



uniform rate of \$50 per year at which the initial \$200 assessment is paid. This premise also underlies the court's adoption of a new, regular annual assessment of \$50, payable in any year in which a special assessment is not payable, by all active lawyers who have already paid their initial \$200 assessment. However, the court finds that a uniform special assessment of \$140 regardless of practice status, as recommended by the bar association and the commission, would be too precipitous a change from the current special assessment of \$25 for lawyers not in full-time private practice. The court does find that the special assessment should be increased from \$100 to \$140 for lawyers in full-time private practice, and increased from \$25 to \$70 for lawyers in other practice statuses, including judges, government lawyers, corporate lawyers, and lawyers in part-time private practice. This conclusion balances the various concerns expressed in the comments about the proper allocation of the risk among the various groups of lawyers with the need to increase claim limits under the fund and the sufficiency threshold of the fund.

The increase in the special assessment and adoption of a new regular, annual assessment in years when a special assessment is not payable are necessary to fund coverage of potential claims at the higher reimbursement limits recommended by the bar association and the commission, which the court also adopts. An increase in the threshold used to calculate sufficiency of the fund each December also is necessary to fund coverage of potential claims at the higher reimbursement limits adopted. The report revealed that Iowa's current limits were below the norm of other jurisdictions. The bar association and the commission recommended raising the threshold from \$600,000 to \$1,200,000. The court has decided to raise the threshold to \$900,000, based on concerns that a threshold at a higher level could prompt special assessments more often than actually necessary to fund claims, and

unnecessarily increase the balance of the fund. The court cautions, however, that the probable lower fund balance associated with a lower sufficiency threshold makes the fund more sensitive to substantial claims, and the actual claims experience of the fund in coming years may trigger special assessments in any event.

The court also is conforming the special assessment provisions for part-time practitioners to actual practice of the client security commission. The net income qualification for part-time status is specifically established at less than \$10,000 from the practice of law in Iowa. The special assessment for part-time practitioners is set at \$70, the same special assessment amount now payable by government lawyers, corporate lawyers, and judges.

Some commenters suggested that lawyers in private practice be permitted to purchase a surety bond in lieu of contributing to the client security trust fund. The supreme court decided not to pursue this concept, based on its concern that addressing security of client monies by two different methods would increase program administration costs and dilute the fund.

The court adopts changes to chapters 39 and 40 of the court rules as attached to this order. A summary of the changes also is attached. The changes are effective as follows:

1. The amendment of rule 40.3 regarding claim reimbursement limits is effective for claims arising from lawyer conduct occurring on or after January 1, 2014.

2. The amendment of new rule 39.6(3), raising the threshold used to calculate sufficiency of the fund, is effective for the sufficiency calculation to be performed December 1, 2013.

3. The remainder of the amendments, including changes in special assessments, the rate at which the initial \$200 assessment is paid, and the

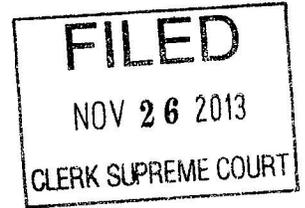
adoption of a new, regular annual assessment in years when a special assessment is not payable, are effective for lawyer reporting year 2014 and following years.

Dated this 26th day of November, 2013.

THE SUPREME COURT OF IOWA

By Mark S. Cady  
Mark S. Cady, Chief Justice

**CHAPTER 39**  
**CLIENT SECURITY COMMISSION**



**Rule 39.3 Clients' security trust fund of the bar of Iowa**

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**39.3(4)** *Powers and duties of commission relating to the fund.* The commission, in addition to the powers granted elsewhere in this chapter, shall have the following powers and duties:

....

*j.* To fund programs which the commission believes will assist in preventing defalcations by attorneys. The annual allocation for any such program shall not exceed two and one-half percent of the fund value as of the beginning of the fiscal year in which the funding is to occur. No such funding may be provided unless there is at least twice the minimum balance required by rule 39.6(4)(3) in the fund at the beginning of the fiscal year in which the funding is to occur.

**Rule 39.6 Fund Assessments.**

**39.6(1)** *Assessments.* As a condition to continuing membership in the bar of the ~~supreme court Iowa~~, including the right to practice law before Iowa courts, every bar member, ~~except one to whom a certificate of exemption has been issued pursuant to the provisions of~~ unless exempted under the provisions of rule 39.6(6) or rule 39.7, shall pay to the commission through the office of professional regulation the assessment specified in rule 39.6(2), 39.6(3), or 39.6(4), or assessments as provided by court order, ~~{subject to rules 39.6(3), 39.6(4), and 39.6(5)}~~ annually to prevent defalcations and insofar as practicable to provide indemnification for losses caused to the public by dishonest conduct of members of the Iowa bar. The assessment shall be paid annually and deposited in the fund created pursuant to the provisions of rule 39.3. Assessments shall be due on or before March 1 of each year, for that calendar year. A calendar year is defined as the period of time from January 1 through December 31.

**39.6(2)** *Initial and regular Assessment schedule.*

For the calendar year of the member's admission on examination to the bar of Iowa, and for the calendar year thereafter . . . . . None.

For the calendar year of the member's admission on motion to the bar of Iowa, a payment toward the \$200 initial assessment in the amount of . . . \$50.

For the years after those described above, until an initial total of \$200 in assessment has been paid, a payment of . . . . . \$50 annually.

For the years after an initial total of \$200 in assessments has been paid, unless a special assessment is payable under rule 39.6(4), a regular annual assessment of . . . . . \$50 annually.

~~For the years other than those heretofore exempted, up to and including the fifth calendar year of admission to the bar of Iowa . . . . . \$50 annually.~~

~~For the years after the fifth calendar year of admission to the bar of Iowa . . . . . \$100 annually.~~

~~In making any of the above calculations, time spent full time in the military service of the United States following admission to the Iowa bar and during the years under consideration shall be excluded.~~

~~**39.6(3) Alternative to fixed assessment.** Members of the bar of the supreme court may, at their election, instead of the fixed assessment set forth in rule 39.6(2), pay to the commission, as their assessment for any particular calendar year, an amount equal to one percent of their net income derived from the practice of law in Iowa for the preceding calendar year, but in no event less than \$25. Net income from the practice of law shall be for the purposes of this rule that amount shown on the federal income tax return of such members for the appropriate year as "profit or loss from business or profession." The commission may require members so electing to submit to the commission a copy of their federal income tax return for the appropriate year to substantiate the amount due hereunder.~~

~~**39.6(4)(3) Certificate of sufficiency.** The commission shall determine the net value of the cash and securities in the fund for the purpose of preventing defalcation as of December 1 of each year. The commission shall file with the supreme court prior to December 31 of each year a certificate regarding sufficiency of the fund. Whenever the value of such assets shall equal \$600,000 less than \$900,000, after deducting all claims and requests for reimbursement against the fund, not disposed of at the date of valuation, and all expenses properly chargeable against the fund, the commission shall file with the supreme court prior to December 31 of such year a certificate to that effect which shall be known as a certificate of sufficiency. a special assessment as set forth in rule 39.6(4) shall be payable for the next calendar year after the date of the certificate of sufficiency. This special assessment shall be paid in lieu of the regular assessment set in rule~~

~~39.6(2), by each member of the bar who has already paid the \$200 initial assessment. When a certificate of sufficiency is filed with the supreme court, the annual assessment set forth in rule 39.6(2) for the next calendar year after the date of evaluation in said certificate shall be waived for each member of the bar obligated under the above schedule to pay any amount and who has paid assessments to the fund in the total sum of \$200 in prior years notwithstanding anything heretofore or hereinafter provided.~~

**39.6(4) Special assessment.** For any calendar year in which a special assessment is payable in lieu of the regular assessment set in rule 39.6(2), the special assessment is established as follows:

a. Lawyers in full-time private practice. Members of the bar of Iowa in full-time private practice shall pay to the commission a special assessment of \$140.

b. Lawyers in part-time private practice. Members of the bar of Iowa who derive net income of less than \$10,000 from the practice of law in Iowa during the preceding calendar year shall pay to the commission a special assessment of \$70. Net income from the practice of law shall be for the purposes of this rule that amount shown on the federal income tax return of such members for the appropriate year as "profit or loss from a business or profession." The commission may require members so electing to submit to the commission a copy of their federal income tax return for the appropriate year to substantiate the amount due hereunder.

c. Judges, government attorneys, corporate counsel. Any member of the bar of Iowa who certifies in writing to the commission that the member is a justice, judge, associate judge, or full-time magistrate of any court, or one who performs legal services only for a governmental unit, or one who performs legal services only for a particular person, firm, or corporation (other than a professional legal corporation or a law firm) and stands in the legal capacity with such person, firm, or corporation as an employee, shall pay to the commission a special assessment of \$70. However, a retired judge or justice recalled for temporary service shall not be required to pay an assessment or surrender their certificate of exemption.

~~**39.6(5) Judges, government attorneys, corporate counsel.** In lieu of the assessment set forth in rule 39.6(2), any member of the bar of the supreme court who certifies in writing to the commission that the member is a justice, judge, associate judge, or full-time magistrate of any court, or one who performs legal services only for a governmental unit, or one who performs legal services only for a particular person, firm, or corporation (other than a professional legal corporation or a law firm) and stands in the legal capacity with such person, firm, or corporation as an employee, shall pay to the commission an assessment of \$25 annually while so engaged, provided that if~~

~~under rule 39.6(4) the commission has filed a certificate of sufficiency with the court then the annual assessment for each bar member referred to herein who has paid to the commission a total of \$200 in assessments shall be waived each year that the certificate of sufficiency is filed by the commission. Provided, however, that a retired judge or justice recalled for temporary service shall not be required to pay an assessment or surrender their certificate of exemption.~~

**39.6(5).** *Multijurisdictional practitioners.* Lawyers practicing in Iowa under the provisions of rule of professional conduct 32:5.5(d)(2) and rule 39.16 shall pay the same initial, regular, and special assessments as members of the bar of Iowa in private practice.

**39.6(6)** *Members in full-time military service.* Any member of the bar of Iowa who certifies in writing that the member is serving full-time in the military service of the United States shall be exempt from any assessment under this rule.

## CHAPTER 40

### REGULATIONS OF THE CLIENT SECURITY COMMISSION

#### **Rule 40.3 Processing applications.**

. . . .

**40.3(6)** The commission in its sole discretion shall determine the amount of loss, if any, for which any person shall be reimbursed from the fund. [See Iowa Ct. R. 39.9(2)] However, the maximum amount which any one claimant may recover from the fund shall be ~~\$50,000~~ \$100,000 and the aggregate maximum amount which may be recovered from the fund because of the dishonest conduct of any one attorney shall be ~~\$150,000~~ \$300,000.