

House Study Bill 125 - Introduced

HOUSE FILE _____
BY (PROPOSED COMMITTEE
ON COMMERCE BILL BY
CHAIRPERSON COWNIE)

A BILL FOR

1 An Act relating to licensed real estate professionals and real
2 estate disclosure statements.

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

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DIVISION I

REAL ESTATE LICENSEES

Section 1. Section 543B.1, Code 2017, is amended to read as follows:

543B.1 License mandatory.

A person shall not, directly or indirectly, with the intention or upon the promise of receiving any valuable consideration, offer, attempt, agree to perform, or perform any single act ~~as a real estate broker~~ constituting dealing in real estate as provided in section 543B.6, whether as a part of a transaction or as an entire transaction, or represent oneself as a real estate ~~broker, broker associate, or salesperson~~ licensee, without first obtaining a license and otherwise complying with the requirements of **this chapter**.

Sec. 2. Section 543B.2, Code 2017, is amended to read as follows:

543B.2 ~~Individual licenses necessary~~ Brokerage ownership.

~~A partnership, association, corporation, professional corporation, or professional limited liability company~~ brokerage shall not be granted a license, unless every member or officer of the ~~partnership, association, corporation, professional corporation, or professional limited liability company~~ brokerage who actively participates in the ~~brokerage business of the partnership, association, corporation, professional corporation, or professional limited liability company~~ brokerage services holds a license as a real estate ~~broker or salesperson~~ licensee, and unless every employee who acts as a ~~salesperson~~ licensee for the ~~partnership, association, corporation, professional corporation, or professional limited liability company~~ brokerage holds a license as a real estate ~~broker or salesperson~~ licensee. At least one member or officer of each ~~partnership, association, corporation, professional corporation, or professional limited liability company~~ shall be a real estate broker.

Sec. 3. Section 543B.3, Code 2017, is amended to read as

1 follows:

2 **543B.3 ~~Broker~~ Brokerage services — definition.**

3 As used in **this chapter**, "~~real estate broker~~" "brokerage
4 services" means ~~a person~~ acting ~~for~~ on behalf of another person
5 for a fee, commission, or other compensation or promise,
6 whether it be for all or part of a person's time, and ~~who~~
7 engages engaging directly or indirectly in any of the following
8 acts:

- 9 1. ~~Sells~~ Selling, ~~exchanges~~ exchanging, ~~purchases~~
10 purchasing, ~~rents~~ renting, or ~~leases~~ leasing real estate.
- 11 2. ~~Lists~~ Listing, ~~offers~~ or offering, ~~attempts~~ attempting,
12 or ~~agrees~~ agreeing to list, real estate for sale, exchange,
13 purchase, rent, or lease.
- 14 3. ~~Advertises~~ Advertising or ~~holds~~ holding oneself out
15 as being engaged in the business of selling, exchanging,
16 purchasing, renting, leasing, or managing real estate.
- 17 4. ~~Negotiates~~ Negotiating, or ~~offers~~ offering, ~~attempts~~
18 attempting, or ~~agrees~~ agreeing to negotiate, the sale,
19 exchange, purchase, rental, or lease of real estate.
- 20 5. ~~Buys~~ Buying, ~~sells~~ selling, ~~offers~~ offering to buy or
21 sell, or otherwise ~~deals~~ dealing in options on real estate or
22 improvements on real estate.
- 23 6. ~~Collects~~ Collecting, or ~~offers~~ offering, ~~attempts~~
24 attempting, or ~~agrees~~ agreeing to collect, rent for the use of
25 real estate.
- 26 7. ~~Assists~~ Assisting, ~~referring~~, or ~~directs~~ directing in
27 the procuring of prospects, intended to result in the sale,
28 exchange, purchase, rental, or leasing of real estate.
- 29 8. ~~Assists~~ Assisting or ~~directs~~ directing in the
30 negotiation of any transaction intended to result in the sale,
31 exchange, purchase, rental, or leasing of real estate.
- 32 9. ~~Prepares~~ Preparing offers to purchase or purchase
33 agreements, listing contracts, agency disclosures, real
34 property residential and agricultural rental agreements, real
35 property commercial rental agreements of one year or less, and

1 groundwater hazard statements, including any modifications,
2 amendments, or addendums to these specific documents.

3 Sec. 4. Section 543B.5, Code 2017, is amended to read as
4 follows:

5 **543B.5 Other definitions.**

6 As used in [this chapter](#), unless the context otherwise
7 requires:

8 1. "*Agency*" means a relationship in which a real estate
9 ~~broker~~ licensee acts for or represents another by the other
10 person's express authority in a transaction.

11 2. "*Agency agreement*" means a written agreement between a
12 ~~broker~~ licensee and a client which identifies the party the
13 ~~broker~~ licensee represents in a transaction.

14 3. "*Appointed agent*" means ~~that affiliated~~ an associated
15 licensee who is appointed by the designated broker of the
16 ~~affiliated associated~~ licensee's real estate brokerage agency
17 to act solely for a client of that brokerage agency to the
18 exclusion of other ~~affiliated~~ associated licensees of that
19 brokerage agency.

20 4. "*Branch office*" means a ~~real estate broker's office other~~
21 ~~than a~~ brokerage located separately from the principal place
22 of business of the brokerage.

23 5. "*Broker associate*" means a ~~person who has a broker's~~
24 ~~license but~~ licensee who is licensed under, and employed by
25 or otherwise associated with, ~~another~~ a designated broker as
26 a salesperson.

27 6. "*Brokerage*" means ~~the~~ a business ~~or occupation of a real~~
28 ~~estate broker~~ entity offering brokerage services.

29 7. "*Brokerage agreement*" means a contract between a ~~broker~~
30 brokerage and a client which establishes the relationship
31 between the parties as to the brokerage services to be
32 performed and contains the provisions required in section
33 543B.56A.

34 8. ~~"Brokerage services"~~ means ~~those activities identified~~
35 ~~in~~ [sections 543B.3](#) and [543B.6](#).

1 ~~9.~~ 8. "*Client*" means a party to a transaction who has
2 ~~an agency a~~ brokerage agreement with a ~~broker~~ brokerage for
3 brokerage services.

4 ~~10.~~ 9. "*Customer*" means a consumer who is not being
5 represented by a licensee but for whom the licensee may perform
6 ministerial acts.

7 ~~11.~~ 10. "*Designated broker*" means a licensee designated
8 ~~by a real estate brokerage agency~~ to act for the ~~agency a~~
9 brokerage in conducting ~~real estate~~ brokerage services.

10 ~~12.~~ 11. "*Inactive license*" means either a ~~broker or~~
11 ~~salesperson~~ license certificate ~~that is~~ on file with the real
12 estate commission ~~in the commission office and during~~ pursuant
13 to which time the licensee is precluded from engaging in any of
14 the acts of this chapter.

15 ~~13.~~ "*Licensee*" ~~means a broker or a salesperson licensed~~
16 ~~pursuant to~~ this chapter.

17 ~~14.~~ 12. "*Listing*" ~~is~~ means an agreement between a property
18 owner or other authorized person and ~~another~~ a brokerage or
19 other person ~~in~~ pursuant to which ~~that person~~ the brokerage or
20 other person holds or advertises the property to the public as
21 being available for sale or lease.

22 ~~15.~~ 13. *a.* "*Material adverse fact*" means an adverse
23 fact that a party indicates is of such significance, or that
24 is generally recognized by a competent licensee as being of
25 such significance to a reasonable party, that it affects or
26 would affect the party's decision to enter into a contract
27 or agreement concerning a transaction, or affects or would
28 affect the party's decision about the terms of the contract or
29 agreement.

30 *b.* For purposes of this subsection, "*adverse fact*" means
31 a condition or occurrence that is generally recognized by a
32 competent licensee as resulting in any of the following:

33 (1) Significantly and adversely affecting the value of the
34 property.

35 (2) Significantly reducing the structural integrity of

1 improvement to real estate.

2 (3) Presenting a significant health risk to occupants of
3 the property.

4 ~~16.~~ 14. "*Negotiate*" means to act as an intermediary between
5 the parties to a transaction, and includes any of the following
6 acts:

7 a. Participating in the parties' discussion of the terms of
8 a contract or agreement concerning a transaction.

9 b. Completing, when requested by a party, appropriate forms
10 or other written record to document the party's proposal in a
11 manner consistent with the party's intent.

12 c. Presenting to a party the proposals of other parties to
13 the transaction and informing the party receiving a proposal of
14 the advantages and disadvantages of the proposal.

15 ~~17.~~ 15. "*Party*" means a person seeking to sell, exchange,
16 buy, or rent an interest in real estate, a business, or a
17 business opportunity. "*Party*" includes a person who seeks to
18 grant or accept an option to buy, sell, or rent an interest in
19 real estate.

20 ~~18.~~ 16. "*Person*" means an individual, partnership,
21 association, corporation, professional corporation, or
22 professional limited liability company.

23 17. "*Real estate broker*" or "*broker*" means a person who is
24 licensed as a real estate broker pursuant to this chapter.

25 18. "*Real estate license*" or "*license*" means a license
26 issued pursuant to this chapter.

27 19. "*Real estate licensee*" or "*licensee*" means the holder of
28 a license issued pursuant to this chapter.

29 20. "*Real estate salesperson*" or "*salesperson*" means a
30 person who is licensed as a real estate salesperson pursuant
31 to this chapter and who is employed by or otherwise associated
32 with a brokerage as a selling, renting, or listing agent or
33 representative of the brokerage.

34 ~~19.~~ 21. "*Regular employee*" means a person whose
35 compensation is fixed in advance, who does not receive a

1 commission, who works ~~exclusively~~ full-time for the owner of a
2 brokerage, and whose total compensation is subject to state and
3 federal withholding.

4 ~~20. "Salesperson" means a person who is licensed under, and~~
5 ~~employed by or otherwise associated with, a real estate broker,~~
6 ~~as a selling, renting, or listing agent or representative of~~
7 ~~the broker.~~

8 ~~21.~~ 22. "Transaction" means the sale, exchange, purchase,
9 or rental of, or the granting or acceptance of an option to
10 sell, exchange, purchase, or rent an interest in real estate.

11 Sec. 5. Section 543B.6, Code 2017, is amended to read as
12 follows:

13 **543B.6 Acts constituting dealing in real estate.**

14 A person who, for another, in consideration of compensation,
15 by fee, commission, salary, or otherwise, or with the intention
16 or in the expectation or upon the promise of receiving or
17 collecting a fee, does, offers or attempts or agrees to do,
18 engages in or offers or attempts or agrees to engage in, either
19 directly or indirectly, any single act or transaction contained
20 in the definition of a ~~real estate broker~~ brokerage services as
21 set out in section 543B.3, whether the act ~~be~~ is an incidental
22 part of a transaction or the entire transaction is a ~~real~~
23 ~~estate broker or real estate salesperson~~ dealing in real estate
24 within the meaning of this chapter.

25 Sec. 6. Section 543B.7, subsection 5, paragraph a,
26 subparagraphs (1) and (2), Code 2017, are amended to read as
27 follows:

28 (1) The auctioneer shall provide in any advertising the name
29 and address of the real estate ~~broker~~ licensee who is providing
30 brokerage services for the transaction and the name of the ~~real~~
31 ~~estate broker~~ brokerage, attorney, or closing company ~~who is~~
32 responsible for closing the sale of the property.

33 (2) The real estate ~~broker~~ licensee providing brokerage
34 services shall be present at the time of the auction and, if
35 found to be in violation of this subsection, shall be subject

1 to a civil penalty of one thousand dollars.

2 Sec. 7. Section 543B.7, subsection 5, paragraph c, Code
3 2017, is amended to read as follows:

4 c. If an investigation pursuant to **this chapter** reveals
5 that an auctioneer has violated **this subsection** or has assumed
6 to act in the capacity of a real estate ~~broker or real estate~~
7 ~~salesperson~~ licensee, the real estate commission shall issue
8 a cease and desist order, and shall impose a civil penalty of
9 one thousand dollars for the first offense, and impose a civil
10 penalty of up to the greater of ten thousand dollars or ten
11 percent of the real estate sales price for each subsequent
12 violation.

13 Sec. 8. Section 543B.15, subsections 1, 2, 3, 4, 5, and 9,
14 Code 2017, are amended to read as follows:

15 1. Except as provided in **section 543B.20** an applicant for a
16 real estate ~~broker's or salesperson's~~ license must be a person
17 whose application has not been rejected for licensure in this
18 or any other state within twelve months prior to the date of
19 application, and whose real estate license has not been revoked
20 in this or any other state within two years prior to date of
21 application.

22 2. To qualify for a real estate license ~~as a real estate~~
23 ~~broker or salesperson~~ a person shall be eighteen years of age
24 or over. However, an applicant is not ineligible because of
25 citizenship, sex, race, religion, marital status, or national
26 origin, although the application form may require citizenship
27 information.

28 3. a. An applicant for a real estate ~~broker's or~~
29 ~~salesperson's~~ license who has been convicted of an offense
30 specified in **this subsection** shall not be considered for
31 licensure until the following time periods have elapsed
32 following completion of any applicable period of incarceration,
33 or payment of a fine or fulfillment of any other type of
34 sentence:

35 (1) For an offense which is classified as a felony, ~~two~~

1 an offense including or involving forgery, embezzlement,
2 obtaining money under false pretenses, theft, arson, extortion,
3 conspiracy to defraud, or other similar offense, or any other
4 offense involving a criminal breach of fiduciary duty, five
5 years.

6 (2) ~~Notwithstanding subparagraph (1), for offenses~~
7 ~~including or involving forgery, embezzlement, obtaining money~~
8 ~~under false pretenses, theft, arson, extortion, conspiracy to~~
9 ~~defraud, or other similar offense, any offense involving moral~~
10 ~~turpitude, or other offense involving a criminal breach of~~
11 ~~fiduciary duty, five years. For any offense not described in~~
12 subparagraph (1) involving moral turpitude, one year.

13 b. After expiration of the time periods specified in
14 paragraph "a", an application shall be considered by the
15 commission pursuant to [subsection 6](#) and may be denied on the
16 grounds of the conviction. An applicant may request a hearing
17 pursuant to [section 543B.19](#) in the event of a denial.

18 c. For purposes of [this section](#), "convicted" or "conviction"
19 means a guilty plea, deferred judgment from the time of entry
20 of the deferred judgment until the time the defendant is
21 discharged by the court without entry of judgment, or other
22 finding of guilt by a court of competent jurisdiction in this
23 state, or in any other state, territory, or district of the
24 United States, or in any foreign jurisdiction. A copy of the
25 record of conviction is conclusive evidence of such conviction.

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

32 5. A person who makes a false statement of material fact
33 on an application for a real estate ~~broker's or salesperson's~~
34 license, or who causes to be submitted, or has been a party to
35 preparing or submitting any false application for such license,

1 may be denied a license by the commission on the grounds of the
2 false statement or submission.

3 9. An applicant for an initial real estate ~~broker's or~~
4 ~~salesperson's~~ license shall be subject to a national criminal
5 history check through the federal bureau of investigation.
6 The commission shall request the criminal history check and
7 shall provide the applicant's fingerprints to the department
8 of public safety for submission through the state criminal
9 history repository to the federal bureau of investigation.
10 The applicant shall authorize release of the results of the
11 criminal history check to the real estate commission. The
12 applicant shall pay the actual cost of the fingerprinting and
13 criminal history check, if any. Unless the criminal history
14 check was completed within the two hundred ten calendar days
15 prior to the date the license application is received by
16 the real estate commission, the commission shall reject and
17 return the application to the applicant. The commission shall
18 process the application but hold delivery of the license until
19 the background check is complete. The results of a criminal
20 history check conducted pursuant to [this subsection](#) shall not
21 be considered a public record under [chapter 22](#).

22 Sec. 9. Section 543B.16, Code 2017, is amended to read as
23 follows:

24 **543B.16 Application forms.**

25 1. Every applicant for a real estate ~~broker's~~ license
26 shall apply in writing upon blanks prepared or furnished
27 by the real estate commission. The real estate commission
28 shall not require that a recent photograph of the applicant
29 be attached to the application. The real estate commission
30 shall not require an applicant to disclose criminal background
31 information on the application except for a conviction of an
32 offense described in section 543B.15, subsection 3.

33 2. Every applicant for a license shall furnish information
34 setting forth the applicant's present mailing address, ~~both of~~
35 ~~business and residence, a complete list of all former places~~

1 ~~where the applicant may have been engaged in business for a~~
2 ~~period of sixty days or more, during the last five years,~~
3 ~~accounting for such entire period~~ and electronic mail address.

4 3. ~~The commission shall prepare and furnish written~~
5 ~~application blanks for the salesperson's license requesting~~
6 ~~information as the commission may require. The commission~~
7 ~~shall not require that a recent photograph of the applicant be~~
8 ~~attached to the application. The application~~ Every applicant
9 for the a salesperson's license shall be accompanied by furnish
10 a written statement by the designated broker whose service the
11 applicant is about to enter recommending that the license be
12 granted to the applicant.

13 Sec. 10. Section 543B.19, Code 2017, is amended to read as
14 follows:

15 **543B.19 License denied — hearing.**

16 If the real estate commission, after an application in
17 proper form has been filed with ~~it~~ the commission, accompanied
18 by the proper fee, ~~shall deny~~ denies a license to the
19 applicant, ~~upon the applicant's application~~ applicant may apply
20 in writing, ~~and~~ within a period of thirty days of such denial,
21 and the applicant shall be entitled to a hearing as provided
22 in [section 543B.35](#).

23 Sec. 11. Section 543B.20, Code 2017, is amended to read as
24 follows:

25 **543B.20 Examination.**

26 Examinations for a license shall be given as often as deemed
27 necessary by the real estate commission, but no less than one
28 time per year. Each applicant for a license must pass an
29 examination authorized by the commission and administered by
30 the commission or persons designated by the commission. The
31 examination shall be of scope and wording sufficient in the
32 judgment of the commission to establish the competency of the
33 applicant to act as a real estate broker or salesperson in a
34 manner to protect the interests of the public. An examination
35 for a real estate broker shall be of a more exacting nature

1 than that for a real estate salesperson and require higher
2 standards of knowledge of real estate. The identity of the
3 persons taking the examinations shall be concealed until after
4 the examination has been graded. ~~A person who fails to pass~~
5 ~~either examination once may immediately apply to take the next~~
6 ~~available examination. Thereafter, the applicant may take the~~
7 ~~examination at the discretion of the commission.~~ An applicant
8 who has failed either examination may request in writing
9 information from the commission concerning the applicant's
10 examination grade and subject areas or questions which the
11 applicant failed to answer correctly, except that if the
12 commission administers a uniform, standardized examination, the
13 commission is only required to provide the examination grade
14 and other information concerning the applicant's examination
15 results which is available to the commission.

16 Sec. 12. Section 543B.21, Code 2017, is amended to read as
17 follows:

18 **543B.21 ~~Nonresident license~~ Out-of-state licensee —**
19 **reciprocity.**

20 ~~A nonresident of this state~~ person holding a valid and
21 active license to engage in brokerage services in another
22 state may be licensed as a real estate broker or a real estate
23 salesperson in this state, upon complying with all requirements
24 of law and with all the provisions and conditions of this
25 chapter relative to resident brokers or salespersons and the
26 filing by the applicant with the real estate commission of a
27 certification from the state of original licensure signed by
28 the duly qualified and authorized official or officials of that
29 state that the applicant is there currently licensed, that no
30 charges against the applicant are there pending, and that the
31 applicant's record in that state justifies the issuance of a
32 license to the applicant in Iowa. The commission may waive
33 the requirement of an examination in the case of ~~a nonresident~~
34 ~~broker~~ an out-of-state licensee who is licensed under the
35 laws of a state having similar requirements and where similar

1 recognition and courtesies are extended to ~~licensed~~ real estate
2 ~~brokers and salespersons~~ licensees of this state.

3 Sec. 13. Section 543B.22, Code 2017, is amended to read as
4 follows:

5 **543B.22 Nonresident's Out-of-state licensee's place of**
6 **business.**

7 ~~A nonresident~~ An out-of-state licensee to whom a license
8 is issued upon compliance with all the other requirements
9 of law and provisions of **this chapter**, is not required to
10 maintain a ~~definite~~ an active place of business within this
11 state. ~~Provided that~~ However, the ~~nonresident, if a broker,~~
12 out-of-state licensee shall maintain an active place of
13 business within the state of ~~the nonresident's domicile, and~~
14 ~~that the~~ original licensure. The privilege of submitting a
15 certification of licensure certified to by the qualified and
16 authorized official or officials of the state of original
17 licensure, in lieu of the recommendations and statements
18 otherwise required, only applies to licensed real estate
19 brokers and real estate salespersons of those states under the
20 laws of which similar recognition and courtesies are extended
21 to ~~licensed~~ real estate ~~brokers and real estate salespersons~~
22 licensees of this state.

23 Sec. 14. Section 543B.23, Code 2017, is amended to read as
24 follows:

25 **543B.23 Actions against nonresidents out-of-state licensees.**

26 Every ~~nonresident~~ out-of-state licensee applicant, before
27 the issuance of a license in this state, shall file an
28 irrevocable consent that suits and actions may be commenced
29 against such applicant in the proper court of any county of
30 this state in which a cause of action may arise, by the service
31 of any process or pleadings authorized by the laws of this
32 state on the chairperson of the real estate commission, ~~said~~
33 such consent stipulating and agreeing that such service of
34 ~~such~~ process or pleadings on the commission shall be taken
35 and held in all courts to be as valid and binding as if due

1 service had been made upon ~~said~~ the applicant within the state
2 of Iowa. ~~Said~~ The instrument containing such consent shall be
3 authenticated by the seal ~~thereof~~ of the out-of-state licensee,
4 and if a corporation, ~~or~~ by the acknowledged signature of a
5 member or officer ~~thereof, if otherwise~~ of the corporation.
6 All such applications, except from individuals, shall be
7 accompanied by a duly certified copy of the resolutions
8 of the proper officers, or managing board, authorizing the
9 proper officer to execute the ~~same~~ application. In case any
10 process or pleadings mentioned in the case are served upon
11 the commission it shall be by duplicate copies, one of which
12 shall be filed in the office of the commission, and the other
13 immediately forwarded by certified mail to the main office
14 of the applicant against whom ~~or which~~ ~~said~~ such process or
15 pleadings are directed.

16 Sec. 15. Section 543B.24, Code 2017, is amended to read as
17 follows:

18 **543B.24 Custody of salesperson's license.**

19 ~~The A~~ license of a real estate salesperson shall be delivered
20 or mailed to the real estate broker brokerage by whom the real
21 estate salesperson licensee is employed and shall be kept in
22 the custody and control of the ~~broker~~ brokerage.

23 Sec. 16. Section 543B.27, subsection 1, unnumbered
24 paragraph 1, Code 2017, is amended to read as follows:

25 The real estate commission shall set fees for examination
26 and licensing of real estate ~~brokers and real estate~~
27 ~~salespersons~~ licensees. The commission shall determine the
28 annual cost of administering the examination and shall set the
29 examination fee accordingly. The commission shall set the
30 fees for ~~the real estate broker's licenses and for real estate~~
31 ~~salesperson's~~ licenses based upon the administrative costs of
32 sustaining the commission. The fees shall include, but shall
33 not be limited to, the costs for:

34 Sec. 17. Section 543B.27, subsection 2, Code 2017, is
35 amended to read as follows:

1 2. Notwithstanding subsection 1, ~~a nonresident person an~~
2 out-of-state licensee seeking to procure a license pursuant to
3 this chapter shall be charged a fee equal to the greater of the
4 following:

5 a. The fee as determined pursuant to subsection 1.

6 b. A fee equal to the fee the ~~nonresident person~~
7 out-of-state licensee would be charged by such person's state
8 of residence if that person were a resident of this state
9 making application for a license in that state and that state
10 charges ~~a nonresident~~ an out-of-state licensee a fee which is
11 greater than that charged by that state to a resident of that
12 state.

13 Sec. 18. Section 543B.29, subsection 1, unnumbered
14 paragraph 1, Code 2017, is amended to read as follows:

15 A license ~~to practice the profession of real estate broker~~
16 ~~and salesperson~~ may be revoked or suspended when the licensee
17 is guilty of any of the following acts or offenses:

18 Sec. 19. Section 543B.29, subsection 1, paragraph b, Code
19 2017, is amended to read as follows:

20 b. Having made a false statement of material fact on
21 an application for a real estate ~~broker's or salesperson's~~
22 license, or having caused to be submitted, or having been a
23 party to preparing or submitting any false application for such
24 license.

25 Sec. 20. Section 543B.29, subsection 1, paragraph f,
26 subparagraphs (1) and (2), Code 2017, are amended to read as
27 follows:

28 (1) A ~~licensed real estate broker or salesperson~~ licensee
29 shall notify the commission of the licensee's conviction of an
30 offense included in section 543B.15, subsection 3, paragraph
31 "a", within ten days of the conviction. Notification of a
32 conviction for an offense which is classified as a felony shall
33 result in the immediate suspension of a license pending the
34 outcome of a hearing conducted pursuant to section 543B.35 to
35 determine the nature of the disciplinary action, if any, the

1 commission will impose on the licensee. The hearing shall be
2 conducted within thirty days of the licensee's notification to
3 the commission, and the commission's decision shall be provided
4 to the licensee no later than thirty days following the
5 hearing. The failure of the licensee to notify the commission
6 of the conviction within ten days of the date of the conviction
7 is sufficient grounds for revocation of the license.

8 (2) The commission, when considering the revocation
9 or suspension of a license pursuant to this paragraph "f",
10 shall consider the nature of the offense; any aggravating or
11 extenuating circumstances which are documented; the time lapsed
12 since the conduct or conviction; the rehabilitation, treatment,
13 or restitution performed by the licensee; and any other factors
14 the commission deems relevant. Character references may be
15 required but shall not be obtained from ~~licensed real estate~~
16 ~~brokers or salespersons~~ licensees.

17 Sec. 21. Section 543B.29, subsections 2, 3, and 4, Code
18 2017, are amended to read as follows:

19 2. The revocation of a designated broker's license shall
20 automatically suspend every license granted to any person by
21 ~~virtue of the person's employment by the broker whose license~~
22 ~~has been revoked~~ who is employed or associated with the
23 brokerage, pending a change of ~~employer~~ the designated broker
24 and the issuance of a new license. The new license shall be
25 issued upon payment of a fee in an amount determined by the
26 commission based upon the administrative costs involved, if
27 granted during the same license period in which the original
28 license was granted.

29 3. A real estate ~~broker or salesperson~~ licensee who is
30 an owner or lessor of property or an employee of an owner or
31 lessor may have ~~the broker's or salesperson's~~ their license
32 revoked or suspended for violations of **this section** or section
33 543B.34, except **section 543B.34, subsection 1**, paragraphs "d",
34 "e", "f", and "i", with respect to that property.

35 4. A real estate ~~broker's or salesperson's~~ licensee's

1 license shall be revoked following three violations of this
2 section or [section 543B.34](#) within a ~~five-year~~ three-year
3 period.

4 Sec. 22. Section 543B.30, Code 2017, is amended to read as
5 follows:

6 **543B.30 Actions — license as prerequisite.**

7 A person engaged in the business or acting in the capacity
8 of a real estate ~~broker or a real estate salesperson~~ licensee
9 within this state shall not bring or maintain any action in
10 the courts of this state for the collection of compensation
11 for services performed as a real estate ~~broker or salesperson~~
12 licensee without alleging and proving that the person was a
13 duly licensed ~~real estate broker or real estate salesperson~~ at
14 the time the alleged cause of action arose.

15 Sec. 23. Section 543B.31, Code 2017, is amended to read as
16 follows:

17 **543B.31 Place of business — branch license.**

18 Every ~~real estate broker~~ brokerage, except as provided
19 in [section 543B.22](#), shall maintain a place of business in
20 this state. A brokerage may maintain more than one place of
21 business within the state. If the ~~real estate broker~~ brokerage
22 maintains more than one place of business within the state,
23 a ~~duplicate~~ branch license shall be issued to such ~~broker~~
24 brokerage for each branch office maintained. ~~Provided, that~~
25 ~~if such broker be a partnership, association, corporation,~~
26 ~~professional corporation, or professional limited liability~~
27 ~~company a duplicate shall be issued to the members or officers~~
28 ~~thereof, and a~~ A fee determined by the real estate commission
29 ~~in each case~~ shall be paid for each ~~duplicate~~ branch license.

30 Sec. 24. Section 543B.32, Code 2017, is amended to read as
31 follows:

32 **543B.32 Change of location.**

33 Notice in writing, electronic or otherwise, shall be given
34 to the real estate commission by each licensee of any change
35 of principal business location, whereupon the commission shall

1 issue a new license for the unexpired period upon the payment
2 of a fee established by rule to cover the cost of issuing the
3 license.

4 Sec. 25. Section 543B.33, Code 2017, is amended to read as
5 follows:

6 **543B.33 Salespersons Licensees — change of employment**
7 **brokerage employment or association.**

8 When any ~~real estate salesperson~~ a licensee is discharged
9 or terminates employment or association with the ~~real estate~~
10 ~~broker by whom the salesperson is employed~~ a brokerage,
11 the ~~real estate~~ designated broker for the brokerage shall
12 immediately deliver, ~~or mail,~~ or electronically submit
13 to the real estate commission a copy of the ~~real estate~~
14 ~~salesperson's licensee's~~ license on the reverse side of which
15 the ~~employing~~ designated broker shall set out the date and
16 ~~cause of termination of employment.~~ The ~~real estate~~ designated
17 broker at the time of ~~mailing~~ submitting a copy of the ~~real~~
18 ~~estate salesperson's licensee's~~ license to the commission shall
19 address a communication to the last known residence address
20 of the ~~real estate salesperson~~ licensee stating that a copy
21 of the licensee's license has been delivered, ~~or mailed,~~ or
22 electronically submitted to the commission. A copy of the
23 communication to the ~~real estate salesperson~~ licensee shall
24 accompany the copy of the license when ~~mailed or delivered~~
25 submitted to the commission. It is unlawful for any ~~real~~
26 ~~estate salesperson~~ a licensee to perform any of the acts
27 contemplated by [this chapter](#) either directly or indirectly
28 under authority of a license from and after the date of
29 receipt of a copy of the licensee's license by the commission.
30 The commission shall, upon presentation of evidence by the
31 ~~salesperson~~ licensee that the ~~salesperson~~ licensee has been
32 employed by or is associated with another ~~broker~~ brokerage,
33 issue another license for the balance of the current license
34 period showing each change of employment or association with
35 a brokerage. A fee as determined by the commission shall be

1 charged for the issuance of the license. Not more than one
2 license shall be issued to any ~~real estate salesperson~~ licensee
3 for the same period of time.

4 Sec. 26. Section 543B.34, Code 2017, is amended to read as
5 follows:

6 **543B.34 Investigations by commission — licensing sanctions**
7 **— civil penalty.**

8 1. The real estate commission may upon its own motion and
9 shall upon the verified complaint in writing of any person,
10 if the complaint together with evidence, documentary or
11 otherwise, presented in connection with the complaint makes
12 out a prima facie case, request commission staff or any other
13 duly authorized representative or designee to investigate the
14 actions of any ~~real estate broker, real estate salesperson,~~
15 licensee or other person who assumes to act in either such
16 capacity within this state. The commission may assess civil
17 penalties against any person or entity, and may suspend or
18 revoke a license issued under **this chapter** at any time if the
19 licensee has by false or fraudulent representation obtained a
20 license, or if the licensee or other person assuming to act in
21 the capacity of a ~~real estate broker or real estate salesperson~~
22 licensee, except for those actions exempt pursuant to section
23 543B.7, is found to be guilty of any of the following:

24 a. Making any substantial misrepresentation.

25 b. Making any false promise of a character likely to
26 influence, persuade, or induce.

27 c. Pursuing a continued and flagrant course of
28 misrepresentation, or making of false promises through agents
29 or ~~salespersons~~ licensees or advertising or otherwise.

30 d. Acting for more than one party in a transaction without
31 the knowledge of all parties for whom the licensee acts.

32 e. Accepting a commission or valuable consideration as a
33 ~~real estate broker associate or salesperson~~ licensee for the
34 performance of any of the acts specified in **this chapter**, from
35 any person, except the ~~broker associate's or salesperson's~~

1 ~~employer, who must be a licensed real estate broker licensee's~~
2 ~~brokerage.~~ However, a ~~broker associate or salesperson licensee~~
3 may, without violating this paragraph, accept a commission
4 or valuable consideration from a corporation which is wholly
5 owned, or owned with a spouse, by the ~~broker associate or~~
6 ~~salesperson licensee~~ if the conditions described in paragraph
7 "i" are met.

8 f. Representing or attempting to represent a ~~real estate~~
9 ~~broker brokerage~~ other than the licensee's ~~employer, without~~
10 ~~the express knowledge and consent of the employer brokerage.~~

11 g. Failing, within a reasonable time, to account for or to
12 remit any moneys coming into the licensee's possession which
13 belong to others.

14 h. Being unworthy or incompetent to act as a ~~real estate~~
15 ~~broker or salesperson licensee~~ in such manner as to safeguard
16 the interests of the public.

17 i. (1) Paying a commission or other valuable consideration
18 or any part of such commission or consideration for performing
19 any of the acts specified in [this chapter](#) to a person who is not
20 a licensed ~~broker or salesperson~~ under [this chapter](#) or who is
21 not engaged in ~~the real estate business brokerage services~~ in
22 another state or foreign country, provided that the provisions
23 of [this section](#) shall not be construed to prohibit the payment
24 of earned commissions or consideration to any of the following:

25 (a) The estate or heirs of a deceased real estate licensee
26 when such licensee had a valid real estate license in effect at
27 the time the commission or consideration was earned.

28 (b) A citizen of another country acting as a referral
29 agent if that country does not license real estate brokers or
30 salespersons and if the Iowa licensee paying the commission or
31 consideration obtains and maintains reasonable written evidence
32 that the payee is a citizen of the other country, is not a
33 resident of this country, and is in the business of brokering
34 real estate in that other country.

35 (c) A corporation pursuant to subparagraph (2).

1 (2) A ~~broker~~ brokerage may pay a commission to a corporation
2 which is wholly owned, or owned with a spouse, by a ~~salesperson~~
3 ~~or broker associate~~ licensee employed by or otherwise
4 associated with the ~~broker~~ brokerage, if all of the following
5 conditions are met:

6 (a) The corporation does not engage in real estate
7 transactions as a third-party agent or in any other activity
8 requiring a license under this chapter.

9 (b) The ~~employing broker~~ brokerage is not relieved of any
10 obligation to supervise the ~~employed~~ licensee or any other
11 requirement of this chapter or the rules adopted pursuant to
12 this chapter.

13 (c) The ~~employed broker associate or salesperson~~ licensee
14 is not relieved from any personal civil liability for any
15 licensed activities by interposing the corporate form.

16 *j.* Failing, within a reasonable time, to provide information
17 requested by the commission as the result of a formal or
18 informal complaint to the commission which would indicate a
19 violation of this chapter.

20 *k.* Any other conduct, whether of the same or different
21 character from that specified in this section, which
22 demonstrates bad faith, or improper, fraudulent, or dishonest
23 dealings which would have disqualified the licensee from
24 securing a license under this chapter.

25 2. Any unlawful act or violation of any of the provisions of
26 this chapter by any ~~real estate broker associate or salesperson~~
27 licensee, employee, or partner or associate of a ~~licensed real~~
28 ~~estate broker~~ licensee, is not cause for the revocation of
29 the license of any ~~real estate broker~~ licensee, unless the
30 commission finds that the ~~real estate broker~~ licensee had
31 guilty knowledge of the unlawful act or violation.

32 3. If an investigation pursuant to this section reveals
33 that an unlicensed person has assumed to act in the capacity
34 of a ~~real estate broker or real estate salesperson~~ licensee,
35 the commission shall issue a cease and desist order, and shall

1 impose a civil penalty of up to the greater of ten thousand
2 dollars or ten percent of the real estate sale price.

3 Sec. 27. Section 543B.35, Code 2017, is amended to read as
4 follows:

5 **543B.35 Hearing on charges.**

6 The real estate commission shall, upon request of the
7 applicant as provided in [section 543B.19](#), or before revoking
8 any license, set the matter down for a hearing and at least
9 twenty days prior to the date set for the hearing it shall
10 notify the applicant or licensee in writing, which said notice
11 shall contain an exact statement of the charges made and the
12 date and place of the hearing. The applicant or licensee
13 at all such hearings shall have the opportunity to be heard
14 in person and by counsel in reference thereto. Such written
15 notice of hearing may be served by delivery personally to the
16 applicant or licensee or by mailing the same by certified
17 mail to the last known business address of such applicant or
18 licensee. ~~If such applicant or licensee be a salesperson,~~
19 ~~the~~ The commission shall also notify the designated broker
20 ~~employing the salesperson or into whose employ the salesperson~~
21 ~~is about to enter~~ associated with the applicant or licensee's
22 brokerage by mailing such notice by certified mail to the
23 designated broker's last known business address. The hearing
24 on such charges shall be at such time and place as the
25 commission shall prescribe.

26 Sec. 28. Section 543B.40, Code 2017, is amended to read as
27 follows:

28 **543B.40 Depositions.**

29 The testimony may be taken by deposition as in civil cases,
30 and any person may be compelled to appear and depose in the
31 same manner as witnesses may be compelled to appear and testify
32 ~~as hereinbefore provided.~~

33 Sec. 29. Section 543B.46, Code 2017, is amended to read as
34 follows:

35 **543B.46 Trust accounts.**

1 1. ~~Each real estate broker~~ A brokerage which is in the
2 practice of depositing funds in a trust account shall maintain
3 a common trust account in a bank, bank holding company, savings
4 bank, savings and loan association, ~~or~~ credit union, or other
5 similar entity for the deposit of all down payments, earnest
6 money deposits, or other trust funds received by ~~the broker or~~
7 ~~the broker's salespersons on behalf of the broker's~~ a licensee
8 as directed by the licensee's principal, ~~except that a broker~~
9 ~~acting as a salesperson shall deposit these funds in the~~
10 ~~common trust account of the broker for whom the broker acts as~~
11 ~~salesperson.~~ The account shall be an interest-bearing account.
12 The interest on the account shall be transferred quarterly to
13 the treasurer of state and transferred to the Iowa finance
14 authority for deposit in the housing trust fund established in
15 section 16.181 unless there is a written agreement between the
16 buyer and seller to the contrary. ~~The broker~~ brokerage shall
17 not benefit from interest received on funds of others in the
18 ~~broker's~~ brokerage's possession. A brokerage which is not in
19 the practice of depositing funds in a trust account shall not
20 be required to maintain a common trust account pursuant to this
21 section.

22 2. ~~Each broker~~ A brokerage required to maintain a trust
23 account pursuant to this section shall notify the real estate
24 commission of the name of each bank, bank holding company,
25 savings bank, savings and loan association, ~~or~~ credit union, or
26 other similar entity in which a trust account is maintained and
27 also the name of the account on forms provided therefor.

28 3. ~~Each broker~~ A brokerage required to maintain a trust
29 account pursuant to this section shall authorize the real
30 estate commission to examine each trust account and shall
31 obtain the certification of the bank, bank holding company,
32 savings bank, savings and loan association, ~~or~~ credit union,
33 or other similar entity attesting to each trust account
34 and consenting to the examination and audit of each account
35 by a duly authorized representative of the commission.

1 The certification and consent shall be furnished on forms
2 prescribed by the commission. This subsection does not
3 apply to an individual farm account maintained in the name
4 of the owner or owners for the purpose of conducting ongoing
5 farm business whether it is conducted by the farm owner or
6 by an agent or farm manager when the account is part of a
7 farm management agreement between the owner and agent or
8 manager. This subsection also does not apply to an individual
9 property management account maintained in the name of the
10 owner or owners for the purpose of conducting ongoing property
11 management whether it is conducted by the property owner or
12 by an agent or manager when the account is part of a property
13 management agreement between the owner and agent or manager.

14 4. ~~Each broker~~ A brokerage required to maintain a trust
15 account pursuant to this section shall only deposit trust funds
16 received on real estate or business opportunity transactions as
17 directed by the principal of a transaction constituting dealing
18 in real estate as defined in section 543B.6 in the common
19 trust account and shall not commingle the ~~broker's personal~~
20 brokerage's operating funds or other funds in the trust account
21 with the exception that a ~~broker~~ brokerage may deposit and keep
22 a sum not to exceed ~~five hundred~~ one thousand dollars in the
23 account from the ~~broker's personal~~ brokerage's operating funds,
24 which sum shall be specifically identified and deposited to
25 cover bank service charges relating to the trust account.

26 5. A ~~broker~~ brokerage may maintain more than one trust
27 account provided the commission is advised of ~~said~~ the account
28 as specified in subsections 2 and 3 above.

29 6. The commission shall verify on a test basis, a
30 random sampling of ~~the brokers, corporations, professional~~
31 ~~corporations, professional limited liability companies, and~~
32 ~~partnerships~~ brokerages for their trust account compliance.
33 The commission may upon reasonable cause, or as a part of or
34 after an investigation, request or order a special report.

35 7. The examination of a trust account shall be conducted by

1 the commission or the commission's authorized representative.

2 8. The commission shall adopt rules to ensure
3 implementation of **this section**.

4 Sec. 30. Section 543B.53, Code 2017, is amended to read as
5 follows:

6 **543B.53 Application of chapter.**

7 The provisions of **this chapter** which require successful
8 completion of a real estate education course before being
9 licensed as a real estate salesperson shall not apply to
10 ~~persons who hold real estate salesperson's licenses on July 1,~~
11 ~~1976 or to the issuance of new licenses to these persons under~~
12 ~~the provisions of pursuant to~~ **section 543B.28**.

13 Sec. 31. Section 543B.55, Code 2017, is amended to read as
14 follows:

15 **543B.55 Disclosure of relationship.**

16 The real estate commission shall adopt rules requiring
17 that each real estate ~~broker or salesperson~~ licensee in a
18 real estate transaction disclose in writing the ~~broker's or~~
19 ~~salesperson's~~ licensee's agency relationship with the buyer or
20 seller in the transaction.

21 Sec. 32. Section 543B.56A, subsection 2, unnumbered
22 paragraph 1, Code 2017, is amended to read as follows:

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

25 Sec. 33. Section 543B.57, Code 2017, is amended to read as
26 follows:

27 **543B.57 Confirmation and disclosure of relationship.**

28 1. A licensee shall not represent any party ~~or parties to~~
29 in a transaction or otherwise act as a licensee unless that
30 licensee makes a written agency disclosure ~~to all parties to~~
31 ~~the transaction identifying which party that person represents~~
32 ~~in the transaction.~~

33 2. a. The disclosure required in **subsection 1** shall
34 be made by the licensee at the time the licensee provides
35 specific assistance to the client. A change in a licensee's

1 representation that makes the initial disclosure incomplete,
2 misleading, or inaccurate requires that a new disclosure be
3 made immediately.

4 *b.* A written disclosure is required to be made to a
5 brokerage client prior to an offer being made or accepted ~~by~~
6 ~~any party to a transaction.~~ ~~The written disclosure shall be~~
7 ~~acknowledged by separate signatures of all parties to the~~
8 ~~transaction prior to any offer being made or accepted by any~~
9 ~~party to a transaction.~~

10 *c.* For purposes of [this section](#), "*specific assistance*" means
11 eliciting or accepting confidential information about a party's
12 real estate needs, motivation, or financial qualifications,
13 or eliciting or accepting information involving a proposed
14 or preliminary offer associated with specific real estate.
15 "*Specific assistance*" does not mean an open house showing,
16 preliminary conversations concerning price range, location, and
17 property styles, or responding to general factual questions
18 concerning properties which have been advertised for sale or
19 lease.

20 3. The written agency disclosure form shall contain all of
21 the following:

22 *a.* A statement of which party is the licensee's client or,
23 if the licensee is providing brokerage services to more than
24 one client as provided under [section 543B.60](#), a statement of
25 all persons who are the licensee's clients.

26 *b.* A statement of the licensee's duties to the licensee's
27 client under [section 543B.56, subsections 1 and 2](#).

28 *c.* Any additional information that the licensee determines
29 is necessary to clarify the licensee's relationship to the
30 licensee's client or customer.

31 4. [This section](#) does not prohibit a person from representing
32 oneself.

33 5. The seller, in the listing agreement, may authorize the
34 seller's licensee brokerage to disburse part of the licensee's
35 brokerage's compensation to other licensees brokerages,

1 including a buyer's ~~licensee solely representing the buyer~~
2 brokerage. A licensee representing a buyer shall inform the
3 listing licensee, if there is a listing licensee, either
4 verbally or in writing, of the agency relationship before any
5 negotiations are initiated. The obligation of either the
6 seller or the buyer to pay compensation to a ~~licensee~~ brokerage
7 is not determinative of the agency relationship.

8 Sec. 34. Section 543B.59, Code 2017, is amended to read as
9 follows:

10 **543B.59 Appointed agents within a firm.**

11 1. *Appointed agents.* A ~~real-estate~~ brokerage agency
12 entering into a brokerage agreement, through a designated
13 broker, may notify a client in writing of those affiliated
14 associated licensees within the ~~real-estate~~ brokerage agency
15 who will be acting as appointed agents of that client to the
16 exclusion of all other ~~affiliated~~ associated licensees within
17 the ~~real-estate~~ brokerage agency.

18 2. *Dual agent.* A ~~real-estate~~ brokerage agency and a
19 designated broker are not considered to be dual agents solely
20 because of an appointment under the provisions of [this section](#).
21 However, an ~~affiliated~~ associated licensee who personally
22 represents both the seller and the buyer in a particular
23 transaction is considered to be a disclosed dual agent and
24 is required to comply with the provisions of [this subchapter](#)
25 governing disclosed dual agents.

26 3. *Actual knowledge — information.* A client, a ~~real-estate~~
27 brokerage agency, and its appointed agents are deemed to
28 possess only actual knowledge and information at the time the
29 appointed agents are appointed. Knowledge or information is
30 not imparted by operation of law among the clients, the ~~real~~
31 ~~estate~~ brokerage agency, and its appointed agents.

32 4. *Appointments — roles.* The commission shall define
33 by rule the methods of appointment and the role of the ~~real~~
34 ~~estate~~ brokerage agency and the designated broker. The rules
35 must include a requirement that clients be informed as to the

1 ~~real estate brokerage agency's~~ brokerage's appointed agent
2 policy and be given written notice of that policy in advance of
3 entering into a brokerage agreement.

4 Sec. 35. Section 543B.60A, subsections 3 and 9, Code 2017,
5 are amended by striking the subsections.

6 Sec. 36. Section 543B.60A, subsection 5, Code 2017, is
7 amended to read as follows:

8 5. This section does not address relationships between a
9 designated broker and the ~~broker associates or salespersons~~
10 licensees licensed under, employed by, or otherwise associated
11 with the ~~broker in a real estate~~ brokerage agency.

12 Sec. 37. Section 543B.62, subsection 3, paragraph b, Code
13 2017, is amended to read as follows:

14 b. A designated broker is responsible for supervising
15 a ~~salesperson or broker associate~~ licensee employed by or
16 otherwise associated with the ~~broker as a representative of the~~
17 broker brokerage. The existence of an independent contractor
18 relationship or any other special compensation arrangement
19 between the ~~broker~~ brokerage and the ~~salesperson or broker~~
20 ~~associate~~ licensee does not relieve the designated broker,
21 ~~salesperson, or broker associate~~ licensee of the duties and
22 responsibilities established by this chapter. A ~~salesperson or~~
23 ~~broker associate~~ licensee shall keep the employing designated
24 broker fully informed of all activities being conducted on
25 behalf of the ~~broker~~ brokerage and any other activities that
26 might impact on the ~~broker's~~ brokerage's responsibilities.
27 However, the failure of the ~~salesperson or broker associate~~
28 licensee to keep the employing designated broker fully informed
29 does not relieve the ~~broker~~ brokerage of the duties and
30 responsibilities established by this chapter.

31 Sec. 38. REPEAL. Section 543B.25, Code 2017, is repealed.

32 DIVISION II

33 REAL ESTATE DISCLOSURES

34 Sec. 39. Section 136B.2, subsection 2, Code 2017, is amended
35 to read as follows:

1 2. a. Notwithstanding the requirements of this section,
2 disclosure to any person of the results of a test performed
3 on a nonpublic building for the presence of radon gas and
4 radon progeny is not required if the results do not exceed the
5 currently established United States environmental protection
6 agency action guidelines, except as required during a real
7 estate transaction pursuant to section ~~558A.4, subsection 2~~
8 558A.4A.

9 b. A person who tests a nonpublic building which the person
10 owns is not required to disclose to any person the results of
11 a test for the presence of radon gas or progeny if the test
12 is performed by the person who owns the nonpublic building,
13 except as required during a real estate transaction pursuant to
14 section ~~558A.4, subsection 2~~ 558A.4A.

15 Sec. 40. Section 558A.1, Code 2017, is amended by adding the
16 following new subsection:

17 NEW SUBSECTION. 01. "*Agent*" means an individual designated
18 by a transferee to accept delivery of a disclosure statement
19 from a transferor.

20 Sec. 41. Section 558A.1, subsection 4, paragraph e, Code
21 2017, is amended to read as follows:

22 e. A transfer made to a spouse, or to a person ~~in the lineal~~
23 line within the third degree of consanguinity or affinity of
24 a person making the transfer.

25 Sec. 42. Section 558A.2, subsection 2, Code 2017, is amended
26 to read as follows:

27 2. The disclosure statement shall be made by personal
28 delivery, or by certified or registered mail, or electronic
29 delivery to the transferee or to the transferee's agent. The
30 delivery may be made to the spouse of the transferee, unless
31 otherwise provided by the parties. If the disclosure statement
32 is not timely delivered, the transferee may withdraw the offer
33 or revoke the acceptance without liability, within three days
34 following personal delivery of the statement or five days
35 following electronic delivery or delivery by mail.

1 Sec. 43. Section 558A.4, Code 2017, is amended to read as
2 follows:

3 **558A.4 Required information.**

4 ~~1. a.~~ The disclosure statement shall include information
5 relating to the condition and important characteristics of the
6 property and structures located on the property, including
7 significant defects in the structural integrity of the
8 structure, as provided in rules which shall be adopted by the
9 real estate commission pursuant to [section 543B.9](#). The rules
10 may require the disclosure to include information relating
11 to the property's zoning classification; the condition of
12 plumbing, heating, or electrical systems; or the presence of
13 pests.

14 ~~b.~~ ~~The disclosure statement may include a report or written~~
15 ~~opinion prepared by a person qualified to make judgment based~~
16 ~~on education or experience, as provided by rules adopted by~~
17 ~~the commission, including but not limited to a professional~~
18 ~~land surveyor licensed pursuant to [chapter 542B](#), a geologist, a~~
19 ~~structural pest control operator licensed pursuant to [section](#)~~
20 ~~206.6, or a building contractor. The report or opinion on a~~
21 ~~matter within the scope of the person's practice, profession,~~
22 ~~or expertise shall satisfy the requirements of [this section](#) or~~
23 ~~rules adopted by the commission regarding that matter required~~
24 ~~to be disclosed. If the report or opinion is in response~~
25 ~~to a request made for purposes of satisfying the disclosure~~
26 ~~statement, the report or opinion shall indicate which part of~~
27 ~~the disclosure statement the report or opinion satisfies.~~

28 ~~2. a.~~ A transferor subject to the requirements of [section](#)
29 ~~558.70 shall recommend in writing that the transferee obtain an~~
30 ~~independent home inspection report to provide full and complete~~
31 ~~information as required to be disclosed under [this section](#) and~~
32 ~~under rules adopted by the real estate commission pursuant to~~
33 ~~[section 543B.9](#).~~

34 ~~b.~~ A transferor subject to [section 558.70](#) shall provide
35 the real estate disclosure statement required by this chapter

1 ~~at least seven days before the real estate installment sales~~
2 ~~contract is executed by all parties to the contract.~~

3 Sec. 44. NEW SECTION. **558A.4A Installment sales contracts**
4 **— required disclosures.**

5 1. A transferor subject to the requirements of section
6 558.70 shall recommend in writing that the transferee obtain an
7 independent home inspection report to provide full and complete
8 information as required to be disclosed under this chapter and
9 under rules adopted by the real estate commission pursuant to
10 section 543B.9.

11 2. A transferor subject to section 558.70 shall provide
12 the real estate disclosure statement required by this chapter
13 at least seven days before the real estate installment sales
14 contract is executed by all parties to the contract.

15 Sec. 45. Section 558A.6, Code 2017, is amended to read as
16 follows:

17 **558A.6 Liability under the chapter.**

18 A person who violates **this chapter** shall be liable to a
19 transferee for the amount of actual damages suffered by the
20 transferee, ~~but subject to the following limitations:~~

21 ~~1. The provided, however, that the~~ transferor, or a broker
22 or salesperson, shall not be liable under **this chapter** for the
23 error, inaccuracy, or omission in information required in a
24 disclosure statement, unless that person has actual knowledge
25 of the inaccuracy, or fails to exercise ordinary care in
26 obtaining the information.

27 ~~2. The person submitting a report or opinion within the~~
28 ~~scope of the person's practice, profession, or expertise,~~
29 ~~as provided in **section 558A.4**, for purposes of satisfying~~
30 ~~the disclosure statement, shall not be liable under this~~
31 ~~chapter for any matter other than a matter within the person's~~
32 ~~practice, profession, or expertise, and which is required by~~
33 ~~the disclosure statement, unless the person failed to use care~~
34 ~~ordinary in the person's profession, practice, or area of~~
35 ~~expertise in preparing the information.~~

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EXPLANATION

The inclusion of this explanation does not constitute agreement with the explanation's substance by the members of the general assembly.

This bill relates to real estate professionals and real estate disclosures.

REAL ESTATE LICENSEES. The bill modifies several provisions in Code chapter 543B, dealing with the licensure of real estate brokers and salespersons.

The bill changes references to "real estate broker", "broker associate", or "salesperson" throughout Code chapter 543B to "real estate licensee" or "licensee".

Code section 543B.1 prohibits a person from doing any act as a real estate broker or representing oneself as a licensee without obtaining a license. The bill changes the prohibition against doing any act as a real estate broker to a prohibition against doing any act constituting dealing in real estate.

The bill removes the requirement that at least one member or officer of a licensed brokerage be a real estate broker and changes references to specified forms of business entities being granted a license to "brokerage" in Code section 543B.2.

Current Code section 543B.3 defines "real estate broker" and lists the acts that a real estate broker engages in. The bill modifies this provision to include the same list of acts as the definition of "brokerage services". The bill removes the definition of "brokerage services" in Code section 543B.5. The bill makes conforming changes to the use of this terminology in Code chapter 543B. The bill makes other changes to the definitions listed in Code section 543B.5.

Code section 543B.15(3) prohibits an applicant convicted of certain offenses from being considered for licensure until certain time periods have elapsed. The bill provides that for an applicant convicted of an offense classified as a felony, or involving forgery, embezzlement, false pretenses, theft, arson, extortion, conspiracy to defraud, or other similar offense, or any other offense involving a criminal breach of fiduciary

1 duty, the applicant must wait five years. An applicant
2 convicted of any other offense involving moral turpitude must
3 wait one year. The bill provides that a copy of the record
4 of an applicant's conviction is conclusive evidence of the
5 conviction.

6 The bill prohibits the real estate commission from requiring
7 an applicant to disclose criminal background information on
8 an application except for a copy of conviction of certain
9 prescribed offenses. The bill requires an application to
10 include an applicant's present mailing address and electronic
11 mail address. A salesperson's application must include
12 a written statement from a designated broker. The bill
13 eliminates an applicant's ability to immediately apply to
14 take the next available licensure examination after failing a
15 licensure examination.

16 Code section 543B.21 allows a nonresident to become licensed
17 as a broker or salesperson in Iowa if certain conditions are
18 met. The bill specifies that the person must hold a valid
19 and active license to engage in brokerage services in another
20 state. The bill changes "nonresident" to "out-of-state
21 licensee" with respect to such persons.

22 Code section 543B.24 requires a salesperson's license
23 to be delivered to the salesperson's employing broker for
24 custody. The bill broadens this to any license, and requires a
25 license to be delivered to and in the custody of a licensee's
26 brokerage.

27 The bill repeals Code section 543B.25, which requires a
28 licensed broker to display their license in the broker's place
29 of business.

30 Code section 543B.29(2) provides for the automatic
31 suspension of a license granted by virtue of a person's
32 employment with a broker whose license is revoked. The bill
33 amends this provision to provide that the revocation of a
34 designated broker's license automatically suspends a license
35 granted to a person associated with the brokerage.

1 Code section 543B.29(4) provides that a license must be
2 revoked following three violations of Code section 543B.29 or
3 543B.34 within a five-year period. The bill changes this to a
4 three-year period.

5 Code section 543B.31 requires a licensed broker to maintain
6 a place of business in this state and allows a broker to obtain
7 a duplicate license for each additional branch office. The
8 bill changes "broker" to "brokerage" and specifies that a
9 brokerage may maintain more than one place of business in
10 the state. The bill requires a brokerage to obtain a branch
11 license, instead of a duplicate license, for each additional
12 branch office.

13 The bill allows a licensee to provide electronic
14 notification to the real estate commission for a change to a
15 licensee's principal place of business location, as required
16 in Code section 543B.32.

17 Code section 543B.33 requires a broker to notify the
18 real estate commission of any change of employment for a
19 licensed salesperson and mail the salesperson's license to
20 the commission. The bill broadens this to include a change
21 of employment or association for any licensee at a brokerage,
22 and requires the designated broker to provide such notice.
23 The bill allows the designated broker to send a copy of the
24 licensee's license, rather than the actual license, which can
25 be delivered, mailed, or submitted electronically.

26 The bill provides that the real estate commission may assess
27 civil penalties against any person or entity for conducting
28 investigations pursuant to Code section 543B.34.

29 Code section 543B.46 requires a licensed broker to maintain
30 a common trust account in a bank or other similar entity. The
31 bill changes this to require a brokerage in the practice of
32 depositing funds in a trust account to maintain a common trust
33 account in such an entity. A brokerage not in the practice of
34 depositing funds in a trust account is not required to do so.

35 Code section 543B.53 provides that education requirements

1 for licensure as a salesperson do not apply to salespersons
2 licensed on July 1, 1976, or to the issuance of new licenses
3 to such salespersons upon renewal. The bill removes reference
4 to salespersons licensed on July 1, 1976, providing that the
5 education requirements do not apply to licensed salespersons
6 seeking license renewal.

7 Code section 543B.57 requires licensees to provide written
8 agency disclosure statements when representing a party to
9 a real estate transaction. The bill specifies that such
10 disclosure must be made to a brokerage client prior to an offer
11 being made or accepted. The bill removes the requirement for
12 a disclosure to be signed by all parties prior to an offer
13 being made or accepted. The bill provides that a seller may
14 authorize the seller's brokerage to disburse the brokerage's
15 compensation to other brokerages.

16 The bill strikes Code section 543B.60A(3), which prohibits
17 licensees from participating in certain conditional marketing
18 plans. The bill also strikes Code section 543B.60A(9), which
19 requires licensees to provide business referral disclosures.

20 Code section 543B.62(3)(b) provides that a broker is
21 responsible for supervising a salesperson or broker associate
22 employed by or associated with the broker. The bill amends
23 this paragraph to provide that a designated broker is
24 responsible for a licensee employed by or associated with the
25 brokerage.

26 REAL ESTATE DISCLOSURES. The bill modifies provisions in
27 Code chapter 558A, which requires real estate disclosures to be
28 made before the transfer of certain real estate property.

29 The bill defines "agent" in Code section 558A.1 to mean an
30 individual designated by a transferee to accept delivery of
31 a disclosure statement from a transferor. The bill changes
32 the exemption to the definition of "transfer" for spouses
33 or related persons to specify that the exemption applies to
34 persons within the third degree of consanguinity or affinity.

35 The bill allows a real estate disclosure statement to be

1 made by electronic delivery in addition to personal delivery,
2 or by mail, and to the transferee's agent in addition to the
3 transferee.

4 The bill removes the provision allowing a disclosure
5 statement to include a report or written opinion by a qualified
6 professional from Code section 558A.4(1)(b). The bill removes
7 the limitation on liability for a qualified professional who
8 submitted a report from Code section 558A.6.

9 The bill strikes Code section 558A.4(2), which requires the
10 transferor in an installment sales contract to provide certain
11 disclosures. However, the language of Code section 558A.4(2)
12 is incorporated into new Code section 558A.4A.