

Senate Study Bill 1139 - Introduced

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

A BILL FOR

1 An Act relating to the licensing and regulation of real estate
2 brokers and salespersons.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 543B.29, subsection 4, Code 2011, is
2 amended to read as follows:

3 4. A real estate broker's or salesperson's license shall be
4 revoked following three violations of this section or section
5 543B.34 within a ~~three-year~~ five-year period.

6 Sec. 2. Section 543B.33, Code 2011, is amended to read as
7 follows:

8 **543B.33 Salespersons — change of employment.**

9 When any real estate salesperson is discharged or terminates
10 employment with the real estate broker by whom the salesperson
11 is employed, the real estate broker shall immediately deliver
12 or mail ~~by certified mail~~ to the real estate commission the
13 real estate salesperson's license on the reverse side of
14 which the employing broker shall set out the date and cause
15 of termination of employment. The real estate broker at the
16 time of mailing the real estate salesperson's license to the
17 commission shall address a communication to the last known
18 residence address of the real estate salesperson stating that
19 the license has been delivered or mailed to the commission.
20 A copy of the communication to the real estate salesperson
21 shall accompany the license when mailed or delivered to the
22 commission. It is unlawful for any real estate salesperson to
23 perform any of the acts contemplated by this chapter either
24 directly or indirectly under authority of a license from and
25 after the date of receipt of the license by the commission.
26 The commission shall, upon presentation of evidence by the
27 salesperson that the salesperson has been employed by another
28 broker, issue another license for the balance of the current
29 license period showing each change of employment. A fee as
30 determined by the commission shall be charged for the issuance
31 of the license. Not more than one license shall be issued to
32 any real estate salesperson for the same period of time.

33 Sec. 3. Section 543B.34, unnumbered paragraph 3, Code 2011,
34 is amended to read as follows:

35 If an investigation pursuant to this section reveals that an

1 unlicensed person has assumed to act in the capacity of a real
2 estate broker or real estate salesperson, the commission ~~may~~
3 shall issue a cease and desist order, and ~~may~~ shall impose a
4 civil penalty of up to the greater of ten thousand dollars or
5 ten percent of the real estate sale price.

6 Sec. 4. Section 543B.56A, Code 2011, is amended to read as
7 follows:

8 **543B.56A Brokerage agreements — contents.**

9 1. The purpose of this section is to promote the protection
10 of the public by establishing minimum standards reasonably
11 expected by the public in reliance upon the professional work
12 product of real estate licensees. The reliance of the public
13 and business community on sound professional opinions and
14 assistance imposes on real estate licensees certain obligations
15 both to their clients and to the public. The purpose of
16 this section is also to assist in ensuring that licensees'
17 obligations are met including licensees' exercising sound
18 independent business judgment, striving to continuously improve
19 professional business skills and knowledge in the industry,
20 promoting sound and informative real estate reporting, and
21 exercising the highest fiduciary duties to clients and the
22 public.

23 2. A brokerage agreement shall specify that the broker
24 shall, at a minimum, do all of the following:

25 ~~1-~~ a. Accept delivery of and present to the client offers
26 and counteroffers to buy, sell, rent, lease, or exchange the
27 client's property or the property the client seeks to purchase
28 or lease.

29 ~~2-~~ b. Assist the client in developing, communicating,
30 negotiating, and presenting offers or counteroffers until a
31 rental agreement, lease, exchange agreement, offer to buy or
32 sell, or purchase agreement is signed and all contingencies are
33 satisfied or waived and the transaction is completed.

34 ~~3-~~ c. Answer the client's questions relating to
35 the brokerage agreements, listing agreements, offers,

1 counteroffers, notices, and contingencies.

2 4. d. Provide prospective buyers access to listed
3 properties.

4 EXPLANATION

5 This bill makes specified modifications to provisions
6 relating to the licensing and regulation of real estate brokers
7 and salespersons.

8 The bill changes a provision currently providing that a real
9 estate broker's or salesperson's license shall be suspended
10 or revoked following three violations described in Code
11 section 543B.29, which specifies conditions for suspension or
12 revocation, during a three-year period, to a five-year period.
13 The bill deletes a requirement that a real estate broker mail
14 by certified mail to the real estate commission the license of
15 a discharged or terminated salesperson employed by the broker,
16 with the result that only regular mail is required. The bill
17 changes a current provision that the real estate commission,
18 upon determining that an unlicensed person has acted in the
19 capacity of a real estate broker or real estate salesperson,
20 may issue a cease and desist order or impose a specified civil
21 penalty, to a requirement that the commission shall issue an
22 order and impose a penalty.

23 Additionally, the bill adds to Code section 543B.56A,
24 relating to the contents of brokerage agreements, a provision
25 specifying that the purpose of the Code section is to promote
26 the protection of the public by establishing minimum standards
27 for the professional work product of licensees, and to assist
28 ensuring specified licensee obligations are met.