

Senate Study Bill 3132 - Introduced

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

A BILL FOR

1 An Act relating to real estate brokers and brokerage
2 agreements.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 543B.3, subsection 9, Code 2024, is
2 amended to read as follows:

3 9. Prepares offers to purchase or purchase agreements,
4 listing contracts, buyer's representation agreements, agency
5 disclosures, real property residential and agricultural rental
6 agreements, real property commercial rental agreements of one
7 year or less, and groundwater hazard statements, including
8 any modifications, amendments, or addendums to these specific
9 documents.

10 Sec. 2. Section 543B.5, subsections 2, 7, 9, and 10, Code
11 2024, are amended to read as follows:

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

15 7. "Brokerage agreement" means a contract between a broker
16 and a client which establishes the relationship between the
17 parties as to, and the broker's compensation for, the brokerage
18 services to be performed and contains the provisions required
19 in [section 543B.56A](#).

20 9. "Client" means a party to a transaction who has ~~an agency~~
21 a brokerage agreement with a broker for brokerage services.

22 10. "Customer" means a consumer who is not being represented
23 by a licensee under a brokerage agreement but for whom the
24 licensee may perform ministerial acts.

25 Sec. 3. Section 543B.5, Code 2024, is amended by adding the
26 following new subsection:

27 NEW SUBSECTION. 8A. "Buyer's representation agreement"
28 means a brokerage agreement between a prospective buyer and a
29 broker.

30 Sec. 4. Section 543B.56, subsection 1, Code 2024, is amended
31 to read as follows:

32 1. *Duties to all parties in a transaction.* In providing
33 brokerage services to ~~all parties~~ a client to a transaction, a
34 licensee shall do all of the following:

35 a. ~~Provide brokerage services to~~ Treat all parties to the a

1 transaction ~~honestly and in~~ with honesty and good faith.

2 ~~b. Diligently exercise reasonable skill and care in~~
3 ~~providing brokerage services to all parties.~~

4 ~~e.~~ b. Disclose to each party all material adverse facts
5 that the licensee knows except for the following:

6 (1) Material adverse facts known by the party.

7 (2) Material adverse facts the party could discover
8 through a reasonably diligent inspection, and which would be
9 discovered by a reasonably prudent person under like or similar
10 circumstances.

11 (3) Material adverse facts the disclosure of which is
12 prohibited by law.

13 (4) Material adverse facts that are known to a person who
14 conducts an inspection on behalf of the party.

15 ~~d.~~ c. Account for all property coming into the possession
16 of a licensee that belongs to any party within a reasonable
17 time of receiving the property.

18 Sec. 5. Section 543B.56, subsection 2, paragraph c, Code
19 2024, is amended to read as follows:

20 c. Fulfill any obligation that is within the scope of the
21 agency brokerage agreement, except those obligations that are
22 inconsistent with other duties that the licensee has under this
23 chapter or any other law.

24 Sec. 6. Section 543B.56, subsection 2, Code 2024, is amended
25 by adding the following new paragraph:

26 NEW PARAGRAPH. e. Diligently exercise reasonable skill and
27 care in providing brokerage services.

28 Sec. 7. Section 543B.56A, subsection 2, Code 2024, is
29 amended by adding the following new paragraph:

30 NEW PARAGRAPH. e. Review the broker's compensation under
31 the brokerage agreement.

32 Sec. 8. Section 543B.56A, Code 2024, is amended by adding
33 the following new subsection:

34 NEW SUBSECTION. 3. A brokerage agreement must be signed by
35 both the broker and the client prior to the broker listing any

1 property for sale on behalf of a seller, or making an offer on a
2 property on behalf of a buyer.

3 Sec. 9. Section 543B.60, Code 2024, is amended to read as
4 follows:

5 **543B.60 Licensees providing services in more than one**
6 **transaction.**

7 A licensee may provide brokerage services simultaneously
8 to more than one party in different transactions unless the
9 licensee agrees with a client that the licensee is to provide
10 brokerage services only to that client. If the licensee and a
11 client agree that the licensee is to provide brokerage services
12 only to that client, the agency ~~agreement~~ disclosure required
13 under [section 543B.57, subsection 1](#), shall contain a statement
14 of that agreement.

15

EXPLANATION

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

18 This bill relates to real estate brokers and brokerage
19 agreements.

20 The bill includes in the current definition of a real estate
21 broker a person acting for another for a fee, commission,
22 or other compensation or promise who prepares buyer's
23 representation agreements, including any modifications,
24 amendments, or addendums. "Buyer's representation agreement"
25 is defined by the bill.

26 The bill requires a licensee, when providing brokerage
27 services to a client, to treat all parties to a transaction
28 with honesty and good faith, disclose to each party all
29 material adverse facts as laid out in the bill, and to account
30 for all property coming into the possession of the licensee
31 that belongs to any party within a reasonable time. The bill
32 requires the licensee to place the client's interests ahead
33 of the interests of any other party, disclose to the client
34 all information known by the licensee that is material to the
35 transaction and that is not known by the client or could not

1 be discovered by the client through a reasonably diligent
2 inspection, fulfill any obligation that is within the scope of
3 the brokerage agreement, and diligently exercise reasonable
4 skill and care in providing brokerage services.

5 Under the bill, a brokerage agreement shall specify that a
6 broker shall review the broker's compensation. Additionally,
7 a brokerage agreement must be signed by both a broker and a
8 client prior to the broker listing any property for sale on
9 behalf of a seller or making an offer on a property on behalf
10 of a buyer.

11 The bill makes a conforming change to Code section 543B.60.