

REVENUE DEPARTMENT[701]

Notice of Intended Action

**Proposing rule making related to board of review removal hearing procedures
and providing an opportunity for public comment**

The Revenue Department hereby proposes to amend Chapter 7, “Practice and Procedure Before the Department of Revenue,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 421.14 and section 441.32(2)“e” as enacted by 2021 Iowa Acts, House File 871, section 29.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 17A and section 441.32(2) as amended by 2021 Iowa Acts, House File 871, section 29.

Purpose and Summary

This proposed rule making is intended to implement a hearing procedure when the Director of Revenue intends to remove a member of the local board of review under Iowa Code section 441.32(2) as amended by 2021 Iowa Acts, House File 871, section 29, and the board member requests a hearing. This rule making describes the process for requesting a hearing, the governing procedures of the hearing, the contents of the request for hearing, and the burden of proof at such a hearing.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

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 Department for a waiver of the discretionary provisions, if any, pursuant to rule 701—7.28(17A).

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 Department no later than 4:30 p.m. on August 17, 2021. Comments should be directed to:

Nick Behlke
Department of Revenue
Hoover State Office Building
P.O. Box 10457
Des Moines, Iowa 50306
Phone: 515.336.9025
Email: nick.behlke@iowa.gov

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

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 action is proposed:

Adopt the following new rule 701—7.38(441):

701—7.38(441) Appeals and hearings regarding the director’s intent to remove a member of the board of review.

7.38(1) *Written request for hearing.* A member of the board of review who has received a notice of intent to remove from the director and who wishes to contest the removal shall file a written request for a hearing within 30 days after the receipt of the notice of the director’s intent to remove the member. Any person who does not seek a hearing within 30 days of receipt of the notice of the director’s intent to remove shall be precluded from challenging the removal.

7.38(2) *Procedures.* Hearings will be governed by the procedures set forth in this rule together with the procedures set forth in the following rules:

- a. The introductory paragraph of rule 701—7.8(17A), excluding the first sentence of the introductory paragraph of 701—7.8(17A); and subrules 7.8(8) and 7.8(9);
- b. Subrules 7.9(1) and 7.9(2);
- c. Rule 701—7.10(17A);
- d. Paragraphs 7.11(2)“d” and “e”;
- e. Subrules 7.12(2) to 7.12(4);
- f. Rule 701—7.13(17A);
- g. Rule 701—7.14(17A);
- h. Rule 701—7.15(17A);
- i. Rule 701—7.16(17A);
- j. Subrule 7.17(1); subrules 7.17(3) through 7.17(7); subrule 7.17(8), except paragraph 7.17(8)“b” related to costs shall not apply; additionally, Iowa Code section 421.60 shall not apply; subrules 7.17(9), 7.17(10), and 7.17(14);
- k. Rule 701—7.18(17A);
- l. Rule 701—7.19(17A);
- m. Rule 701—7.20(17A);
- n. Rule 701—7.21(17A); and
- o. Rule 701—7.22(17A).

7.38(3) *Presiding officer.* The director shall be the presiding officer in a contested case under this rule. The director may request that an administrative law judge assist and advise the director with any matters related to the contested case proceedings, including but not limited to ruling on any prehearing matters, presiding at the contested case hearing, and issuing orders and rulings.

7.38(4) *Contents of the appeal.* The appeal shall contain the following in separate numbered paragraphs:

- a. A statement of the department action giving rise to the appeal.
- b. The date of the department action giving rise to the appeal.

- c.* Each error alleged to have been committed, listed as a separate paragraph. For each error listed, an explanation of the error and all relevant facts related to the error shall be provided.
- d.* Reference to the particular statutes, rules, or agreement terms, if known.
- e.* References to and copies of any documents or other evidence relevant to the appeal.
- f.* Any other matters deemed relevant to the appeal.
- g.* A statement setting forth the relief sought.
- h.* The signature, mailing address, and telephone number of the person or that person's representative.

7.38(5) *Burden of proof.* The burden of proof is on the party challenging the director's intent to remove a board member.

This rule is intended to implement Iowa Code section 441.32(2) "e" as enacted by 2021 Iowa Acts, House File 871, section 29, and Iowa Code chapter 17A.