

Senate Study Bill 3172

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
COMMERCE BILL BY
CHAIRPERSON WARNSTADT)

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

A BILL FOR

1 An Act relating to the licensure of real estate brokers and
2 salespersons.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
4 TLSB 6445SC 82
5 jr/nh/5

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1 1 Section 1. Section 543B.15, subsection 3, paragraph a,
1 2 subparagraph (2), Code Supplement 2007, is amended to read as
1 3 follows:
1 4 (2) Notwithstanding subparagraph (1), for offenses
1 5 including or involving forgery, embezzlement, obtaining money
1 6 under false pretenses, theft, arson, extortion, conspiracy to
1 7 defraud, or other similar offense, any offense involving moral
1 8 turpitude, or other offense involving a criminal breach of
1 9 fiduciary duty, five years.

1 10 Sec. 2. Section 543B.15, subsection 10, Code Supplement
1 11 2007, is amended to read as follows:
1 12 10. An applicant for an initial real estate broker's or
1 13 salesperson's license shall be subject to a national criminal
1 14 history check through the federal bureau of investigation.
1 15 The commission shall request the criminal history check and
1 16 shall provide the applicant's fingerprints to the department
1 17 of public safety for submission through the state criminal
1 18 history repository to the federal bureau of investigation.
1 19 The applicant shall authorize release of the results of the
1 20 criminal history check to the real estate commission. The
1 21 applicant shall pay the actual cost of the fingerprinting and
1 22 criminal history check, if any. Unless the criminal history
1 23 check was completed within the ninety two hundred ten calendar
1 24 days prior to the date the license application is received by
1 25 the real estate commission, the commission shall reject and
1 26 return the application to the applicant. The commission shall
1 27 process the application but hold delivery of the license until
1 28 the background check is complete. The results of a criminal
1 29 history check conducted pursuant to this subsection shall not
1 30 be considered a public record under chapter 22.

1 31 Sec. 3. Section 543B.29, Code 2007, is amended to read as
1 32 follows:

1 33 543B.29 REVOCATION OR SUSPENSION.

1 34 1. A license to practice the profession of real estate
1 35 broker and salesperson may be revoked or suspended when the
2 1 licensee is guilty of any of the following acts or offenses:

2 2 ~~1-~~ a. Fraud in procuring a license.

2 3 ~~2-~~ b. Professional incompetency.

2 4 ~~3-~~ c. Knowingly making misleading, deceptive, untrue, or
2 5 fraudulent representations in the practice of the profession
2 6 or engaging in unethical conduct or practice harmful or
2 7 detrimental to the public. Proof of actual injury need not be
2 8 established.

2 9 ~~4-~~ d. Habitual intoxication or addiction to the use of
2 10 drugs.

2 11 ~~5-~~ e. Conviction of an offense included in section

2 12 543B.15, subsection 3. For purposes of this section,
2 13 "conviction" means a conviction for an indictable offense and
2 14 includes a guilty plea, deferred judgment from the time of
2 15 entry of the deferred judgment until the time the defendant is
2 16 discharged by the court without entry of judgment, or other
2 17 finding of guilt by a court of competent jurisdiction. A copy
2 18 of the record of conviction, guilty plea, deferred judgment,

2 19 or other finding of guilt is conclusive evidence.
2 20 ~~6- f.~~ Fraud in representations as to skill or ability.
2 21 ~~7- g.~~ Use of untruthful or improbable statements in
2 22 advertisements.
2 23 ~~8- h.~~ Willful or repeated violations of the provisions of
2 24 this ~~Act~~ chapter.
2 25 ~~9- i.~~ Noncompliance with insurance requirements under
2 26 section 543B.47.
2 27 ~~10- j.~~ Noncompliance with the trust account requirements
2 28 under section 543B.46.
2 29 ~~11- k.~~ Revocation of any professional license held by the
2 30 licensee in this or any other jurisdiction.

2 31 2. The revocation of a broker's license shall
2 32 automatically suspend every license granted to any person by
2 33 virtue of the person's employment by the broker whose license
2 34 has been revoked, pending a change of employer and the
2 35 issuance of a new license. The new license shall be issued
3 1 upon payment of a fee in an amount determined by the
3 2 commission based upon the administrative costs involved, if
3 3 granted during the same license period in which the original
3 4 license was granted.

3 5 3. A real estate broker or salesperson who is an owner or
3 6 lessor of property or an employee of an owner or lessor may
3 7 have the broker's or salesperson's license revoked or
3 8 suspended for violations of this section or section 543B.34,
3 9 except subsections 4, 5, 6 and 9, with respect to that
3 10 property.

3 11 4. A real estate broker's or salesperson's license shall
3 12 be revoked following three violations of this section or
3 13 section 543B.34 within a three-year period.

3 14 Sec. 4. Section 543B.60A, subsection 6, Code Supplement
3 15 2007, is amended to read as follows:

3 16 6. A violation of this section is deemed a violation of
3 17 section 543B.29, subsection ~~3~~ 1, paragraph "c".

3 18 EXPLANATION

3 19 This bill sets out several revisions relating to the
3 20 licensing and disciplinary processes for real estate brokers
3 21 and salespersons. Code section 543B.15 sets out the
3 22 qualifications for a real estate broker's or salesperson's
3 23 license and details the offenses that preclude an applicant
3 24 from licensure. The bill expands these offenses to include a
3 25 generic reference to major offenses, and adds a specific
3 26 reference to offenses involving moral turpitude.

3 27 Currently, applicants for licensure must pass a criminal
3 28 background check within 90 days prior to receipt of the
3 29 license application by the real estate commission. The bill
3 30 expands that period to 210 days prior to receipt of the
3 31 license application by the real estate commission. While
3 32 awaiting the results of a criminal background check, the
3 33 commission shall process the application but hold delivery of
3 34 the license until the background check is complete.

3 35 Code sections 543B.29 and 543B.34 set out detailed lists of
4 1 the acts, omissions, or offenses that can result in license
4 2 suspension or revocation. The bill provides that a license
4 3 shall be revoked following three such violations within a
4 4 three-year period.

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