

MAR 3 2006
Place On Calendar

HOUSE FILE 2632
BY COMMITTEE ON COMMERCE,
REGULATION AND LABOR

(SUCCESSOR TO HF 2389)

Passed House, Date 3-16-06 Passed Senate, Date _____
Vote: Ayes 94 Nays 0 Vote: Ayes _____ Nays _____
Approved April 13, 2006

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 2632

HOUSE FILE 2632

H-8221

- 1 Amend House File 2632 as follows:
2 1. Page 1, lines 10 and 11, by striking the words
3 "or lessor, or prospective purchaser," and inserting
4 the following: "lessor, or prospective purchaser who
5 does not make repeated and successive transactions of
6 a like character,".
7 2. Page 1, line 15, by striking the words and
8 figure "subsections 3 and" and inserting the
9 following: "subsection".
10 3. Page 1, line 16, by striking the word "are"
11 and inserting the following: "is".
12 4. Page 1, by striking lines 17 through 31.
By DIX of Butler

H-8221 FILED MARCH 14, 2006

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 a
11 permanent or temporary injunction if it appears to the court
12 that a violation has occurred or is imminently threatened.
13 The plaintiff is not required to show that the violation or
14 threatened violation would greatly or irreparably injure the
15 plaintiff. No bond shall be required of the plaintiff unless
16 the court determines that a bond is necessary in the public
17 interest. The action for injunctive relief may be brought by
18 an affected person. For the purposes of this section,
19 "affected person" means any person directly impacted by the
20 actions of a person suspected of violating the provisions of
21 section 543B.1, including but not limited to the commission
22 created in section 543B.8, a person who has utilized the
23 services of a person suspected of violating the provisions of
24 section 543B.1, or a private association composed primarily of
25 members practicing a profession for which licensure is
26 required pursuant to this 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.

5 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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HOUSE FILE 2632
BY COMMITTEE ON COMMERCE,
REGULATION AND LABOR

(SUCCESSOR TO HF 2389)

(As Amended and Passed by the House March 16, 2006)

Passed House, Date _____ Passed Senate, Date 4-4-06
Vote: Ayes _____ Nays _____ Vote: Ayes 50 Nays 0
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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Deleted Language *
House Amendments _____

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2 amended by adding the following new subsection:

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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, lessor, or prospective
11 purchaser who does not make repeated and successive
12 transactions of a like character, or through another engaged
13 by such person on a regular full-time basis, buys, sells,
14 manages, or otherwise performs any act with reference to
15 property owned, rented, leased, or to be acquired by such
16 person.

17 Sec. 3. Section 543B.15, subsection 4, Code Supplement
18 2005, is amended to read as follows:

*19 4. An applicant for a real estate broker's or
20 salesperson's license who has had a professional license of
21 any kind revoked or suspended or who has had any other form of
22 discipline imposed, in this or any other jurisdiction may be
23 denied a license by the commission on the grounds of the
24 revocation, suspension, or other discipline.

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

27 543B.49 INJUNCTIVE RELIEF.

28 1. In addition to the penalty and complaint provisions of
29 sections 543B.43, 543B.44, and 543B.48, an injunction may be
30 granted through an action in district court to prohibit a
31 person from engaging in an activity which violates the
32 provisions of section 543B.1. The court shall grant a
33 permanent or temporary injunction if it appears to the court
34 that a violation has occurred or is imminently threatened.
35 The plaintiff is not required to show that the violation or

1 threatened violation would greatly or irreparably injure the
2 plaintiff. No bond shall be required of the plaintiff unless
3 the court determines that a bond is necessary in the public
4 interest. The action for injunctive relief may be brought by
5 an affected person. For the purposes of this section,
6 "affected person" means any person directly impacted by the
7 actions of a person suspected of violating the provisions of
8 section 543B.1, including but not limited to the commission
9 created in section 543B.8, a person who has utilized the
10 services of a person suspected of violating the provisions of
11 section 543B.1, or a private association composed primarily of
12 members practicing a profession for which licensure is
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15 affected person shall be entitled to actual costs and attorney
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HOUSE FILE 2632

AN ACT

RELATING TO REAL ESTATE, INCLUDING REAL ESTATE BROKER AND
SALESPERSON LICENSING AND REAL ESTATE DISCLOSURES.

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

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

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1. A person who, as owner, spouse of an owner, general partner of a limited partnership, lessor, or prospective purchaser who does not make repeated and successive transactions of a like character, or through another engaged by such person on a regular full-time basis, buys, sells, manages, or otherwise performs any act with reference to property owned, rented, leased, or to be acquired by such person.

Sec. 3. Section 543B.15, subsection 4, Code Supplement 2005, is amended to read as follows:

4. An applicant for a real estate broker's or salesperson's license who has had a professional license of any kind revoked or suspended or who has had any other form of discipline imposed, in this or any other jurisdiction may be denied a license by the commission on the grounds of the revocation, suspension, or other discipline.

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

543B.49 INJUNCTIVE RELIEF.

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

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

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

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

CHRISTOPHER C. RANTS
Speaker of the House

JEFFREY M. LAMBERTI
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2632, Eighty-first General Assembly.

MARGARET THOMSON
Chief Clerk of the House

Approved _____, 2006

THOMAS J. VILSACK
Governor