintenance of a real estate education program at the
13 university of northern Iowa and to assist the real estate
14 commission in providing an education director. The fund is
15 created as a separate fund in the state treasury, and any
16 funds remaining in the fund at the end of each fiscal year
17 shall not revert to the general fund, but shall remain in the
18 Iowa real estate education fund. Seventy percent of the
19 moneys in the fund shall be distributed and are appropriated
20 to the board of regents for the purpose of establishing and
21 maintaining a real estate education program at the university
22 of northern Iowa. Thirty percent of the moneys in the fund
23 shall be distributed and are appropriated to the professional
24 licensing and regulation division of the ~~department-of~~
25 ~~commerce~~ secretary of state's office for the purpose of hiring
26 and compensating a real estate education director.

27 Sec. 11. Section 543C.4, subsections 1 and 2, Code 2003,
28 are amended to read as follows:

29 1. The commission may ~~request-the-department-of~~
30 ~~inspections-and-appeals-to~~ conduct an investigation and
31 inspection to be made of any subdivided land proposed to be
32 offered for sale or lease in this state pursuant to this
33 chapter. The ~~department-of-inspections-and-appeals~~ commission
34 shall make a report of its findings.

35 2. If an inspection is to be made of subdivided land

1 situated outside of this state and offered for sale in this
2 state, the inspection as authorized by subsection 1 shall be
3 made by the ~~department-of-inspections-and-appeals~~ commission
4 at the expense of the subdivider. After the application
5 required by section 543C.2 is filed and after the filing fee
6 required by section 543C.8 is received, the commission may
7 decide whether an inspection pursuant to this subsection is to
8 be made. If the commission requires an inspection, the
9 ~~department-of-inspections-and-appeals~~ commission shall so
10 notify the subdivider and the subdivider shall remit to the
11 ~~department~~ commission an amount equivalent to the round trip
12 cost of travel from this state to the location of the project,
13 as estimated by the ~~department~~ commission and a further amount
14 estimated to be necessary to cover the additional expenses of
15 inspection but not to exceed fifty dollars a day for each day
16 incurred in the inspection. The costs of any subsequent
17 inspections deemed necessary shall be paid for by the
18 subdivider. At the completion of an inspection trip the
19 ~~department~~ commission shall furnish the subdivider a statement
20 as to the costs of the inspection trip, and if the costs are
21 less than the amount advanced by the subdivider to the
22 ~~department~~ commission, the remaining balance shall be refunded
23 to the subdivider.

24 Sec. 12. Section 543D.4, unnumbered paragraph 1, Code
25 2003, is amended to read as follows:

26 A real estate appraiser examining board is established
27 within the professional licensing and regulation division of
28 the ~~department-of-commerce~~ secretary of state's office. The
29 board consists of seven members, two of whom shall be public
30 members and five of whom shall be real estate appraisers.

31 Sec. 13. Section 544A.1, unnumbered paragraph 2, Code
32 2003, is amended to read as follows:

33 The architectural examining board is created within the
34 professional licensing and regulation division of the
35 ~~department-of-commerce~~ secretary of state's office. The board

1 consists of five members who possess a certificate of
2 registration issued under section 544A.9 and who have been in
3 active practice of architecture for not less than five years,
4 the last two of which shall have been in Iowa, and two members
5 who do not possess a certificate of registration issued under
6 section 544A.9 and who shall represent the general public.
7 Members shall be appointed by the governor subject to
8 confirmation by the senate.

9 Sec. 14. Section 544A.5, Code 2003, is amended to read as
10 follows:

11 544A.5 DUTIES.

12 The architectural examining board shall enforce this
13 chapter, shall make rules for the examination of applicants
14 for the certificate of registration provided by this chapter,
15 and shall, after due public notice, hold meetings each year
16 for the purpose of examining applicants for registration and
17 the transaction of business pertaining to the affairs of the
18 board. Examinations shall be given as often as deemed
19 necessary, but not less than annually. Action at a meeting
20 shall not be taken without the affirmative votes of a majority
21 of the members of the board. The administrator of the
22 professional licensing and regulation division of the
23 ~~department-of-commerce~~ secretary of state's office shall hire
24 and provide staff to assist the board with implementing this
25 chapter.

26 Sec. 15. Section 544A.13, unnumbered paragraph 3, Code
27 2003, is amended to read as follows:

28 Proceedings for the revocation of a certificate shall be
29 initiated by filing written charges against the accused with
30 the board. Upon the filing of charges the board may request
31 ~~the-department-of-inspections-and-appeals-to~~ conduct an
32 investigation into the charges.--~~The-department-of-inspections~~
33 ~~and-appeals-shall-report-its-findings-to-the-board~~, and a time
34 and place for the hearing of the charges shall be fixed by the
35 board if the board determines that a hearing is warranted. If

1 personal service or service through counsel cannot be
2 effected, service may be by publication. At the hearing, the
3 accused has the right to be represented by counsel, to
4 introduce evidence, and to examine and cross-examine
5 witnesses. The board may subpoena witnesses, administer oaths
6 to witnesses, and employ counsel. The board shall make a
7 written report of its findings, which shall be filed with the
8 secretary of state, and which is conclusive.

9 Sec. 16. Section 544B.3, unnumbered paragraph 1, Code
10 2003, is amended to read as follows:

11 A landscape architectural examining board is created within
12 the professional licensing and regulation division of the
13 ~~department-of-commerce~~ secretary of state's office. The board
14 consists of five members who are professional landscape
15 architects and two members who are not professional landscape
16 architects and who shall represent the general public.
17 Members shall be appointed by the governor, subject to
18 confirmation by the senate. A professional member shall be
19 actively engaged in the practice of landscape architecture or
20 the teaching of landscape architecture in an accredited
21 college or university, and shall have been so engaged for five
22 years preceding appointment, the last two of which shall have
23 been in Iowa. Associations or societies composed of
24 professional landscape architects may recommend the names of
25 potential board members to the governor. However, the
26 governor is not bound by the recommendations. A board member
27 shall not be required to be a member of any professional
28 association or society composed of professional landscape
29 architects.

30 Sec. 17. Section 544B.5, Code 2003, is amended to read as
31 follows:

32 544B.5 DUTIES.

33 The board shall enforce this chapter, shall make rules for
34 the examination of applicants for licensure, and, after public
35 notice, shall conduct examinations of applicants for

1 licensure. The board shall keep a record of its proceedings.
2 The board shall adopt an official seal which shall be affixed
3 to all certificates of licensure granted. The board may make
4 other rules, not inconsistent with law, as necessary for the
5 proper performance of its duties. The board shall maintain a
6 roster showing the name, place of business, and residence, and
7 the date and number of the certificate of licensure of every
8 professional landscape architect in this state. The
9 administrator of the professional licensing and regulation
10 division of the ~~department-of-commerce~~ secretary of state's
11 office shall hire and provide staff to assist the board in
12 implementing this chapter.

13 Sec. 18. Section 544B.16, Code 2003, is amended to read as
14 follows:

15 544B.16 PROCEDURE.

16 A person may file charges with the board against a
17 professional landscape architect or the board may initiate
18 charges. The charges shall be in writing, sworn to if by a
19 complainant other than the board, and filed with the board.
20 Unless the charges are dismissed by the board as unfounded or
21 trivial, the board may ~~request-the-department-of-inspections~~
22 ~~and-appeals-to~~ conduct an investigation into the charges. ~~The~~
23 ~~department-of-inspections-and-appeals-shall-report-its~~
24 ~~findings-to-the-board~~, and the board shall hold a hearing
25 within sixty days after the date on which the charges are
26 filed. The board shall fix the time and place for such
27 hearing and shall cause a copy of the charges, together with a
28 notice of the time and place fixed for the hearing, to be
29 served on the accused at least thirty days before the date
30 fixed for the hearing. Where personal service cannot be
31 effected, service may be effected by publication. At such
32 hearing, the accused shall have the right to appear personally
33 or by counsel, to cross-examine witnesses against the accused,
34 and to produce evidence and witnesses in defense. After the
35 hearing, the board may suspend or revoke the certificate of

1 licensure. The board may restore the certificate of licensure
2 to any person whose certificate of licensure has been revoked.
3 Application for the restoration of a certificate of licensure
4 shall be made in such manner, form, and content as the board
5 may prescribe.

6 Sec. 19. Section 546.2, subsection 3, paragraph g, Code
7 2003, is amended by striking the paragraph.

8 Sec. 20. Section 546.2, subsection 6, unnumbered paragraph
9 1, Code 2003, is amended to read as follows:

10 Each division is responsible for policymaking and
11 enforcement duties assigned to the division under the law.

12 ~~Except as provided in section 546.10, subsection 3:~~

13 Sec. 21. Section 546.10, Code 2003, is repealed.

14

EXPLANATION

15 This bill provides for the transfer of the professional
16 licensing division of the department of commerce to the
17 secretary of state's office. The bill provides that the
18 secretary of state shall be responsible for overseeing the
19 administration of the professional licensing division, and
20 that the administrator of the division shall report to the
21 secretary of state. The bill creates a new Code section 9.8
22 containing the provisions of current Code section 546.10
23 relating to the establishment and administration of the
24 division.

25 The bill adds provisions relating to the administration of
26 the division, providing that all licensing boards in the
27 division may refuse to grant or renew a license to practice a
28 profession to any person otherwise qualified for any of the
29 grounds based upon which a license may be revoked or
30 suspended. The bill also provides that all licensing boards
31 in the division may suspend, revoke, or otherwise discipline a
32 licensee, or refuse to renew a license, based on the
33 revocation or suspension of, or other disciplinary action
34 against, a professional license by a licensing authority in
35 this or another state, the United States, a territory, or

1 other country.

2 The bill additionally provides that the maximum amount of a
3 civil penalty imposed as a disciplinary measure by licensing
4 boards in the division is increased from the current level of
5 \$1,000 to an amount up to \$25,000, and that staff members in
6 the division shall be employed subject to the merit system
7 provisions of Code chapter 19A.

8 The bill makes changes in the licensing provisions relating
9 to engineers and land surveyors, architects, landscape
10 architects, and relating to sales of subdivided land outside
11 of Iowa, providing for the elimination of references to
12 investigations performed by the department of inspections and
13 appeals in the course of a disciplinary proceeding. The bill
14 additionally provides that \$30 of each fee for the renewal of
15 a real estate salesperson's or broker's license shall be paid
16 into the Iowa real estate education fund created in Code
17 section 543B.54.

18 The bill additionally provides for a number of conforming
19 changes in various professional licensure and regulation
20 chapters administered by the division.

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Chair: Elgin
Fallon Oldson
Hutter Roberts
Jochum Watts

Succ SF 606 d By

HSB 248
STATE GOVERNMENT

SENATE/HOUSE FILE _____
BY (PROPOSED SECRETARY OF
STATE BILL)

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

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12 office, including all books, records, papers, and property
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9 3. The licensing boards included in the division pursuant
10 to subsection 1 retain the powers granted them pursuant to the
11 chapters in which they are created, except for budgetary and
12 personnel matters, which shall be handled by the
13 administrator. Each licensing board shall adopt rules
14 pursuant to chapter 17A. Decisions by a licensing board are
15 final agency actions for purposes of chapter 17A.

16 4. The professional licensing and regulation division of
17 the secretary of state's office may expend additional funds,
18 including funds for additional personnel, if those additional
19 expenditures are directly the cause of actual examination
20 expenses exceeding funds budgeted for examinations.

21 5. Fees collected under chapters 542, 542B, 543B, 543D,
22 544A, and 544B shall be paid to the treasurer of state and
23 credited to the general fund of the state. All expenses
24 required in the discharge of the duties and responsibilities
25 imposed upon the professional licensing and regulation
26 division of the secretary of state's office, the
27 administrator, and the licensing boards by the laws of this
28 state shall be paid from moneys appropriated by the general
29 assembly for those purposes. All fees deposited into the
30 general fund of the state, as provided in this subsection,
31 shall be subject to the requirements of section 8.60.

32 6. The administrator of professional licensing and
33 regulation is the superintendent of savings and loan
34 associations. The administrator may appoint an individual to
35 act as the superintendent who shall serve as the

1 superintendent at the pleasure of the administrator.

2 7. All licensing boards in the division may refuse to
3 grant or renew a license to practice a profession to any
4 person otherwise qualified upon any of the grounds for which a
5 license may be revoked or suspended.

6 8. All licensing boards in the division may suspend,
7 revoke, or otherwise discipline a licensee, or refuse to renew
8 a license, based on the revocation or suspension of, or other
9 disciplinary action against a professional license by a
10 licensing authority in this or another state, the United
11 States, a territory, or other country. A certified copy of
12 the record or order of suspension, revocation, or other
13 disciplinary action is prima facie evidence of such fact.

14 Sec. 3. Section 534.401, subsection 1, Code 2003, is
15 amended to read as follows:

16 1. SUPERINTENDENT OF SAVINGS AND LOAN ASSOCIATIONS. The
17 superintendent of savings and loan associations is the
18 administrator of professional licensing and regulation
19 appointed pursuant to section ~~546-10~~ 9.8, subsection 2, or an
20 individual appointed by the administrator as provided in
21 section ~~546-10~~ 9.8, subsection 6.

22 Sec. 4. Section 542.4, subsections 1 and 6, Code 2003, are
23 amended to read as follows:

24 1. An Iowa accountancy examining board is created within
25 the professional licensing ~~and-regulation~~ division of the
26 ~~department-of-commerce~~ secretary of state's office to
27 administer and enforce this chapter. The board shall consist
28 of eight members, appointed by the governor and subject to
29 senate confirmation, all of whom shall be residents of this
30 state. Five of the eight members shall be holders of
31 certificates issued under section 542.6, one member shall be
32 the holder of a license issued under section 542.8, and two
33 shall not be certified public accountants or licensed public
34 accountants and shall represent the general public. At least
35 three of the holders of certificates issued under section

1 542.6 shall also be qualified to supervise attest services as
2 provided in section 542.7. A certified or licensed member of
3 the board shall be actively engaged in practice as a certified
4 public accountant or as a licensed public accountant and shall
5 have been so engaged for five years preceding appointment, the
6 last two of which shall have been in this state. Professional
7 associations or societies composed of certified public
8 accountants or licensed public accountants may recommend the
9 names of potential board members to the governor. However,
10 the governor is not bound by the recommendations. A board
11 member is not required to be a member of any professional
12 association or society composed of certified public
13 accountants or licensed public accountants. The term of each
14 member of the board shall be three years, as designated by the
15 governor, and appointments to the board are subject to the
16 requirements of sections 69.16, 69.16A, and 69.19. Members of
17 the board appointed and serving pursuant to chapter 542C, Code
18 2001, on July 1, 2002, shall serve out the terms for which
19 they were appointed. Vacancies occurring during a term shall
20 be filled by appointment by the governor for the unexpired
21 term. Upon the expiration of the member's term of office, a
22 member shall continue to serve until a successor shall have
23 been appointed and taken office. The public members of the
24 board shall be allowed to participate in administrative,
25 clerical, or ministerial functions incident to giving the
26 examinations, but shall not determine the content or determine
27 the correctness of the answers. The licensed public
28 accountant member shall not determine the content of the
29 certified public accountant examination or determine the
30 correctness of the answers. Any member of the board whose
31 certificate under section 542.6 or license under section 542.8
32 is revoked or suspended shall automatically cease to be a
33 member of the board, and the governor may, after a hearing,
34 remove any member of the board for neglect of duty or other
35 just cause. A person who has served three successive complete

1 terms shall not be eligible for reappointment, but appointment
2 to fill an unexpired term shall not be considered a complete
3 term for this purpose.

4 6. The administrator of the professional licensing and
5 regulation division of the ~~department-of-commerce~~ secretary of
6 state's office shall provide staffing assistance to the board
7 for implementing this chapter.

8 Sec. 5. Section 542B.3, Code 2003, is amended to read as
9 follows:

10 542B.3 ENGINEERING AND LAND SURVEYING EXAMINING BOARD
11 CREATED.

12 An engineering and land surveying examining board is
13 created within the professional licensing and regulation
14 division of the ~~department-of-commerce~~ secretary of state's
15 office. The board consists of four members who are licensed
16 professional engineers, one member who is a licensed land
17 surveyor or a professional engineer who is also a licensed
18 land surveyor, and two members who are not licensed
19 professional engineers or land surveyors and who shall
20 represent the general public. Members shall be appointed by
21 the governor subject to confirmation by the senate. A
22 licensed member shall be actively engaged in the practice of
23 engineering or land surveying and shall have been so engaged
24 for five years preceding the appointment, the last two of
25 which shall have been in Iowa. Insofar as practicable,
26 licensed engineer members of the board shall be from different
27 branches of the profession of engineering. Professional
28 associations or societies composed of licensed engineers or
29 licensed land surveyors may recommend the names of potential
30 board members whose profession is representative of that
31 association or society to the governor. However, the governor
32 is not bound by the recommendations. A board member shall not
33 be required to be a member of any professional association or
34 society composed of professional engineers or land surveyors.

35 Sec. 6. Section 542B.9, Code 2003, is amended to read as

1 follows:

2 542B.9 ORGANIZATION OF THE BOARD -- STAFF.

3 The board shall elect annually from its members a
4 chairperson and a vice chairperson. The administrator of the
5 professional licensing and regulation division of the
6 department-of-commerce secretary of state's office shall hire
7 and provide staff to assist the board in implementing this
8 chapter. The board shall hold at least one meeting at the
9 location of the board's principal office, and meetings shall
10 be called at other times by the administrator at the request
11 of the chairperson or four members of the board. At any
12 meeting of the board, a majority of members constitutes a
13 quorum.

14 Sec. 7. Section 543B.8, Code 2003, is amended to read as
15 follows:

16 543B.8 REAL ESTATE COMMISSION CREATED -- STAFF.

17 A real estate commission is created within the professional
18 licensing and regulation division of the department-of
19 commerce secretary of state's office. The commission consists
20 of three members licensed under this chapter and two members
21 not licensed under this chapter and who shall represent the
22 general public. At least one of the licensed members shall be
23 a licensed real estate salesperson, except that if the
24 licensed real estate salesperson becomes a licensed real
25 estate broker during a term of office, that person may
26 complete the term, but is not eligible for reappointment on
27 the commission as a licensed real estate salesperson. A
28 licensed member shall be actively engaged in the real estate
29 business and shall have been so engaged for five years
30 preceding the appointment, the last two of which shall have
31 been in Iowa. Professional associations or societies of real
32 estate brokers or real estate salespersons may recommend the
33 names of potential commission members to the governor.
34 However, the governor is not bound by their recommendations.
35 A commission member shall not be required to be a member of

1 any professional association or society composed of real
2 estate brokers or salespersons. Commission members shall be
3 appointed by the governor subject to confirmation by the
4 senate. Appointments shall be for three-year terms and shall
5 commence and end as provided in section 69.19. A member shall
6 serve no more than three terms or nine years, whichever is
7 less. No more than one member shall be appointed from a
8 county. A commission member shall not hold any other elective
9 or appointive state or federal office. Vacancies shall be
10 filled for the unexpired term by appointment of the governor
11 and are subject to senate confirmation. A majority of the
12 commission members constitutes a quorum. The administrator of
13 the professional licensing and regulation division shall hire
14 and provide staff to assist the commission with implementing
15 this chapter.

16 The administrator of the professional licensing and
17 regulation division of the ~~department-of-commerce~~ secretary of
18 state's office shall hire a real estate education director to
19 assist the commission in administering education programs for
20 the commission.

21 Sec. 8. Section 543B.54, Code 2003, is amended to read as
22 follows:

23 543B.54 REAL ESTATE EDUCATION FUND.

24 The Iowa real estate education fund is created as a
25 financial assurance mechanism to assist in the establishment
26 and maintenance of a real estate education program at the
27 university of northern Iowa and to assist the real estate
28 commission in providing an education director. The fund is
29 created as a separate fund in the state treasury, and any
30 funds remaining in the fund at the end of each fiscal year
31 shall not revert to the general fund, but shall remain in the
32 Iowa real estate education fund. Seventy percent of the
33 moneys in the fund shall be distributed and are appropriated
34 to the board of regents for the purpose of establishing and
35 maintaining a real estate education program at the university

1 of northern Iowa. Thirty percent of the moneys in the fund
2 shall be distributed and are appropriated to the professional
3 licensing and regulation division of the ~~department-of~~
4 commerce secretary of state's office for the purpose of hiring
5 and compensating a real estate education director.

6 Sec. 9. Section 543D.4, unnumbered paragraph 1, Code 2003,
7 is amended to read as follows:

8 A real estate appraiser examining board is established
9 within the professional licensing and regulation division of
10 the ~~department-of-commerce~~ secretary of state's office. The
11 board consists of seven members, two of whom shall be public
12 members and five of whom shall be real estate appraisers.

13 Sec. 10. Section 544A.1, unnumbered paragraph 2, Code
14 2003, is amended to read as follows:

15 The architectural examining board is created within the
16 professional licensing and regulation division of the
17 ~~department-of-commerce~~ secretary of state's office. The board
18 consists of five members who possess a certificate of
19 registration issued under section 544A.9 and who have been in
20 active practice of architecture for not less than five years,
21 the last two of which shall have been in Iowa, and two members
22 who do not possess a certificate of registration issued under
23 section 544A.9 and who shall represent the general public.
24 Members shall be appointed by the governor subject to
25 confirmation by the senate.

26 Sec. 11. Section 544A.5, Code 2003, is amended to read as
27 follows:

28 544A.5 DUTIES.

29 The architectural examining board shall enforce this
30 chapter, shall make rules for the examination of applicants
31 for the certificate of registration provided by this chapter,
32 and shall, after due public notice, hold meetings each year
33 for the purpose of examining applicants for registration and
34 the transaction of business pertaining to the affairs of the
35 board. Examinations shall be given as often as deemed

1 necessary, but not less than annually. Action at a meeting
2 shall not be taken without the affirmative votes of a majority
3 of the members of the board. The administrator of the
4 professional licensing and regulation division of the
5 department-of-commerce secretary of state's office shall hire
6 and provide staff to assist the board with implementing this
7 chapter.

8 Sec. 12. Section 544B.3, unnumbered paragraph 1, Code
9 2003, is amended to read as follows:

10 A landscape architectural examining board is created within
11 the professional licensing and regulation division of the
12 department-of-commerce secretary of state's office. The board
13 consists of five members who are professional landscape
14 architects and two members who are not professional landscape
15 architects and who shall represent the general public.
16 Members shall be appointed by the governor, subject to
17 confirmation by the senate. A professional member shall be
18 actively engaged in the practice of landscape architecture or
19 the teaching of landscape architecture in an accredited
20 college or university, and shall have been so engaged for five
21 years preceding appointment, the last two of which shall have
22 been in Iowa. Associations or societies composed of
23 professional landscape architects may recommend the names of
24 potential board members to the governor. However, the
25 governor is not bound by the recommendations. A board member
26 shall not be required to be a member of any professional
27 association or society composed of professional landscape
28 architects.

29 Sec. 13. Section 544B.5, Code 2003, is amended to read as
30 follows:

31 544B.5 DUTIES.

32 The board shall enforce this chapter, shall make rules for
33 the examination of applicants for licensure, and, after public
34 notice, shall conduct examinations of applicants for
35 licensure. The board shall keep a record of its proceedings.

1 The board shall adopt an official seal which shall be affixed
2 to all certificates of licensure granted. The board may make
3 other rules, not inconsistent with law, as necessary for the
4 proper performance of its duties. The board shall maintain a
5 roster showing the name, place of business, and residence, and
6 the date and number of the certificate of licensure of every
7 professional landscape architect in this state. The
8 administrator of the professional licensing and regulation
9 division of the ~~department-of-commerce~~ secretary of state's
10 office shall hire and provide staff to assist the board in
11 implementing this chapter.

12 Sec. 14. Section 546.2, subsection 3, paragraph g, Code
13 2003, is amended by striking the paragraph.

14 Sec. 15. Section 546.2, subsection 6, unnumbered paragraph
15 1, Code 2003, is amended to read as follows:

16 Each division is responsible for policymaking and
17 enforcement duties assigned to the division under the law.
18 ~~Except-as-provided-in-section-546.10, subsection 3:~~

19 Sec. 16. Section 546.10, Code 2003, is repealed.

20 EXPLANATION

21 This bill provides for the transfer of the professional
22 licensing division of the department of commerce to the
23 secretary of state's office. The bill provides that the
24 secretary of state shall be responsible for overseeing the
25 administration of the professional licensing division, and
26 that the administrator of the division shall report to the
27 secretary of state. The bill creates a new Code section 9.8
28 containing the provisions of current Code section 546.10
29 relating to the establishment and administration of the
30 division.

31 The bill adds provisions relating to the administration of
32 the division, providing that all licensing boards in the
33 division may refuse to grant or renew a license to practice a
34 profession to any person otherwise qualified for any of the
35 grounds based upon which a license may be revoked or

1 suspended. The bill also provides that all licensing boards
2 in the division may suspend, revoke, or otherwise discipline a
3 licensee, or refuse to renew a license, based on the
4 revocation or suspension of, or other disciplinary action
5 against, a professional license by a licensing authority in
6 this or another state, the United States, a territory, or
7 other country.

8 The bill additionally provides for a number of conforming
9 changes in various professional licensure and regulation
10 chapters administered by the division.

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MEMO

To: Members of the General Assembly

From: Secretary of State Chet Culver

Date: December 2, 2002

Re: Office Consolidation - Professional Licensing

Given the amount of responsibility the Secretary of State and Professional Licensing presently exert over report/document filings in Iowa, a prudent and beneficial step would be to augment the office by merging the responsibilities of Professional Licensing into the Office of the Secretary of State. The result will be a streamlining of filing with one agency of state government, and allowing customers to have a "one-stop-shop".

Consolidation will allow for cost savings in the area of administrative services and others. There are additional savings that may be achieved through Professional Licensing's use of the Secretary of State's technology infrastructure and IT personnel.