

## INSURANCE DIVISION[191]

### Notice of Intended Action

#### Proposing rule making related to fees and providing an opportunity for public comment

The Insurance Division hereby proposes to amend Chapter 5, “Regulation of Insurers—General Provisions,” Chapter 10, “Insurance Producer Licenses and Limited Licenses,” Chapter 20, “Property and Casualty Insurance,” Chapter 35, “Accident and Health Insurance,” Chapter 50, “Regulation of Securities Offerings and Those Who Engage in the Securities Business,” Chapter 100, “Sales of Cemetery Merchandise, Funeral Merchandise and Funeral Services,” Chapter 101, “Burial Sites and Cemeteries,” Chapter 102, “Iowa Retirement Facilities,” and Chapter 103, “Residential and Motor Vehicle Service Contracts,” Iowa Administrative Code.

#### *Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code sections 502.304A, 502.321G, 502.410, 509A.15, 511.24, 512B.24, 512B.25, 515.147, 515A.6, 515A.10, 515F.8, 520.12, 521.18, 522A.5, 522E.4, 523A.204, 523A.501, 523A.502A, 523A.812, 523A.814, 523C.3, 523C.4, 523C.24, 523D.2A, 523I.808 and 523I.813.

#### *State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code chapters 502, 509A, 511, 512B, 515, 515A, 515F, 520, 521, 522A, 522E, 523A, 523C, 523D and 523I.

#### *Purpose and Summary*

The Division is moving the licensing and related fees from statute to rules in order to permit more regular updating of the fee amounts. The proposed fee amounts are the same amount as currently set in statute except for following fees: (1) the examination fee for perpetual care cemeteries is increasing from \$5 per certificate to \$10 per certificate, (2) a late fee for preneed sellers’ and sales agents’ filing of annual reports is being added, (3) a late fee for perpetual care cemeteries’ filing of annual reports is being added, and (4) the motor service contract fee is being reduced.

Examination fee: The Division is proposing to increase the examination fee from \$5 to \$10. This fee was established in 2005 with the enactment of the Iowa Cemetery Act. These fees are charged to perpetual care cemeteries. The cemeteries are allowed to assess the purchaser of burial plots for these fees. Annual revenues are \$23,000. These fees are deposited into the Enforcement Fund, which is used in part to provide funds for the operating of cemetery receiverships.

Late fees: The Division proposes to add a \$5 per day late fee for preneed sellers, sales agents, and perpetual care cemeteries that file their annual report after the filing deadline. The Division has been unable to secure reasonable compliance with these filing requirements with increased noncompliance over the past three years. This increasing noncompliance has taken two forms: more filers filing after the deadline and more filers requiring more outreach from the Division. Under the current statute, requests are followed by reminders escalating to subpoenas, and some noncompliance has been referred to the Division’s Enforcement Bureau. The Enforcement Bureau can pursue legal actions including warning letters, subpoenas, and formal statements of charges. The goal of the new late fees is to bring more filers into compliance without the additional staff time and expense currently expended seeking compliance.

Motor vehicle fee: The motor vehicle service contract fee is being reduced from \$50 to \$35 per contract. Due to new legislation, the entire motor vehicle fee structure was modified. The calculation of fees that changed in 2019 resulted in a \$40,000 increase of revenue in 2020. The increase of revenue is attributable to more than new market entrants. The Division is decreasing the fee in order to be revenue-neutral taking into account the other changes made in 2019.

The Division has proposed changes to the statutes in its omnibus bill this year. Setting the fee amounts by rule will permit the Division to periodically review and update the amounts as part of its ongoing five-year review of rules.

#### *Fiscal Impact*

The examination fee increase from \$5 to \$10 is expected to double the annual revenues, which are currently approximately \$23,000. The change to examination fees ties into section 66 of the Division's omnibus bill that eliminates the \$50,000 cap in the Enforcement Fund in Iowa Code chapter 523I, which is used to fund receiverships. This cap has been in place since 2005. The Division currently has three cemetery receiverships open and closed an additional two in the previous year. Each receivership is unique, but the costs can easily run into the hundreds of thousands of dollars. Unfortunately, the trend of perpetual care cemeteries facing severe financial problems will only continue. Increasing the examination fee to \$10 and eliminating the cap helps ensure sufficient funds to successfully run these receiverships. The goal of imposing a late fee is to encourage compliance with the filing deadline. If it has its intended effect, the fiscal impact will be zero.

In fiscal year 2019, the motor vehicle service contract fee brought in \$48,600. In fiscal year 2020, \$89,613 was brought in. New companies accounted for 12 percent of those funds in 2020. The Division anticipates a reduction in revenue from 2020 but overall anticipates the fee change to be revenue-neutral when considering the other fee changes from 2019.

#### *Jobs Impact*

After analysis and review of this rule making, no impact on jobs has been found.

#### *Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Division for a waiver of the discretionary provisions, if any, pursuant to 191—Chapter 4.

#### *Public Comment*

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Division no later than 4 p.m. on April 15, 2021. Comments should be directed to:

Tracy Swalwell  
Iowa Insurance Division  
1963 Bell Avenue, Suite 100  
Des Moines, Iowa 50315  
Phone: 515.654.6549  
Email: [tracy.swalwell@iid.iowa.gov](mailto:tracy.swalwell@iid.iowa.gov)

#### *Public Hearing*

If requested, a public hearing at which persons may present their views orally or in writing will be held as follows:

April 15, 2021  
10 to 11 a.m.

Via conference call

A conference call number will be available prior to the hearing on the Division's web page at [iid.iowa.gov/hearings](http://iid.iowa.gov/hearings). Persons wishing to attend the hearing may also contact Tracy Swalwell for hearing information. Persons who wish to make oral comments at the hearing must submit a request to

Tracy Swalwell prior to the hearing to facilitate an orderly hearing. Persons may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact Tracy Swalwell and advise of specific needs.

The public hearing will be canceled without further notice if no public hearing is requested by 12 noon on April 13, 2021.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Adopt the following **new** rule 191—5.56(511,512B,515,520,521):

**191—5.56(511,512B,515,520,521) Fees.**

**5.56(1) Domestic and foreign companies.** When not otherwise provided, a foreign or domestic insurance company doing business in this state shall pay to the commissioner of insurance the following fees:

- a. For filing an application to do business, or an application to renew a certificate of authority, \$50.
- b. For issuing a certificate of authority to do business in this state, or for renewing a certificate, \$50.
- c. For filing amended articles of incorporation, \$50.
- d. For issuing an amended certificate of authority, \$25.
- e. For affixing the official seal to any paper filed with the division, \$10.

**5.56(2) Fraternal benefit societies.**

- a. When filing an annual report pursuant to Iowa Code section 512B.24, a fraternal benefit society shall pay a fee of \$50 to the commissioner.
- b. A society that fails to timely file an application for renewal shall pay a late fee of \$500 to the treasurer of state pursuant to Iowa Code section 512B.25.

**5.56(3) Reciprocal or interinsurance insurer.** A reciprocal or interinsurance insurer that fails to timely file an application for renewal pursuant to Iowa Code section 520.12 shall pay an administrative fee of \$500 to the treasurer of state.

**5.56(4) Articles of merger or consolidation.** The fee for filing articles of merger or consolidation with the division is \$50.

This rule is intended to implement Iowa Code sections 511.24, 512B.24, 512B.25, 515.147, 520.12, and 521.18.

ITEM 2. Amend subparagraph **10.51(1)“e”(2)** as follows:

(2) To obtain a vehicle rental counter employee limited license, an individual must successfully complete an examination, ~~and~~ submit to the division a completed vehicle rental counter employee limited license application, and pay an application fee of \$50 pursuant to Iowa Code section 522A.3. The vehicle rental counter employee limited license application form is available on the division's website. A third-party licensing agency or a rental car company may submit the application, attestation of examination, and application fee for an individual.

ITEM 3. Amend subparagraph **10.51(2)“d”(1)** as follows:

(1) To obtain a portable electronics insurance limited license, a portable electronics vendor must submit to the division a completed portable electronics insurance limited license application and ~~the~~ appropriate an application fee, as required by Iowa Code section 522E.3 of the lesser of \$50 per endorsee

at a location of the vendor or \$500 per location. A maximum fee of \$5,000 shall apply to licensure of a portable electronics vendor with multiple locations.

ITEM 4. Amend subparagraph **10.51(2)“e”(3)** as follows:

(3) The portable electronics insurance limited licensee must complete and return to the division the completed renewal form and the applicable fee, ~~as required by Iowa Code section 522E.5,~~ on or before the expiration date of the portable electronics insurance limited license, or the licensee’s portable electronics insurance limited license will expire and the authority of all endorsees to sell under the portable electronics insurance limited license also will expire. The renewal fee is the same as the application fee set forth in subparagraph 10.51(2)“d”(1).

ITEM 5. Adopt the following new rule 191—20.13(515A,515F):

**191—20.13(515A,515F) Rating and advisory organization fees.**

**20.13(1)** The annual fee for a rating organization license is \$100.

**20.13(2)** The annual fee for an advisory organization is \$100.

This rule is intended to implement Iowa Code sections 515A.6, 515A.10, and 515F.8.

ITEM 6. Amend paragraph **35.20(2)“a”** as follows:

a. An application for a certificate of registration shall contain the following:

(1) to (3) No change.

(4) A business plan, including a copy of all contracts or other instruments which the 28E agreement proposes to make with or sell to its members, a copy of its plan description and the printed matter to be used in the solicitation of members; ~~and~~

(5) A current list of all participating public entities; and

(6) Payment of a \$100 filing fee. A penalty of \$15 per day shall be assessed for failure to comply with the filing requirement of Iowa Code section 509A.15(1)“a.”

ITEM 7. Amend subrule 50.12(3) as follows:

**50.12(3)** Renewals, amendments, and withdrawal requests.

a. A registered agent of a FINRA member broker-dealer shall submit all renewals, renewal fees, amendments to Form U-4, and withdrawal requests to CRD. A withdrawal request shall be made by filing an accurate and complete Form U-5 with CRD. A registered agent of a FINRA member broker-dealer shall submit a fee of \$40 when filing a renewal of registration or change of registration as an agent.

b. A registered agent of a non-FINRA member broker-dealer shall submit all renewals, renewal fees, amendments to Form U-4, and withdrawal requests to the administrator. A withdrawal request shall be made by filing an accurate and complete Form U-5 with the administrator. A registered agent of a non-FINRA member broker-dealer shall submit a fee of \$40 when filing a renewal of registration or change of registration as an agent.

ITEM 8. Amend paragraph **50.31(1)“b”** as follows:

b. Remitting ~~the a~~ \$100 filing fee to IARD ~~pursuant to Iowa Code section 502.410(3).~~

ITEM 9. Amend paragraph **50.31(3)“b”** as follows:

b. Remitting ~~the a~~ \$100 filing fee to IARD ~~as required pursuant to Iowa Code section 502.410(3).~~

ITEM 10. Amend rule **191—50.31(502)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 502.102(8), ~~and 502.406,~~ and 502.410(3).

ITEM 11. Amend paragraph **50.32(2)“b”** as follows:

b. If applicable, ~~the a~~ \$30 fee ~~required pursuant to Iowa Code section 502.410(4).~~

ITEM 12. Amend paragraph **50.32(3)“b”** as follows:

b. If applicable, remitting ~~the a~~ \$30 filing fee to CRD ~~as required pursuant to Iowa Code section 502.410(4).~~

ITEM 13. Amend subrule 50.32(5) as follows:

**50.32(5) Updates, amendments, withdrawals and terminations.** The investment adviser representative is under a continuing obligation to update information provided on Form U-4 and shall remit fees as follows:

*a.* Any amendment to information provided on Form U-4 must be filed with CRD within 30 days of the event causing the required amendment, and the investment adviser representative shall remit a \$30 filing fee to CRD; and

*b.* No change.

ITEM 14. Amend rule **191—50.32(502)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 502.102(8), ~~and~~ 502.406, and 502.410(4).

ITEM 15. Amend subrule 50.34(1) as follows:

**50.34(1) Notice filing.** The notice filing for a federal covered investment adviser pursuant to Iowa Code section 502.405 shall be filed with IARD on an executed Form ADV. A notice filing of a federal covered investment adviser shall be deemed filed for purposes of this subrule when Form ADV and ~~the~~ a fee of \$100 ~~required pursuant to Iowa Code section 502.410(5)~~ are received by IARD.

ITEM 16. Amend subrule 50.34(3) as follows:

**50.34(3) Renewal.** The annual renewal of the notice filing for a federal covered investment adviser pursuant to Iowa Code section 502.405 shall be filed with IARD. The renewal of the notice filing shall be deemed filed for purposes of this subrule when ~~the~~ a \$100 fee ~~required pursuant to Iowa Code section 502.410(5)~~ is accepted by IARD.

ITEM 17. Amend rule **191—50.34(502)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~section~~ sections 502.405 and 502.410(5).

ITEM 18. Adopt the following new rule 191—50.71(502):

**191—50.71(502) Fee for securities registration filings under Iowa Code section 502.304A.**

**50.71(1)** The fee to register a security pursuant to Iowa Code section 502.304A is \$100.

**50.71(2)** The fee for registering a person as an agent of an issuer under Iowa Code section 502.304A is \$10.

This rule is intended to implement Iowa Code section 502.304A.

ITEM 19. Adopt the following new rule 191—50.72(502):

**191—50.72(502) Fee for registration filings under Iowa Code section 502.521G.** The administrator shall charge a nonrefundable filing fee of \$250 for a registration statement filed by an offeror pursuant to Iowa Code sections 502.321B and 502.321G.

This rule is intended to implement Iowa Code sections 502.321B and 502.521G.

ITEM 20. Rescind rule 191—100.18(523A) and adopt the following new rule in lieu thereof:

**191—100.18(523A) Fees.**

**100.18(1) Preneed seller.**

*a. License fee.* An applicant for a preneed seller license shall remit to the division a license fee of \$25, plus \$15 for each criminal history request made on each individual for whom a criminal history is required by Iowa Code section 523A.501(3). A preneed seller shall remit to the division a fee of \$15 annually thereafter to renew the preneed seller license.

*b. Annual report and examination fee.* A preneed seller filing an annual report shall remit to the division a fee of \$20 per purchase agreement sold during the year covered by the annual report. This fee consists of a \$10 annual report filing fee pursuant to Iowa Code section 523A.204(2) and a \$10 examination fee pursuant to Iowa Code section 523A.814. The commissioner may impose a late fee of up to \$5 per day for a preneed seller filing an annual report after April 15 pursuant to Iowa Code section 523A.204(4), with a maximum late fee not to exceed \$500.

**100.18(2) Sales agent.**

a. *License fee.* An applicant for a sales agent license shall remit to the division a license fee of \$10, plus \$15 for a criminal history request as required by Iowa Code section 523A.502(4). A sales agent shall remit to the division a fee of \$10 annually thereafter to renew the sales agent license.

b. *Annual report late fee.* The commissioner may impose a late fee of up to \$5 per day for a sales agent filing an annual report after April 15 pursuant to Iowa Code section 523A.502A(3), with a maximum late fee not to exceed \$500.

**100.18(3) Manner of payment.** Fees shall be paid by electronic payment as permitted by the commissioner.

**100.18(4) Nonrefundable.** Fees are not refundable.

**100.18(5) Insurance division regulatory fund.** The commissioner shall allocate annually, from the annual report filing fees paid pursuant to Iowa Code section 523A.204(2), \$2 for each purchase agreement reported on a preneed seller's annual report for deposit to the insurance division regulatory fund established pursuant to Iowa Code section 523A.812.

This rule is intended to implement Iowa Code chapter 523A.

ITEM 21. Amend rule 191—101.9(523I) as follows:

**191—101.9(523I) Filing annual reports.**

**101.9(1) Annual reports filed by perpetual care cemeteries.**

a. Each year between January 1 and April 30, perpetual care cemeteries shall file a complete and accurate annual report for the prior reporting period, in the form and manner required by the division. For purposes of Iowa Code section 523I.813 ~~as amended by 2016 Iowa Acts, House File 2394, section 13, and of this rule,~~ “reporting period” means a calendar year.

b. This rule shall apply to all perpetual care cemeteries submitting annual reports after January 1, 2017, providing information for the 2016 calendar year reporting period.

**101.9(2) Forms and instructions.** Forms and instructions for perpetual care cemeteries filing the annual report required by Iowa Code section 523I.813 ~~as amended by 2016 Iowa Acts, House File 2394, sections 12 and 13,~~ can be found on the division's ~~Web site~~ website, [www.iid.iowa.gov](http://www.iid.iowa.gov).

**101.9(3) Fees.**

a. A perpetual care cemetery shall submit with its annual report an examination fee in an amount equal to \$10 for each certificate of interment rights issued during the time period covered by the annual report.

b. The commissioner may impose a late fee of up to \$5 per day for a perpetual care cemetery filing an annual report after April 30 pursuant to Iowa Code section 523I.813(3), with a maximum late fee not to exceed \$500.

ITEM 22. Amend rule 191—102.3(523D) as follows:

**191—102.3(523D) Forms, and filings, and fees.**

**102.3(1)** Copies of all required forms and instructions are available on the ~~commissioner's Web site~~ division's website, [www.iid.iowa.gov](http://www.iid.iowa.gov).

**102.3(2)** All filings, fees and payments shall be made as directed by the commissioner. Instructions are available at the ~~commissioner's Web site~~ division's website, [www.iid.iowa.gov](http://www.iid.iowa.gov).

**102.3(3)** A provider shall submit with its annual certification a fee in the amount of \$100.

ITEM 23. Amend rule 191—103.4(523C) as follows:

**191—103.4(523C) Forms, and instructions, and fees.** Instructions for license applications, fees, forms and other filings, and copies of all required forms are available on the division's website.

**103.4(1) Forms and instructions.** Instructions for license applications, fees, forms and other filings, and copies of all required forms are available on the division's website.

**103.4(2) License fee.** A service company shall submit with its application a fee in the amount of \$500.

**103.4(3) License renewal fee.** A service company shall submit with its renewal application renewal fees as follows:

*a.* A service company shall pay a license renewal fee in the amount of \$500.

*b.* If applicable, a fee in the amount of 3 percent of the aggregate amount of payments the licensee received for the sale or issuance of residential service contracts in this state during the preceding fiscal year, provided that such fee shall be no less than \$100 and no greater than \$50,000.

**103.4(4) Motor vehicle contract form fee.** A motor vehicle service company shall submit a fee in the amount of \$35 for each motor vehicle service contract form submitted in its application and any renewal application, as provided in Iowa Code section 523C.3(1)“f.”

**103.4(5) Oversight fund.** The maximum amount of fees deposited into the service company oversight fund shall not exceed \$500,000.