

**REVENUE DEPARTMENT[701]**

**Adopted and Filed**

**Rule making related to board of review removal hearing procedures**

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

*Legal Authority for Rule Making*

This rule making is adopted 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 rule making implements 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. The 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.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on July 28, 2021, as **ARC 5797C**. No public comments were received. No changes from the Notice have been made.

*Adoption of Rule Making*

This rule making was adopted by the Department on September 1, 2021.

*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).

*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).

*Effective Date*

This rule making will become effective on October 27, 2021.

The following rule-making action is adopted:

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.

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