

REAL ESTATE APPRAISER EXAMINING BOARD[193F]

Notice of Intended Action

**Proposing rulemaking related to enforcement proceedings against nonlicensees
and providing an opportunity for public comment**

The Real Estate Appraiser Examining Board hereby proposes to adopt a new Chapter 12, “Enforcement Proceedings Against Nonlicensees,” and to rescind Chapter 16, “Enforcement Proceedings Against Nonlicensees,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 543D.5.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 543D and Executive Order 10.

Purpose and Summary

Proposed Chapter 12 establishes the enforcement proceedings against nonlicensees. The benefit of this rulemaking is that it protects clients and residents in Iowa that require a certified appraiser for federally regulated transactions as required by federal statute.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Board no later than 4:30 p.m. on February 14, 2024. Comments should be directed to:

Kimberly Gleason, Board Administrator
Iowa Department of Inspections, Appeals, and Licensing
6200 Park Avenue, Suite 100
Des Moines, Iowa 50321
Phone: 515.725.8145
Fax: 515.725.9032
Email: kimberly.gleason@dia.iowa.gov

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 13, 2024
10:40 to 11 a.m.

6200 Park Avenue
Des Moines, Iowa
Video call link: meet.google.com/zuu-vunu-dcc

February 14, 2024
10:40 to 11 a.m.

6200 Park Avenue
Des Moines, IA 50321
6200 Park Avenue
Des Moines, Iowa
Video call link: meet.google.com/zuu-vunu-dcc

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking 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 rulemaking action is proposed:

ITEM 1. Adopt the following **new** 193F—Chapter 12:

CHAPTER 12
ENFORCEMENT PROCEEDINGS AGAINST NONLICENSEES

193F—12.1(543D) Civil penalties against nonlicensees. The board may impose civil penalties by order against a person who is not licensed by the board based on the unlawful practices specified in Iowa Code section 543D.21.

193F—12.2(543D) Grounds for imposing civil penalties. Grounds for issuing an order requiring compliance with Iowa Code chapter 543D or imposing civil penalties up to \$1,000 for each violation include:

- 12.2(1)** Violating Iowa Code section 543D.15(1) “a.”
- 12.2(2)** Failing to obtain a temporary practice permit under Iowa Code section 543D.11(2);
- 12.2(3)** Falsely impersonating a licensee by using the certification or registration title, number or signature of a licensee, or by using the nonexistent certification or registration title, number or signature of a fictitious holder of a board-issued license.
- 12.2(4)** Violating Iowa Code section 543D.21(4) “e.”
- 12.2(5)** Violating Iowa Code section 543D.20(1) “a,” “b,” “c,” or “d.”
- 12.2(6)** Violating Iowa Code section 543D.18A.

193F—12.3(543D) Notice of intent to impose civil penalties.

12.3(1) The notice of the board's intent to issue an order to compel compliance with Iowa Code section 543D.21 and to impose a civil penalty will be served upon the nonlicensee by certified mail, return receipt requested, or by personal service in accordance with Iowa Rule of Civil Procedure 1.305. Alternatively, the nonlicensee may accept service personally or through authorized counsel.

12.3(2) The notice will include the following:

- a.* A statement of the legal authority and jurisdiction under which the proposed civil penalty would be imposed.
- b.* Reference to the particular sections of the statutes and rules involved.
- c.* A short, plain statement of the alleged unlawful practices.

- d.* The dollar amount of the proposed civil penalty and the nature of the intended order to compel compliance with Iowa Code section 543D.21.
- e.* Notice of the nonlicensee's right to a hearing and the time frame in which hearing has to be requested.
- f.* The address to which a written request for hearing has to be made.

193F—12.4(543D) Request for hearing.

12.4(1) Nonlicensees have to request a hearing within 30 days of the date the notice is received or service is accepted. A request for hearing has to be in writing and is deemed made on the date of the non-metered United States Postal Service postmark or the date of personal delivery to the board office.

12.4(2) If a request for hearing is not timely made, as described in the notice, the board chairperson or the chairperson's designee may issue an order imposing a civil penalty and requiring compliance with Iowa Code chapter 543D. The order may be mailed by regular first-class mail or served in the same manner as the notice of intent to impose a civil penalty.

12.4(3) If a request for hearing is timely made, the board will issue a notice of hearing and conduct a hearing in the same manner as applicable to disciplinary cases against licensees. Hearings involving nonlicensees are open to the public.

12.4(4) A nonlicensee may waive the right to hearing and all attendant rights and enter into a consent order imposing a civil penalty and requiring compliance with Iowa Code chapter 543D at any stage of the proceeding upon mutual consent of the board.

12.4(5) The notice of intent to issue an order and the order are public records available for inspection and copying in accordance with Iowa Code chapter 22.

These rules are intended to implement Iowa Code chapters 17A and 543D.

ITEM 2. Rescind and reserve **193F—Chapter 16.**