

# Senate Study Bill 1134

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

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:  
5 TLSB 1344DP 80  
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1 1 Section 1. Section 9.1, Code 2003, is amended to read as  
1 2 follows:  
1 3 9.1 DUTIES == RECORDS.  
1 4 The secretary of state shall keep the secretary of state's  
1 5 office at the seat of government, and perform all duties  
1 6 required by law; the secretary shall have charge of and keep  
1 7 all the Acts and resolutions of the territorial legislature  
1 8 and of the general assembly of the state, the enrolled copies  
1 9 of the Constitutions of the state, and all bonds, books,  
1 10 records, maps, registers, and papers which are now or may  
1 11 hereafter be deposited to be kept in the secretary of state's  
1 12 office, including all books, records, papers, and property  
1 13 pertaining to the state land office. The secretary shall  
1 14 additionally oversee the administration of the professional  
1 15 licensing and regulation division of the secretary of state's  
1 16 office.

1 17 Sec. 2. NEW SECTION. 9.8 PROFESSIONAL LICENSING AND  
1 18 REGULATION DIVISION == SUPERINTENDENT OF SAVINGS AND LOAN  
1 19 ASSOCIATIONS.  
1 20 1. A professional licensing and regulation division is  
1 21 established within the secretary of state's office. The  
1 22 division shall administer and coordinate the licensing and  
1 23 regulation of several professions by bringing together the  
1 24 following licensing boards:  
1 25 a. The Iowa accountancy examining board created pursuant  
1 26 to chapter 542.  
1 27 b. The engineering and land surveying examining board  
1 28 created pursuant to chapter 542B.  
1 29 c. The real estate commission created pursuant to chapter  
1 30 543B.  
1 31 d. The real estate appraiser examining board created  
1 32 pursuant to chapter 543D.  
1 33 e. The architectural examining board created pursuant to  
1 34 chapter 544A.  
1 35 f. The landscape architectural examining board created  
2 1 pursuant to chapter 544B.  
2 2 2. The division is headed by the administrator of  
2 3 professional licensing and regulation, who shall be an  
2 4 employee of the secretary of state. The administrator shall  
2 5 report to the secretary of state, and shall hire and supervise  
2 6 staff and shall coordinate activities for the licensing boards  
2 7 within the division. The administrator may act as a staff  
2 8 person to one or more of the licensing boards.  
2 9 3. The licensing boards included in the division pursuant  
2 10 to subsection 1 retain the powers granted them pursuant to the  
2 11 chapters in which they are created, except for budgetary and  
2 12 personnel matters, which shall be handled by the  
2 13 administrator. Each licensing board shall adopt rules  
2 14 pursuant to chapter 17A. Decisions by a licensing board are  
2 15 final agency actions for purposes of chapter 17A.  
2 16 4. The professional licensing and regulation division of  
2 17 the secretary of state's office may expend additional funds,  
2 18 including funds for additional personnel, if those additional  
2 19 expenditures are directly the cause of actual examination  
2 20 expenses exceeding funds budgeted for examinations.  
2 21 5. Fees collected under chapters 542, 542B, 543B, 543D,  
2 22 544A, and 544B shall be paid to the treasurer of state and

2 23 credited to the general fund of the state. All expenses  
2 24 required in the discharge of the duties and responsibilities  
2 25 imposed upon the professional licensing and regulation  
2 26 division of the secretary of state's office, the  
2 27 administrator, and the licensing boards by the laws of this  
2 28 state shall be paid from moneys appropriated by the general  
2 29 assembly for those purposes. All fees deposited into the  
2 30 general fund of the state, as provided in this subsection,  
2 31 shall be subject to the requirements of section 8.60.

2 32 6. The administrator of professional licensing and  
2 33 regulation is the superintendent of savings and loan  
2 34 associations. The administrator may appoint an individual to  
2 35 act as the superintendent who shall serve as the  
3 1 superintendent at the pleasure of the administrator.

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

3 6 8. All licensing boards in the division may suspend,  
3 7 revoke, or otherwise discipline a licensee, or refuse to renew  
3 8 a license, based on the revocation or suspension of, or other  
3 9 disciplinary action against a professional license by a  
3 10 licensing authority in this or another state, the United  
3 11 States, a territory, or other country. A certified copy of  
3 12 the record or order of suspension, revocation, or other  
3 13 disciplinary action is prima facie evidence of such fact.

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

3 16 1. SUPERINTENDENT OF SAVINGS AND LOAN ASSOCIATIONS. The  
3 17 superintendent of savings and loan associations is the  
3 18 administrator of professional licensing and regulation  
3 19 appointed pursuant to section ~~546.10~~ 9.8, subsection 2, or an  
3 20 individual appointed by the administrator as provided in  
3 21 section ~~546.10~~ 9.8, subsection 6.

3 22 Sec. 4. Section 542.4, subsections 1 and 6, Code 2003, are  
3 23 amended to read as follows:

3 24 1. An Iowa accountancy examining board is created within  
3 25 the professional licensing ~~and regulation~~ division of the  
3 26 ~~department of commerce secretary of state's office~~ to  
3 27 administer and enforce this chapter. The board shall consist  
3 28 of eight members, appointed by the governor and subject to  
3 29 senate confirmation, all of whom shall be residents of this  
3 30 state. Five of the eight members shall be holders of  
3 31 certificates issued under section 542.6, one member shall be  
3 32 the holder of a license issued under section 542.8, and two  
3 33 shall not be certified public accountants or licensed public  
3 34 accountants and shall represent the general public. At least  
3 35 three of the holders of certificates issued under section  
4 1 542.6 shall also be qualified to supervise attest services as  
4 2 provided in section 542.7. A certified or licensed member of  
4 3 the board shall be actively engaged in practice as a certified  
4 4 public accountant or as a licensed public accountant and shall  
4 5 have been so engaged for five years preceding appointment, the  
4 6 last two of which shall have been in this state. Professional  
4 7 associations or societies composed of certified public  
4 8 accountants or licensed public accountants may recommend the  
4 9 names of potential board members to the governor. However,  
4 10 the governor is not bound by the recommendations. A board  
4 11 member is not required to be a member of any professional  
4 12 association or society composed of certified public  
4 13 accountants or licensed public accountants. The term of each  
4 14 member of the board shall be three years, as designated by the  
4 15 governor, and appointments to the board are subject to the  
4 16 requirements of sections 69.16, 69.16A, and 69.19. Members of  
4 17 the board appointed and serving pursuant to chapter 542C, Code  
4 18 2001, on July 1, 2002, shall serve out the terms for which  
4 19 they were appointed. Vacancies occurring during a term shall  
4 20 be filled by appointment by the governor for the unexpired  
4 21 term. Upon the expiration of the member's term of office, a  
4 22 member shall continue to serve until a successor shall have  
4 23 been appointed and taken office. The public members of the  
4 24 board shall be allowed to participate in administrative,  
4 25 clerical, or ministerial functions incident to giving the  
4 26 examinations, but shall not determine the content or determine  
4 27 the correctness of the answers. The licensed public  
4 28 accountant member shall not determine the content of the  
4 29 certified public accountant examination or determine the  
4 30 correctness of the answers. Any member of the board whose  
4 31 certificate under section 542.6 or license under section 542.8  
4 32 is revoked or suspended shall automatically cease to be a  
4 33 member of the board, and the governor may, after a hearing,

4 34 remove any member of the board for neglect of duty or other  
4 35 just cause. A person who has served three successive complete  
5 1 terms shall not be eligible for reappointment, but appointment  
5 2 to fill an unexpired term shall not be considered a complete  
5 3 term for this purpose.

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

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

5 10 542B.3 ENGINEERING AND LAND SURVEYING EXAMINING BOARD  
5 11 CREATED.

5 12 An engineering and land surveying examining board is  
5 13 created within the professional licensing and regulation  
5 14 division of the ~~department of commerce~~ secretary of state's  
5 15 office. The board consists of four members who are licensed  
5 16 professional engineers, one member who is a licensed land  
5 17 surveyor or a professional engineer who is also a licensed  
5 18 land surveyor, and two members who are not licensed  
5 19 professional engineers or land surveyors and who shall  
5 20 represent the general public. Members shall be appointed by  
5 21 the governor subject to confirmation by the senate. A  
5 22 licensed member shall be actively engaged in the practice of  
5 23 engineering or land surveying and shall have been so engaged  
5 24 for five years preceding the appointment, the last two of  
5 25 which shall have been in Iowa. Insofar as practicable,  
5 26 licensed engineer members of the board shall be from different  
5 27 branches of the profession of engineering. Professional  
5 28 associations or societies composed of licensed engineers or  
5 29 licensed land surveyors may recommend the names of potential  
5 30 board members whose profession is representative of that  
5 31 association or society to the governor. However, the governor  
5 32 is not bound by the recommendations. A board member shall not  
5 33 be required to be a member of any professional association or  
5 34 society composed of professional engineers or land surveyors.

5 35 Sec. 6. Section 542B.9, Code 2003, is amended to read as  
6 1 follows:

6 2 542B.9 ORGANIZATION OF THE BOARD == STAFF.

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

6 14 Sec. 7. Section 543B.8, Code 2003, is amended to read as  
6 15 follows:

6 16 543B.8 REAL ESTATE COMMISSION CREATED == STAFF.

6 17 A real estate commission is created within the professional  
6 18 licensing and regulation division of the ~~department of~~  
6 19 ~~commerce~~ secretary of state's office. The commission consists  
6 20 of three members licensed under this chapter and two members  
6 21 not licensed under this chapter and who shall represent the  
6 22 general public. At least one of the licensed members shall be  
6 23 a licensed real estate salesperson, except that if the  
6 24 licensed real estate salesperson becomes a licensed real  
6 25 estate broker during a term of office, that person may  
6 26 complete the term, but is not eligible for reappointment on  
6 27 the commission as a licensed real estate salesperson. A  
6 28 licensed member shall be actively engaged in the real estate  
6 29 business and shall have been so engaged for five years  
6 30 preceding the appointment, the last two of which shall have  
6 31 been in Iowa. Professional associations or societies of real  
6 32 estate brokers or real estate salespersons may recommend the  
6 33 names of potential commission members to the governor.  
6 34 However, the governor is not bound by their recommendations.  
6 35 A commission member shall not be required to be a member of  
7 1 any professional association or society composed of real  
7 2 estate brokers or salespersons. Commission members shall be  
7 3 appointed by the governor subject to confirmation by the  
7 4 senate. Appointments shall be for three-year terms and shall  
7 5 commence and end as provided in section 69.19. A member shall  
7 6 serve no more than three terms or nine years, whichever is  
7 7 less. No more than one member shall be appointed from a  
7 8 county. A commission member shall not hold any other elective  
7 9 or appointive state or federal office. Vacancies shall be

7 10 filled for the unexpired term by appointment of the governor  
7 11 and are subject to senate confirmation. A majority of the  
7 12 commission members constitutes a quorum. The administrator of  
7 13 the professional licensing and regulation division shall hire  
7 14 and provide staff to assist the commission with implementing  
7 15 this chapter.

7 16 The administrator of the professional licensing and  
7 17 regulation division of the ~~department of commerce~~ secretary of  
7 18 state's office shall hire a real estate education director to  
7 19 assist the commission in administering education programs for  
7 20 the commission.

7 21 Sec. 8. Section 543B.54, Code 2003, is amended to read as  
7 22 follows:

7 23 543B.54 REAL ESTATE EDUCATION FUND.

7 24 The Iowa real estate education fund is created as a  
7 25 financial assurance mechanism to assist in the establishment  
7 26 and maintenance of a real estate education program at the  
7 27 university of northern Iowa and to assist the real estate  
7 28 commission in providing an education director. The fund is  
7 29 created as a separate fund in the state treasury, and any  
7 30 funds remaining in the fund at the end of each fiscal year  
7 31 shall not revert to the general fund, but shall remain in the  
7 32 Iowa real estate education fund. Seventy percent of the  
7 33 moneys in the fund shall be distributed and are appropriated  
7 34 to the board of regents for the purpose of establishing and  
7 35 maintaining a real estate education program at the university  
8 1 of northern Iowa. Thirty percent of the moneys in the fund  
8 2 shall be distributed and are appropriated to the professional  
8 3 licensing and regulation division of the ~~department of~~  
8 4 ~~commerce~~ secretary of state's office for the purpose of hiring  
8 5 and compensating a real estate education director.

8 6 Sec. 9. Section 543D.4, unnumbered paragraph 1, Code 2003,  
8 7 is amended to read as follows:

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

8 13 Sec. 10. Section 544A.1, unnumbered paragraph 2, Code  
8 14 2003, is amended to read as follows:

8 15 The architectural examining board is created within the  
8 16 professional licensing and regulation division of the  
8 17 ~~department of commerce~~ secretary of state's office. The board  
8 18 consists of five members who possess a certificate of  
8 19 registration issued under section 544A.9 and who have been in  
8 20 active practice of architecture for not less than five years,  
8 21 the last two of which shall have been in Iowa, and two members  
8 22 who do not possess a certificate of registration issued under  
8 23 section 544A.9 and who shall represent the general public.  
8 24 Members shall be appointed by the governor subject to  
8 25 confirmation by the senate.

8 26 Sec. 11. Section 544A.5, Code 2003, is amended to read as  
8 27 follows:

8 28 544A.5 DUTIES.

8 29 The architectural examining board shall enforce this  
8 30 chapter, shall make rules for the examination of applicants  
8 31 for the certificate of registration provided by this chapter,  
8 32 and shall, after due public notice, hold meetings each year  
8 33 for the purpose of examining applicants for registration and  
8 34 the transaction of business pertaining to the affairs of the  
8 35 board. Examinations shall be given as often as deemed  
9 1 necessary, but not less than annually. Action at a meeting  
9 2 shall not be taken without the affirmative votes of a majority  
9 3 of the members of the board. The administrator of the  
9 4 professional licensing and regulation division of the  
9 5 ~~department of commerce~~ secretary of state's office shall hire  
9 6 and provide staff to assist the board with implementing this  
9 7 chapter.

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

9 10 A landscape architectural examining board is created within  
9 11 the professional licensing and regulation division of the  
9 12 ~~department of commerce~~ secretary of state's office. The board  
9 13 consists of five members who are professional landscape  
9 14 architects and two members who are not professional landscape  
9 15 architects and who shall represent the general public.  
9 16 Members shall be appointed by the governor, subject to  
9 17 confirmation by the senate. A professional member shall be  
9 18 actively engaged in the practice of landscape architecture or  
9 19 the teaching of landscape architecture in an accredited  
9 20 college or university, and shall have been so engaged for five

9 21 years preceding appointment, the last two of which shall have  
9 22 been in Iowa. Associations or societies composed of  
9 23 professional landscape architects may recommend the names of  
9 24 potential board members to the governor. However, the  
9 25 governor is not bound by the recommendations. A board member  
9 26 shall not be required to be a member of any professional  
9 27 association or society composed of professional landscape  
9 28 architects.

9 29 Sec. 13. Section 544B.5, Code 2003, is amended to read as  
9 30 follows:

9 31 544B.5 DUTIES.

9 32 The board shall enforce this chapter, shall make rules for  
9 33 the examination of applicants for licensure, and, after public  
9 34 notice, shall conduct examinations of applicants for  
9 35 licensure. The board shall keep a record of its proceedings.

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

10 12 Sec. 14. Section 546.2, subsection 3, paragraph g, Code  
10 13 2003, is amended by striking the paragraph.

10 14 Sec. 15. Section 546.2, subsection 6, unnumbered paragraph  
10 15 1, Code 2003, is amended to read as follows:

10 16 Each division is responsible for policymaking and  
10 17 enforcement duties assigned to the division under the law.

10 18 ~~Except as provided in section 546.10, subsection 3-~~

10 19 Sec. 16. Section 546.10, Code 2003, is repealed.

10 20 EXPLANATION

10 21 This bill provides for the transfer of the professional  
10 22 licensing division of the department of commerce to the  
10 23 secretary of state's office. The bill provides that the  
10 24 secretary of state shall be responsible for overseeing the  
10 25 administration of the professional licensing division, and  
10 26 that the administrator of the division shall report to the  
10 27 secretary of state. The bill creates a new Code section 9.8  
10 28 containing the provisions of current Code section 546.10  
10 29 relating to the establishment and administration of the  
10 30 division.

10 31 The bill adds provisions relating to the administration of  
10 32 the division, providing that all licensing boards in the  
10 33 division may refuse to grant or renew a license to practice a  
10 34 profession to any person otherwise qualified for any of the  
10 35 grounds based upon which a license may be revoked or  
11 1 suspended. The bill also provides that all licensing boards  
11 2 in the division may suspend, revoke, or otherwise discipline a  
11 3 licensee, or refuse to renew a license, based on the  
11 4 revocation or suspension of, or other disciplinary action  
11 5 against, a professional license by a licensing authority in  
11 6 this or another state, the United States, a territory, or  
11 7 other country.

11 8 The bill additionally provides for a number of conforming  
11 9 changes in various professional licensure and regulation  
11 10 chapters administered by the division.

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11 12 rn/sh/8.1