

Succeeded By

SF HF 2133

SSB 3052  
Commerce

Schuerer, Lundby, McCoy

SENATE/HOUSE FILE \_\_\_\_\_  
BY (PROPOSED DEPARTMENT OF  
COMMERCE/PROFESSIONAL  
LICENSING AND REGULATION  
DIVISION BILL)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_

Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_

Approved \_\_\_\_\_

**A BILL FOR**

1 An Act relating to real estate broker licensure and insurance  
2 coverage, and providing a penalty.

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

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1 Section 1. Section 543B.15, subsection 8, Code 2001, is  
2 amended to read as follows:

3 8. To qualify for a license as a real estate broker, a  
4 person shall complete at least sixty contact hours of  
5 commission approved real estate education within twenty-four  
6 months prior to taking the broker examination. This education  
7 shall be in addition to the required salesperson prelicense  
8 course. The applicant shall have been a licensed real estate  
9 salesperson actively engaged in real estate for a period of at  
10 least twenty-four months preceding the date of application, or  
11 shall have had experience substantially equal to that which a  
12 licensed real estate salesperson would ordinarily receive  
13 during a period of twenty-four months, whether as a former  
14 broker or salesperson, a manager of real estate, or otherwise.  
15 ~~However, if the commission finds that an applicant could not~~  
16 ~~acquire employment as a licensed real estate salesperson~~  
17 ~~because of conditions existing in the area where the person~~  
18 ~~resides, the experience requirement of this subsection may be~~  
19 ~~waived for that person by the commission.~~

20 Sec. 2. Section 543B.47, subsections 1, 2, and 6, Code  
21 2001, are amended to read as follows:

22 1. The real estate commission shall adopt rules requiring  
23 as a condition of licensure that all real estate licensees,  
24 except those who hold inactive licenses, carry errors and  
25 omissions insurance covering all activities contemplated under  
26 this chapter. The rules shall provide for administration of  
27 the insurance requirements of this section within the  
28 multiyear licensing structure required by section 543B.28.  
29 However, the rules shall require licensees to submit evidence  
30 of compliance with this section ~~at least annually and shall~~  
31 ~~provide for review and determination of compliance on an~~  
32 annual basis within twenty calendar days of the commission's  
33 request, which may be made on a test basis, a random basis, or  
34 upon reasonable cause to question a licensee's compliance.

35 2. The commission shall contract with an insurance

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1 provider for a group policy under which coverage is available  
2 to all licensees, and shall maintain coverage with the  
3 contracted provider unless the commission determines that  
4 continuing the contract is not reasonably practical. The  
5 contract shall be solicited by competitive, sealed bid.

6 ~~6. Each licensee shall be notified of the required terms~~  
7 ~~and conditions of coverage for the annual policy at least~~  
8 ~~thirty days prior to the license renewal date or the~~  
9 ~~anniversary of the license renewal date. A certificate of~~  
10 ~~coverage showing compliance with the required terms and~~  
11 ~~conditions of coverage must be filed with the commission by~~  
12 ~~the license renewal date or the anniversary of the license~~  
13 ~~renewal date by each licensee who elects not to participate in~~  
14 ~~the group insurance program administered by the commission.~~  
15 Failure of a license applicant or licensee to carry the errors  
16 and omissions insurance required by this section, or to timely  
17 submit proof of coverage upon commission request, shall be  
18 grounds for the denial of an application for licensure, the  
19 denial of an application to renew a license, or the suspension  
20 or revocation of a license.

21 Sec. 3. NEW SECTION. 543B.48 CIVIL PENALTY AMOUNT.

22 Notwithstanding section 272C.3, licensee discipline may  
23 include a civil penalty not to exceed two thousand five  
24 hundred dollars per violation.

25 EXPLANATION

26 This bill provides for changes relating to specified real  
27 estate broker licensure qualifications and insurance coverage  
28 requirements.

29 The bill deletes a provision which allows the real estate  
30 commission to waive an experience requirement as a  
31 precondition of licensure as a real estate broker if a  
32 prospective licensee could not acquire employment as a  
33 licensed real estate salesperson because of conditions  
34 existing in the area where the person resides.

35 The bill also deletes a requirement of annual notification

1 to the real estate commission by a licensee of continued  
2 errors and omissions insurance coverage. The bill replaces  
3 this requirement with a requirement that licensees submit  
4 evidence of compliance with the coverage requirement within 20  
5 calendar days of the commission's request, which may be made  
6 on a test basis, a random basis, or upon reasonable cause to  
7 question a licensee's compliance. The bill provides that  
8 failure of a license applicant or licensee to carry the  
9 required coverage or to timely submit proof of coverage upon  
10 commission request shall be grounds for the denial of an  
11 application for licensure, the denial of an application to  
12 renew a license, or the suspension or revocation of a license.

13 The bill modifies a requirement that the commission  
14 contract with an insurance provider for a group errors and  
15 omissions policy under which coverage is available to all  
16 licensees. The new requirement provides that the coverage  
17 shall be maintained unless the commission determines that  
18 continuing the contract is not reasonably practical.

19 The bill provides that, notwithstanding Code section  
20 272C.3, licensee discipline may include a civil penalty not to  
21 exceed \$2,500 per violation.

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# STATE OF IOWA

THOMAS J. VILSACK  
GOVERNOR  
SALLY J. PEDERSON  
LT. GOVERNOR

IOWA DEPARTMENT OF COMMERCE  
**PROFESSIONAL LICENSING & REGULATION**  
KATHLEEN B. "KAY" HALLORAN, ADMINISTRATOR

## Memo

To: Members of the General Assembly  
From: Roger Hansen  
Date: October 8, 2001  
Re: Proposed amendments to Iowa Code chapter 543B

On September 20, 2001, the Iowa Real Estate Commission approved the attached language amending Iowa Code 543B.15(8), 543B.47(1), (2), and (6) (2001), and new section 543B.48.

RE: Proposed amendments to Iowa Code section 543B.47

### Explanation of changes to 543B.15(8):

This proposed amendment deletes the waiver of salesperson experience to qualify for broker based upon conditions existing in the area where the person resides. This provision was probably needed during the early stages of real estate sales licensing implementation but is now no longer necessary and often misunderstood by licensees. The commission has historically found that employing brokers are available within a reasonable distance.

### Explanation of changes to 543B.47(1), (2), and (6):

#### The proposed amendments:

Delete the annual notice and monitoring requirement. The present regulations are expensive and unnecessary. Most licensees are very familiar with the program at this point and all licensees can secure detailed information from Commission rules or directly from the Commission office.

Permit compliance audits using language similar to that already in place regarding real estate trust account audits. The proposed bill more clearly and effectively communicates to licensees the penalty is for noncompliance.

Provides the Commission more discretion in the event the selected provider is essentially underbid in the marketplace, causing the provider to have insufficient business to operate. Currently, the Commission is required to contract with an insurance provider no matter what good faith market reasons exist for such a plan to fail.

### Explanation of new section 543B.48

Establishes the maximum civil penalty the commission can assess per violation.

Roger L. Hansen  
Executive Secretary  
Iowa Real Estate Commission

H. 2/28/02 Commerce  
H. 3/13/02 Do Pass

FILED FEB 7 2002

SENATE FILE 2133  
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO SSB 3052)

Passed Senate, Date 2/27/02 (P. 436) Passed House, Date 3-18-02 (P. 830)  
Vote: Ayes 47 Nays 1 Vote: Ayes 90 Nays 0  
Approved March 29, 2002

**A BILL FOR**

1 An Act relating to real estate brokers, including defining the  
2 activities of a real estate broker, licensure and insurance  
3 coverage, and providing a penalty.

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

SF 2133

S-5057

SENATE FILE 2133

- 1 Amend Senate File 2133 as follows:
- 2 1. Page 1, by striking lines 1 through 9.
- 3 2. Title page, lines 1 and 2, by striking the
- 4 words "defining the activities of a real estate
- 5 broker,".
- 6 3. By renumbering as necessary.

By LARRY MCKIBBEN

S-5057 FILED FEBRUARY 25, 2002

W/D 2/27/02 (P. 435)

SENATE FILE 2133

S-5084

- 1 Amend Senate File 2133 as follows:
- 2 1. Page 1, by striking lines 5 through 7, and
- 3 inserting the following: "and groundwater hazard
- 4 statements, including any".

By LARRY MCKIBBEN

S-5084 FILED FEBRUARY 27, 2002

LOST

(P. 436)

1 Section 1. Section 543B.3, Code 2001, is amended by adding  
2 the following new subsection:

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

10 Sec. 2. Section 543B.15, subsection 8, Code 2001, is  
11 amended to read as follows:

12 8. To qualify for a license as a real estate broker, a  
13 person shall complete at least sixty contact hours of  
14 commission approved real estate education within twenty-four  
15 months prior to taking the broker examination. This education  
16 shall be in addition to the required salesperson prelicense  
17 course. The applicant shall have been a licensed real estate  
18 salesperson actively engaged in real estate for a period of at  
19 least twenty-four months preceding the date of application, or  
20 shall have had experience substantially equal to that which a  
21 licensed real estate salesperson would ordinarily receive  
22 during a period of twenty-four months, whether as a former  
23 broker or salesperson, a manager of real estate, or otherwise.  
24 ~~However, if the commission finds that an applicant could not~~  
25 ~~acquire employment as a licensed real estate salesperson~~  
26 ~~because of conditions existing in the area where the person~~  
27 ~~resides, the experience requirement of this subsection may be~~  
28 ~~waived for that person by the commission.~~

29 Sec. 3. Section 543B.47, subsections 1, 2, and 6, Code  
30 2001, are amended to read as follows:

31 1. The real estate commission shall adopt rules requiring  
32 as a condition of licensure that all real estate licensees,  
33 except those who hold inactive licenses, carry errors and  
34 omissions insurance covering all activities contemplated under  
35 this chapter. The rules shall provide for administration of

1 the insurance requirements of this section within the  
2 multiyear licensing structure required by section 543B.28.  
3 However, the rules shall require licensees to submit evidence  
4 of compliance with this section ~~at least annually and shall~~  
5 ~~provide for review and determination of compliance on an~~  
6 ~~annual basis~~ within twenty calendar days of the commission's  
7 request, which may be made on a test basis, a random basis, or  
8 upon reasonable cause to question a licensee's compliance.

9 2. The commission shall contract with an insurance  
10 provider for a group policy under which coverage is available  
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12 contracted provider unless the commission determines that  
13 continuing the contract is not reasonably practical. The  
14 contract shall be solicited by competitive, sealed bid.

15 6. ~~Each licensee shall be notified of the required terms~~  
16 ~~and conditions of coverage for the annual policy at least~~  
17 ~~thirty days prior to the license renewal date or the~~  
18 ~~anniversary of the license renewal date. A certificate of~~  
19 ~~coverage, showing compliance with the required terms and~~  
20 ~~conditions of coverage, must be filed with the commission by~~  
21 ~~the license renewal date or the anniversary of the license~~  
22 ~~renewal date by each licensee who elects not to participate in~~  
23 ~~the group insurance program administered by the commission.~~  
24 Failure of a license applicant or licensee to carry the errors  
25 and omissions insurance required by this section, or to timely  
26 submit proof of coverage upon commission request, shall be  
27 grounds for the denial of an application for licensure, the  
28 denial of an application to renew a license, or the suspension  
29 or revocation of a license.

30 Sec. 4. NEW SECTION. 543B.48 CIVIL PENALTY AMOUNT.

31 Notwithstanding section 272C.3, licensee discipline may  
32 include a civil penalty not to exceed two thousand five  
33 hundred dollars per violation.

34 EXPLANATION

35 This bill provides for changes relating to real estate

1 brokers.

2 The bill adds a new subsection to Code section 543B.3 that  
3 defines the activities of a real estate broker.

4 The bill deletes a provision which allows the real estate  
5 commission to waive an experience requirement as a  
6 precondition of licensure as a real estate broker if a  
7 prospective licensee could not acquire employment as a  
8 licensed real estate salesperson because of conditions  
9 existing in the area where the person resides.

10 The bill also deletes a requirement of annual notification  
11 to the real estate commission by a licensee of continued  
12 errors and omissions insurance coverage. The bill replaces  
13 this requirement with a requirement that licensees submit  
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15 calendar days of the commission's request, which may be made  
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19 required coverage or to timely submit proof of coverage upon  
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22 renew a license, or the suspension or revocation of a license.

23 The bill modifies a requirement that the commission  
24 contract with an insurance provider for a group errors and  
25 omissions policy under which coverage is available to all  
26 licensees. The new requirement provides that the coverage  
27 shall be maintained unless the commission determines that  
28 continuing the contract is not reasonably practical.

29 The bill provides that, notwithstanding Code section  
30 272C.3, licensee discipline may include a civil penalty not to  
31 exceed \$2,500 per violation.

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SENATE FILE 2133

AN ACT  
RELATING TO REAL ESTATE BROKERS, INCLUDING DEFINING THE  
ACTIVITIES OF A REAL ESTATE BROKER, LICENSURE AND INSURANCE  
COVERAGE, AND PROVIDING A PENALTY.

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

Section 1. Section 543B.3, Code 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 9. Prepares offers to purchase or purchase agreements, listing contracts, agency disclosures, real property residential and agricultural rental agreements, real property commercial rental agreements of one year or less, and groundwater hazard statements, including any modifications, amendments, or addendums to these specific documents.

Sec. 2. Section 543B.15, subsection 8, Code 2001, is amended to read as follows:

8. To qualify for a license as a real estate broker, a person shall complete at least sixty contact hours of commission approved real estate education within twenty-four months prior to taking the broker examination. This education shall be in addition to the required salesperson prelicense course. The applicant shall have been a licensed real estate salesperson actively engaged in real estate for a period of at least twenty-four months preceding the date of application, or shall have had experience substantially equal to that which a licensed real estate salesperson would ordinarily receive during a period of twenty-four months, whether as a former broker or salesperson, a manager of real estate, or otherwise. ~~However, if the commission finds that an applicant could not acquire employment as a licensed real estate salesperson because of conditions existing in the area where the person~~

~~resides, the experience requirement of this subsection may be waived for that person by the commission.~~

Sec. 3. Section 543B.47, subsections 1, 2, and 6, Code 2001, are amended to read as follows:

1. The real estate commission shall adopt rules requiring as a condition of licensure that all real estate licensees, except those who hold inactive licenses, carry errors and omissions insurance covering all activities contemplated under this chapter. The rules shall provide for administration of the insurance requirements of this section within the multiyear licensing structure required by section 543B.28. However, the rules shall require licensees to submit evidence of compliance with this section ~~at least annually and shall provide for review and determination of compliance on an annual basis~~ within twenty calendar days of the commission's request, which may be made on a test basis, a random basis, or upon reasonable cause to question a licensee's compliance.

2. The commission shall contract with an insurance provider for a group policy under which coverage is available to all licensees, and shall maintain coverage with the contracted provider unless the commission determines that continuing the contract is not reasonably practical. The contract shall be solicited by competitive, sealed bid.

6. ~~Each licensee shall be notified of the required terms and conditions of coverage for the annual policy at least thirty days prior to the license renewal date or the anniversary of the license renewal date. A certificate of coverage, showing compliance with the required terms and conditions of coverage, must be filed with the commission by the license renewal date or the anniversary of the license renewal date by each licensee who elects not to participate in the group insurance program administered by the commission.~~ Failure of a license applicant or licensee to carry the errors and omissions insurance required by this section, or to timely submit proof of coverage upon commission request, shall be

grounds for the denial of an application for licensure, the denial of an application to renew a license, or the suspension or revocation of a license.

Sec. 4. NEW SECTION. 543B.48 CIVIL PENALTY AMOUNT.

Notwithstanding section 272C.3, licensee discipline may include a civil penalty not to exceed two thousand five hundred dollars per violation.

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MARY E. KRAMER  
President of the Senate

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BRENT SIEGRIST  
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2133, Seventy-ninth General Assembly.

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MICHAEL E. MARSHALL  
Secretary of the Senate

Approved March 29, 2002

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THOMAS J. VILSACK  
Governor