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COMMERCE, REGULATION & LABOR

HOUSE FILE 2389  
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and SANDS

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

**A BILL FOR**

1 An Act relating to real estate, including real estate broker and  
2 salesperson licensing and real estate disclosures.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 2389

1 Section 1. Section 543B.5, Code Supplement 2005, is  
2 amended by adding the following new subsection:

3 NEW SUBSECTION. 13A. "Listing" is an agreement between a  
4 property owner and another person in which that person holds  
5 or advertises the property to the public as being available  
6 for sale or lease.

7 Sec. 2. Section 543B.7, subsection 1, Code Supplement  
8 2005, is amended to read as follows:

9 1. A person who, as owner, spouse of an owner, general  
10 partner of a limited partnership, or lessor, ~~or-prospective~~  
11 ~~purchaser~~, or through another engaged by such person on a  
12 regular full-time basis, buys, sells, manages, or otherwise  
13 performs any act with reference to property owned, rented,  
14 leased, or to be acquired by such person.

15 Sec. 3. Section 543B.15, subsections 3 and 4, Code  
16 Supplement 2005, are amended to read as follows:

17 3. An applicant for a real estate broker's or  
18 salesperson's license who has been convicted of forgery,  
19 embezzlement, obtaining money under false pretenses, theft,  
20 extortion, conspiracy to defraud, or other similar offense, or  
21 of any crime involving moral turpitude in a court of competent  
22 jurisdiction in this state, or in any other state, territory,  
23 or district of the United States, or in any foreign  
24 jurisdiction, ~~may~~ shall be denied a license by the commission,  
25 on the grounds of the conviction. For purposes of this  
26 section, "conviction" means a conviction for an indictable  
27 offense and includes a guilty plea, deferred judgment from the  
28 time of entry of the deferred judgment until the time the  
29 defendant is discharged by the court without entry of  
30 judgment, or other finding of guilt by a court of competent  
31 jurisdiction.

32 4. An applicant for a real estate broker's or  
33 salesperson's license who has had a professional license of  
34 any kind revoked or suspended or who has had any other form of  
35 discipline imposed, in this or any other jurisdiction may be

1 denied a license by the commission on the grounds of the  
2 revocation, suspension, or other discipline.

3 Sec. 4. Section 543B.49, Code 2005, is amended to read as  
4 follows:

5 543B.49 INJUNCTIVE RELIEF.

6 1. In addition to the penalty and complaint provisions of  
7 sections 543B.43, 543B.44, and 543B.48, an injunction may be  
8 granted through an action in district court to prohibit a  
9 person from engaging in an activity which violates the  
10 provisions of section 543B.1. The court shall grant an  
11 injunction if it appears to the court that a violation has  
12 occurred or is imminently threatened. The plaintiff is not  
13 required to show that the violation or threatened violation  
14 would greatly or irreparably injure the plaintiff. No bond  
15 shall be required of the plaintiff unless the court determines  
16 that a bond is necessary in the public interest. The action  
17 for injunctive relief may be brought by an affected person.  
18 For the purposes of this section, "affected person" means any  
19 person directly impacted by the actions of a person suspected  
20 of violating the provisions of section 543B.1, including but  
21 not limited to the commission created in section 543B.8, a  
22 person who has utilized the services of a person suspected of  
23 violating the provisions of section 543B.1, or a private  
24 association composed primarily of members practicing a  
25 profession for which licensure is required pursuant to this  
26 chapter.

27 2. If successful in obtaining injunctive relief, the  
28 affected person shall be entitled to actual costs and attorney  
29 fees, ~~unless the person suspected of violating a provision of~~  
30 ~~section 543B.1 prevails in any application for permanent~~  
31 ~~injunctive relief.~~ For the purposes of this section, "actual  
32 costs" means those costs other than attorney fees which were  
33 actually incurred in connection with the action, including but  
34 not limited to court and witness fees, investigative expenses,  
35 travel expenses, legal research expenses, and other related

1 fees and expenses.

2 Sec. 5. Section 558A.1, subsection 4, Code Supplement  
3 2005, is amended by adding the following new paragraph:

4 NEW PARAGRAPH. i. A transfer by a power of attorney.

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EXPLANATION

6 This bill relates to real estate brokers and salespersons.  
7 The bill defines the term "listing". The bill also requires  
8 that an application for licensure be denied if the applicant  
9 has been convicted of forgery, embezzlement, obtaining money  
10 under false pretenses, theft, extortion, conspiracy to  
11 defraud, or other similar offense, or of any crime involving  
12 moral turpitude. Pursuant to the bill, the board has  
13 discretion to deny an application if a licensee from another  
14 jurisdiction has received any form of licensee discipline in  
15 that jurisdiction.

16 The bill strikes a current exemption from coverage under  
17 the Code chapter relating to the licensing of real estate  
18 brokers and salespersons for the actions of a "prospective  
19 purchaser".

20 The bill requires that a court grant an injunction if it  
21 appears to the court that a violation of the real estate  
22 licensing laws has occurred or is imminently threatened. The  
23 bill provides that the plaintiff is not required to show that  
24 the violation or threatened violation would greatly or  
25 irreparably injure the plaintiff and that the plaintiff is not  
26 required to post a bond unless specifically required by the  
27 court. The bill also eliminates redundant language relating  
28 to the imposition of court costs and attorney fees.

29 The bill exempts transfers of property by a power of  
30 attorney from requirements relating to mandatory disclosures  
31 relating to the condition of real property.

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