

CHAPTER 53

ACCOUNTANTS MULTIYEAR PERMITS PERMITTED

H. F. 727

AN ACT to allow the permits to practice for certified public accountants, public accountants, and accounting practitioners to be multi-year permits.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 116.20, subsection 4, Code 1981, is amended to read as follows:

4. There shall be ~~an annual~~ a permit fee in an amount to be determined, ~~from time to time~~, by the board, payable by certified public accountants, public accountants, and accounting practitioners engaged in practice in this state. ~~No~~ A fee shall not be charged for the renewal of a partnership or corporation permit to practice. All permits shall expire ~~annually~~ as determined by the board.

Approved May 4, 1981

CHAPTER 54

REAL ESTATE SALES LICENSEES

H. F. 348

AN ACT relating to the licensing of real estate salespersons, associate brokers and brokers.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 117.1, Code 1981, is amended to read as follows:

117.1 LICENSE MANDATORY. ~~No~~ A person shall not act as a real estate broker, or real estate salesperson ~~or--real--estate--apprentice--salesperson~~ without first obtaining a license as provided in this chapter. The word "person" as ~~provided used~~ in ~~said this~~ chapter shall ~~mean and--include~~ means an individual, partnership, association, or corporation.

Sec. 2. Section 117.2, Code 1981, is amended to read as follows:

117.2 INDIVIDUAL LICENSES NECESSARY. ~~No--partnership~~ A partnership, association, or corporation shall not be granted a license, unless every member or officer of the ~~partnership~~ partnership, association, or corporation, who actively participates in the brokerage business of the ~~partnership~~ partnership, association, or corporation, ~~shall--held~~ holds a license as a real estate broker, or salesperson ~~or--apprentice--salesperson~~,

and unless every employee who acts as a salesperson for the ~~co~~partnership partnership, association, or corporation ~~shall-held~~ holds a license as a real estate broker, or salesperson ~~or-apprentice-salesperson~~. At least one member or officer of each ~~co~~partnership partnership, association, or corporation shall be a real estate broker.

Sec. 3. Section 117.5, Code 1981, is amended by striking the section and inserting in lieu thereof the following:

117.5 "BROKER ASSOCIATE", "SALESPERSON", AND "INACTIVE LICENSE" DEFINED.

As used in this chapter:

1. "Broker Associate" means a person who has a broker's license but is employed by or otherwise associated with another broker as a salesperson.

2. "Salesperson" means a person employed by or otherwise associated with a real estate broker, as a selling, renting, or listing agent or representative of the broker.

3. "Inactive License" means either a broker or salesperson license certificate that is on file with the commission in the commission office and during which the* time the licensee is precluded from engaging in any of the acts of this chapter.

Sec. 4. Section 117.6, Code 1981, is amended to read as follows:

117.6 ACTS CONSTITUTING DEALING IN REAL ESTATE. Any A person, ~~partnership, association, or corporation,~~ who, for another, in consideration of compensation, by fee, commission, salary, or otherwise, or with the intention or in the expectation or upon the promise of receiving or collecting a fee, does, offers or attempts or agrees to do, engages in or offers or attempts or agrees to engage in, either directly or indirectly, any single act or transaction contained in the definition of a real estate broker as set out in section 117.3, whether ~~said~~ the act be an incidental part of a transaction, or the entire transaction, ~~shall--constitute--such--person,~~ ~~partnership, association, or corporation~~ is a real estate broker, or real estate salesperson ~~or-real-estate-apprentice-salesperson~~ within the meaning of this chapter.

Sec. 5. Section 117.8, Code 1981, is amended to read as follows:

117.8 COMMISSION ESTABLISHED. There is established the Iowa real estate commission which shall consist of three members licensed under this chapter and two members not licensed under this chapter and who shall represent the general public. At least one of the licensed members shall be a licensed real estate salesperson, except that if the licensed real estate salesperson becomes a licensed real estate broker during ~~his-or-her~~ a term of office, ~~he or-she-shall-be-allowed-to~~ that person may complete the term, but ~~shall~~ is not be eligible for reappointment on the commission as a licensed real estate salesperson. A licensed member shall be actively engaged in the real estate business and shall have been so engaged for five years preceding the appointment, the last two of which shall have been in Iowa. Professional associations or societies of real estate brokers, or real estate salespersons ~~or-real-estate-apprentice-salespersons~~ may recommend the names of potential commission members to the governor, but the governor ~~shall~~ is not be bound by their recommendations. A commission member ~~shall~~ is not be required to be a member of any professional association or society composed of real estate

*According to enrolled Act

brokers or salespersons. Commissioners shall be appointed by the governor subject to confirmation by the senate. Appointments shall be for three-year terms and shall commence and end as provided in section 69.19. A commissioner shall serve no more than three terms or nine years, whichever is less. No more than one commissioner shall be appointed from a county. A commissioner shall not hold any other elective or appointive state or federal office. Vacancies shall be filled for the unexpired term by appointment of the governor and are subject to senate confirmation. A majority of the commissioners constitutes a quorum.

Sec. 6. Section 117.15, unnumbered paragraphs 1, 2 and 3, Code 1981, are amended to read as follows:

Except as provided in section 117.20 an applicant for a real estate ~~broker,~~ broker's or salesperson's ex-apprentice-salesperson's license must be a person whose application has not been rejected for licensure in this or any other state within six months prior to the date of application, ~~or~~ and whose real estate license has not been revoked in this or any other state within two years prior to date of application.

~~Every--applicant~~ To qualify for a license as a real estate broker, ~~or salesperson ex-apprentice-salesperson~~ a person shall be ~~of--the--age--of~~ eighteen years or over. ~~Provided,--however~~ However, an applicant ~~shall~~ is not be ineligible because of citizenship, sex, race, religion, marital status or national origin, although the application form may require citizenship information. The commission may consider the past felony record of an applicant only if the felony conviction relates directly to the practice of real estate selling. Character references may be required but shall not be obtained from licensed real estate brokers, or salespersons ~~ex--apprentice salespersons.~~

~~Every--applicant~~ To qualify for a license as a real estate broker, a person shall have been a licensed real estate salesperson for a period of at least twelve months preceding the date of application; or ~~he~~ shall have had experience substantially equal to that which a licensed real estate salesperson would ordinarily receive during a period of twelve months, whether as a former broker or salesperson, a manager of real estate, or otherwise. ~~Notwithstanding--the--foregoing--provisions~~ However, if the commission ~~shall--find~~ finds that any applicant could not acquire employment as a licensed real estate salesperson because of conditions existing in the area where ~~he~~ the person resides, ~~then,~~ the foregoing provisions of this paragraph shall be waived by the commission.

Sec. 7. Section 117.15, unnumbered paragraph 4, Code 1981, is amended by striking the unnumbered paragraph and inserting in lieu thereof the following:

A qualified applicant for a license as a real estate salesperson shall complete a commission approved short course in real estate education of at least thirty hours approved by the commission during the twelve months preceding the issuance of the license.

Sec. 8. Section 117.16, unnumbered paragraph 3, Code 1981, is amended to read as follows:

The commission shall prepare and furnish written application blanks for the salesperson's license ~~and for apprentice salesperson's license, to contain request for such~~ requesting information as the commission may require. The commission shall not require that a recent photograph of the applicant be attached to the application. The application for ~~both~~ the salesperson's license ~~and for the apprentice salesperson's license~~ shall be accompanied by a written statement by the broker ~~in~~ whose service ~~he~~ the applicant is about to enter recommending that the license be granted to the applicant.

Sec. 9. Section 117.20, Code 1981, is amended to read as follows:

117.20 WRITTEN EXAMINATION. Examinations for registration shall be given as often as deemed necessary by the board, but no less than one time per year. Each applicant for a license must pass a written examination authorized by the commission and administered by the commission or persons designated by the commission. The examination shall be of scope and wording sufficient in the judgment of the commission to establish the competency of the applicant to act as a real estate broker, ~~salesperson~~ or ~~apprentice salesperson~~ in ~~such a~~ manner as to protect the interests of the public. An examination for a real estate broker shall be of a more exacting nature than that for a real estate ~~apprentice salesperson~~ and require higher standards of knowledge of real estate. All examinations in real estate theory shall be in writing and the identity of the ~~person~~ persons taking the ~~examination~~ examinations shall be concealed until after the examination papers have been graded. For examinations in practice, the identity of the ~~person~~ persons taking the ~~examination~~ examinations shall also be concealed as far as possible. A person who fails to pass either written examination once may immediately apply to take the next available examination at the next scheduled time. Thereafter, the applicant ~~shall be allowed to~~ may take the examination at the discretion of the commission. An applicant who has failed either examination may request in writing information from the commission concerning ~~his~~ the applicant's examination grade and subject areas or questions which ~~he~~ the applicant failed to answer correctly, except that if the commission administers a uniform, standardized examination, the commission ~~shall~~ is only be required to provide the examination grade and ~~such~~ are other information concerning the applicant's examination results which ~~are~~ is available to the commission.

Sec. 10. Section 117.21, Code 1981, is amended to read as follows:

117.21 NONRESIDENT LICENSE. A nonresident of this state may be licensed as a real estate broker, or a real estate salesperson, ~~or a real estate apprentice salesperson~~, upon complying with all requirements of law and with all the provisions and conditions of this chapter relative to resident brokers, or salespersons ~~and apprentice salespersons~~, and the filing by the applicant with the commission of a certification from the state of original licensure signed by the duly qualified and authorized official or officials of ~~such~~ that state that the applicant is there currently licensed, that no charges against the applicant are there pending, and that applicant's record in ~~such~~ that state justifies the issuance of a license to ~~such~~ the applicant in Iowa. The commission may waive the requirement of an examination in the

case of a nonresident broker who is licensed under the laws of a state having similar requirements and where similar recognition and courtesies ~~may be~~ are extended to licensed real estate brokers, and salespersons ~~and-apprentice salespersons~~ of this state.

Sec. 11. Section 117.22, Code 1981, is amended to read as follows:

117.22 NONRESIDENT'S PLACE OF BUSINESS. A nonresident to whom a license is issued upon compliance with all the other requirements of law and provisions of this chapter, ~~shall~~ is not be required to maintain a definite place of business within this state. Provided, that ~~such~~ the nonresident, if a broker, shall maintain an active place of business within the state of ~~his~~ the nonresident's domicile, and ~~provided-further,~~ that the privilege of ~~se~~ submitting a certification of licensure certified to by the qualified and authorized official or officials of the state of original licensure, in lieu of the recommendations and statements otherwise required, ~~shall~~ only apply ~~applies~~ to licensed real estate brokers, and real estate salespersons ~~and real-estate-apprentice-salespersons~~ of those states under the laws of which similar recognition and courtesies are extended to licensed real estate brokers, and real estate salespersons ~~and-real-estate-apprentice-salespersons~~ of this state.

Sec. 12. Section 117.24, Code 1981, is amended to read as follows:

117.24 CUSTODY OF SALESPERSON'S ~~OR-APPRENTICE'S~~ LICENSE. The license of ~~such~~ a real estate salesperson ~~or-real-estate-apprentice-salesperson~~ shall be delivered or mailed to the real estate broker by whom ~~such~~ the real estate salesperson ~~or--real--estate-apprentice-salesperson~~ is employed and shall be kept in the custody and control of ~~such~~ the broker.

Sec. 13. Section 117.25, Code 1981, is amended to read as follows:

117.25 DISPLAY OF LICENSE. ~~It shall be the duty of every~~ A real estate broker ~~to~~ shall conspicuously display in ~~his~~ the broker's place of business the current real estate broker's license issued to ~~him~~ the broker and the licenses issued to ~~his~~ the broker's employees.

Sec. 14. Section 117.27, Code 1981, is amended to read as follows:

117.27 FEES. The commission shall set fees, for examination and licensing of real estate brokers, and real estate salespersons ~~and--real-estate--apprentice--salespersons~~. The commission shall determine the annual cost of administering the examination and shall set the examination fee accordingly. The commission shall set the fees for the real estate broker's licenses, and for real estate salesperson's licenses ~~and--for--real--estate-apprentice--salesperson's--licenses~~ based upon the administrative costs of sustaining the commission. The fees shall include, but shall not be limited to, the costs for:

1. Per diem, expenses, and travel for commission members.
2. Office facilities, supplies, and equipment.
3. Director, assistants, and clerical assistance.

Sec. 15. Section 117.28, Code 1981, is amended to read as follows:

117.28 EXPIRATION OF LICENSE. Every license, ~~except a license as a real estate apprentice salesperson which shall expire as provided in section 117-15,~~ shall expire in multiyear intervals as determined by the commission. A person who fails to renew a real estate broker's or real estate

salesperson's license by the expiration date shall be allowed to do so within thirty days following its expiration, but the commission may assess a reasonable penalty. The commission shall upon the written request of the applicant on forms prescribed by the commission, and payment of the fee ~~therefor-as-herein-required~~, shall issue a new license for each ensuing license period except as provided in section 117.15, in the absence of any reason or condition which might warrant the revocation of a license after a hearing as provided in sections 117.34 and 117.35.

Sec. 16. Section 117.29, Code 1981, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A real estate broker or salesperson who is an owner or lessor of property or an employee of an owner or lessor may have his or her license revoked or suspended for violations of this section or section 117.34, except subsections 4, 5, 6 and 9, with respect to that property.

Sec. 17. Section 117.29, unnumbered paragraph 2, Code 1981, is amended to read as follows:

The revocation of a broker's license shall automatically suspend every ~~real-estate-salesperson's~~ license and ~~every---real---estate---apprentice salesperson's---license~~ granted to any person by virtue of his or her employment by the broker whose license has been revoked, pending a change of employer and the issuance of a new license. ~~Such~~ The new license shall be issued upon payment of a fee in an amount determined by the commission based upon the administrative costs involved, if granted during the same license period in which the original license was granted.

Sec. 18. Section 117.30, Code 1981, is amended to read as follows:

117.30 ACTIONS--LICENSE AS PREREQUISITE. ~~No~~ A person, ~~co-partnership, association, or corporation~~ engaged in the business or acting in the capacity of a real estate broker, or a real estate salesperson ~~or real-estate apprentice-salesperson~~ within this state shall not bring or maintain any action in the courts of this state for the collection of compensation for any services performed as a real estate broker or salesperson without alleging and proving that ~~such the person, co-partnership, association, or corporation~~ was a duly licensed real estate broker, or real estate salesperson ~~or real-estate apprentice-salesperson~~ at the time the alleged cause of action arose.

Sec. 19. Section 117.32, Code 1981, is amended to read as follows:

117.32 CHANGE OF LOCATION. Notice in writing shall be given to the commission by each licensee of any change of principal business location, whereupon the commission shall issue a new license for the unexpired period upon the payment of a fee ~~of one dollar~~ established by rule to cover the cost of issuing the license.

Sec. 20. Section 117.33, Code 1981, is amended to read as follows:

117.33 SALESPERSONS ~~OR APPRENTICES~~--CHANGE OF EMPLOYMENT. When any real estate salesperson ~~or real-estate apprentice-salesperson~~ shall be is discharged or ~~shall terminate~~ terminates employment with the real estate broker by whom he or she is employed, ~~it shall be the duty of such~~ real estate broker ~~to~~ shall immediately deliver or mail by certified mail to the commission ~~such the~~ real estate salesperson's ~~or real-estate apprentice salesperson's~~ license on the reverse side of which the employing broker shall

set out the date and cause of termination of employment. The real estate broker shall at the time of mailing such the real estate salesperson's or real-estate-apprentice-salesperson's license to the commission shall address a communication to the last known residence address of such the real estate salesperson or-real-estate-apprentice-salesperson stating that the license has been delivered or mailed to the commission. A copy of such the communication to the real estate salesperson or--real-estate--apprentice salesperson shall accompany the license when mailed or delivered to the commission. It shall-be is unlawful for any real estate salesperson or--real estate-apprentice-salesperson to perform any of the acts contemplated by this chapter either directly or indirectly under authority of said a license from and after the date of receipt of said the license by the commission, provided,--that--another--license--shall--not--be--issued--to--such--real-estate salesperson-or-real-estate-apprentice--salesperson--until--he--or--she--shall return--the--former--pocket--card--to--the--commission--or--shall--satisfactorily account--to--them--for--the--same. The commission shall upon presentation of evidence by the salesperson or-apprentice-salesperson that he or she has been employed by another broker, issue another license and-pocket-card for the balance of the current license period showing each change of employment. A fee as determined by the commission will shall be charged for the issuance of such--a the license. Not more than one license shall be issued to any real estate salesperson or-real-estate-apprentice-salesperson for the same period of time.

Sec. 21. Section 117.34, unnumbered paragraph 1, subsections 5, 8, and 9, and unnumbered paragraph 2, Code 1981, are amended to read as follows:

The commission may upon its own motion and shall upon the verified complaint in writing of any person, provided such the complaint together with evidence, documentary or otherwise presented in connection therewith with the complaint, makes out a prima-facie case, investigate the actions of any real estate broker, real estate salesperson, real-estate-apprentice-salesperson, or any person who shall assume to act in either such capacity within this state and shall-have-the-power-to may suspend or to revoke any license issued under the provisions of this chapter, at any time where if the licensee has by false or fraudulent representation obtained a license, or where if the licensee in--performing--or--attempting--to--perform--any--of--the--acts--mentioned herein is found to be guilty of:

5. Accepting a commission or valuable consideration as a real estate broker associate or salesperson or-real-estate-apprentice-salesperson for the performance of any of the acts specified in this chapter, from any person, except his the broker associate's or salesperson's employer, who must be a licensed real estate broker.

8. Being unworthy or incompetent to act as a real estate broker, salesperson or apprentice salesperson in such manner as to safeguard the interests of the public.

9. Paying a commission or any part thereof of a commission for performing any of the acts specified in this chapter to any person who is not a licensed broker, or salesperson or-apprentice-salesperson under the-provisions-of this chapter or who is not engaged in the real estate business in another state.

Any unlawful act or violation of any of the provisions of this chapter by any real estate broker associate or salesperson, ~~real-estate-apprentice salesperson,~~ employee, or partnership partner or associate of a licensed real estate broker, ~~shall~~ is not be cause for the revocation of the license of any real estate broker, ~~partial-or-otherwise,~~ unless the commission finds that ~~said--employer,--partner,--or--associate~~ the real estate broker had guilty knowledge ~~thereof~~ of the unlawful act or violation.

Sec. 22. Section 117.45, Code 1981, is amended by striking the section and inserting in lieu thereof the following:

117.45 DUAL CONTRACTS FOR SALE OF REAL PROPERTY. A person licensed under this chapter shall not knowingly make, issue, deliver, receive, or permit the use of two or more written or oral contracts for the purpose of sale concerning the same parcel of real estate one of which is not made known to the prospective lender or loan guarantor to enable the purchaser to obtain a larger loan than the true sales price would allow or to enable the purchaser to qualify for a loan which the purchaser otherwise could not obtain.

Any person who shall violate the provisions of this section shall be guilty of a fraudulent practice.

Sec. 23. Section 117.46, subsection 1, Code 1981, is amended to read as follows:

1. Each real estate broker shall maintain a common trust account in a bank or a savings and loan association for the deposit of all down payments, earnest money deposits, or other trust funds received by the broker or ~~his~~ the broker's salespersons ~~or-apprentice-salespersons~~ on behalf of ~~his~~ the broker's principal, except that a broker acting as a salesperson shall deposit these funds in the common trust account of the broker for whom he or she acts as salesperson.

Sec. 24. Section 117.53, unnumbered paragraph 2, Code 1981, is amended by striking the unnumbered paragraph.

Sec. 25. Section 117.26, Code 1981, is repealed.

Sec. 26. A real estate apprentice salesperson's license which is valid on the effective date of this Act continues to be valid and effective subject to chapter 117, Code 1981, until that license expires or is suspended, revoked, or surrendered pursuant to those provisions.

Approved May 19, 1981