

FEB 24 2005  
COMMERCE, REGULATION & LABOR

HOUSE FILE 439  
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 16)

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

HF 439

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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 real estate broker or attorney  
13 providing brokerage services and closing services shall be  
14 present at the time of the auction, ~~and if~~. A real estate  
15 broker found to be in violation of this subsection, shall be  
16 subject to a civil penalty of two thousand five hundred  
17 dollars. If the auctioneer closes or attempts to close the  
18 sale of the property or otherwise engages in acts defined in  
19 sections 543B.3 and 543B.6, then the requirements of this  
20 chapter do apply to the auctioneer. If an investigation  
21 pursuant to this chapter reveals that an auctioneer has  
22 violated this subsection or has assumed to act in the capacity  
23 of a real estate broker or real estate salesperson, the real  
24 estate commission may issue a cease and desist order, and  
25 shall issue a warning letter notifying the auctioneer of the  
26 violation for the first offense, and impose a penalty of up to  
27 the greater of ten thousand dollars or ten percent of the real  
28 estate sales price for each subsequent violation.

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EXPLANATION

30 This bill provides for the elimination of a civil penalty  
31 provision 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 the civil penalty, but  
4 retains the provision's applicability with regard to real  
5 estate brokers.

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Successed By  
SF 439

**HSB 16**  
**JUDICIARY**

HOUSE FILE \_\_\_\_\_  
BY (PROPOSED COMMITTEE ON  
JUDICIARY BILL BY  
CHAIRPERSON PAULSEN)

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

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