

FILED FEB 23 2005

SENATE FILE 210
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 1005)

Passed Senate, Date 3-14-05 Passed House, Date 4-27-05
Vote: Ayes 50 Nays 0 Vote: Ayes 59 Nays 41
Approved 5/4/05

A BILL FOR

1 An Act relating to specified requirements applicable to a real
2 estate broker or attorney providing services in connection
3 with a real estate auction.

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

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SC 210

1 Section 1. Section 543B.7, subsection 5, Code 2005, is
2 amended to read as follows:

3 5. The acts of an auctioneer in conducting a public sale
4 or auction. The auctioneer's role must be limited to
5 establishing the time, place, and method of an auction;
6 advertising the auction including a brief description of the
7 property for auction and the time and place for the auction;
8 and crying the property at the auction. The auctioneer shall
9 provide in any advertising the name and address of the real
10 estate broker ~~or-attorney~~ who is providing brokerage services
11 for the transaction and the name of the real estate broker or
12 attorney who is ~~also~~ responsible for closing the sale of the
13 property. The real estate broker ~~or-attorney~~ providing
14 brokerage services ~~and-closing-services~~ shall be present at
15 the time of the auction and, if found to be in violation of
16 this subsection, shall be subject to a civil penalty of two
17 thousand five hundred dollars. If the auctioneer closes or
18 attempts to close the sale of the property or otherwise
19 engages in acts defined in sections 543B.3 and 543B.6, then
20 the requirements of this chapter do apply to the auctioneer.
21 If an investigation pursuant to this chapter reveals that an
22 auctioneer has violated this subsection or has assumed to act
23 in the capacity of a real estate broker or real estate
24 salesperson, the real estate commission may issue a cease and
25 desist order, and shall issue a warning letter notifying the
26 auctioneer of the violation for the first offense, and impose
27 a penalty of up to the greater of ten thousand dollars or ten
28 percent of the real estate sales price for each subsequent
29 violation.

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EXPLANATION

31 This bill concerns specified requirements applicable to a
32 real estate broker or attorney providing services regarding
33 real estate being sold or disposed of pursuant to a real
34 estate auction. Code section 543B.7, subsection 5, currently
35 provides that an auctioneer shall provide on any advertising

1 the name and address of the real estate broker or attorney
2 providing brokerage services and closing services, and that
3 real estate brokers or attorneys providing such services shall
4 be present at the time of the auction, and are subject to a
5 civil penalty of \$2,500 for a violation of the subsection.
6 The bill provides that the name of an attorney providing
7 brokerage services shall not be provided in any advertising,
8 but that advertising shall include the name of both the real
9 estate broker or attorney responsible for closing the sale of
10 the property subject to the auction. The bill also provides
11 that provisions specifying that a real estate broker or
12 attorney providing brokerage services and closing services
13 shall be present during the auction, and are subject to a
14 civil penalty of \$2,500 for a violation of the bill's
15 provisions, shall apply only to a real estate broker providing
16 brokerage services.

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Kreiman
Schoenjahn
McKibben
Boettger

Succeeded By
SF/HF 210

SSB# 1005
Judiciary

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
JUDICIARY BILL BY
CO-CHAIRPERSON KREIMAN)

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

A BILL FOR

1 An Act providing for the elimination of specified requirements
2 applicable to an attorney providing brokerage and closing
3 services in connection with a real estate auction.

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

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1 Section 1. Section 543B.7, subsection 5, Code 2005, is
2 amended to read as follows:

3 5. The acts of an auctioneer in conducting a public sale
4 or auction. The auctioneer's role must be limited to
5 establishing the time, place, and method of an auction;
6 advertising the auction including a brief description of the
7 property for auction and the time and place for the auction;
8 and crying the property at the auction. The auctioneer shall
9 provide in any advertising the name and address of the real
10 estate broker or attorney who is providing brokerage services
11 for the transaction and who is also responsible for closing
12 the sale of the property. The A real estate broker ~~or~~
13 ~~attorney~~ providing brokerage services and closing services
14 shall be present at the time of the auction and, if found to
15 be in violation of this subsection, shall be subject to a
16 civil penalty of two thousand five hundred dollars. If the
17 auctioneer closes or attempts to close the sale of the
18 property or otherwise engages in acts defined in sections
19 543B.3 and 543B.6, then the requirements of this chapter do
20 apply to the auctioneer. If an investigation pursuant to this
21 chapter reveals that an auctioneer has violated this
22 subsection or has assumed to act in the capacity of a real
23 estate broker or real estate salesperson, the real estate
24 commission may issue a cease and desist order, and shall issue
25 a warning letter notifying the auctioneer of the violation for
26 the first offense, and impose a penalty of up to the greater
27 of ten thousand dollars or ten percent of the real estate
28 sales price for each subsequent violation.

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EXPLANATION

30 This bill provides for the elimination of specified
31 requirements applicable to an attorney providing brokerage and
32 closing services regarding real estate being sold or disposed
33 of pursuant to a real estate auction. Code section 543B.7,
34 subsection 5, currently provides that real estate brokers or
35 attorneys providing such services shall be present at the time

1 of the auction, and are subject to a civil penalty of \$2,500
2 for a violation of the subsection. The bill provides that
3 attorneys shall no longer be subject to these requirements,
4 but retains their applicability with regard to real estate
5 brokers.

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SENATE FILE 210

AN ACT

RELATING TO SPECIFIED REQUIREMENTS APPLICABLE TO A REAL ESTATE
BROKER OR ATTORNEY PROVIDING SERVICES IN CONNECTION WITH A
REAL ESTATE AUCTION.

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

Section 1. Section 543B.7, subsection 5, Code 2005, is amended to read as follows:

5. The acts of an auctioneer in conducting a public sale or auction. The auctioneer's role must be limited to establishing the time, place, and method of an auction; advertising the auction including a brief description of the property for auction and the time and place for the auction; and crying the property at the auction. The auctioneer shall provide in any advertising the name and address of the real estate broker ~~or attorney~~ who is providing brokerage services for the transaction and the name of the real estate broker or attorney who is also responsible for closing the sale of the property. The real estate broker ~~or attorney~~ providing brokerage services ~~and closing services~~ shall be present at the time of the auction and, if found to be in violation of this subsection, shall be subject to a civil penalty of two thousand five hundred dollars. If the auctioneer closes or attempts to close the sale of the property or otherwise engages in acts defined in sections 543B.3 and 543B.6, then the requirements of this chapter do apply to the auctioneer. If an investigation pursuant to this chapter reveals that an auctioneer has violated this subsection or has assumed to act in the capacity of a real estate broker or real estate salesperson, the real estate commission may issue a cease and

desist order, and shall issue a warning letter notifying the auctioneer of the violation for the first offense, and impose a penalty of up to the greater of ten thousand dollars or ten percent of the real estate sales price for each subsequent violation.

JOHN P. KIBBIE
President of the Senate

CHRISTOPHER C. RANTS
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 210, Eighty-first General Assembly.

MICHAEL E. MARSHALL
Secretary of the Senate

Approved 5/4, 2005

THOMAS J. VILSACK
Governor