

## 2012 REAL ESTATE LAW UPDATE

The Iowa Legislature enacted changes to Iowa code chapter 543B (Real Estate Brokers and Salespersons) effective July 1, 2012. The change includes:

**543B.7 (5)** – The acts of an auctioneer who is not a licensee in conducting a public sale or auction, as provided in this subsection.

a. The auctioneer's role must be limited to establishing the time, place, and method of an auction; advertising the auction which shall be limited to a brief description of the property for auction and the time and place for the auction; and crying the property at the auction.

(1) The auctioneer shall provide in any advertising the name and address of the real estate broker who is providing brokerage services for the transaction and the name of the real estate broker, attorney, or closing company who is responsible for closing the sale of the property.

(2) The real estate broker providing brokerage 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 one thousand dollars.

(3) If the auctioneer closes or attempts to close the sales of the property or otherwise engages in acts defined in sections 543B.3 and 543B.6, or paragraph "b" of this subsection, then the requirements of this chapter do apply to the auctioneer.

b. An auctioneer who is not a licensee is expressly prohibited from engaging in the following acts:

(1) Contacting the public regarding real property beyond that which is permitted under this section with the purpose of securing or facilitating the sale of such property.

(2) Independently showing property or hosting open houses.

(3) Making material and substantive representations regarding title, financing, or closings.

(4) Discussing or explaining a contract, lease, agreement, or other real estate document, other than the contract for conducting the auction or other acts permitted by this subsection, with a prospective buyer, owner, or tenant of the real property, with the purpose of securing or facilitating the sale of such real property.

(5) Collecting or holding deposit moneys, rent, other moneys, or anything of value received from the owner or real property or from a prospective buyer or tenant, other than fees, commissions, or other consideration paid in exchange for conducting the auction or other acts permitted by this subsection, with the purpose of securing or facilitating the sale of such real property.

(6) Providing owners of real property or prospective buyers or tenants with advice, recommendations, or suggestions, or leasing of real property, except with regard to acts permitted under this subsection.

(7) Falsely representing in any manner, orally or in writing, that the auctioneer is a licensee.

c. If an investigation pursuant to the chapter reveals that an auctioneer has violated this subsection or has assumed to act in a capacity of a real estate broker or salesperson, the real estate commission shall issue a cease and desist order, and shall impose a penalty of one thousand dollars 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.