

REAL ESTATE COMMISSION[193E]

Notice of Intended Action

**Proposing rulemaking related to closing a real estate business
and providing an opportunity for public comment**

The Real Estate Commission hereby proposes to rescind Chapter 8, “Closing a Real Estate Business,” Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapter 543B.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 272C and 543B.

Purpose and Summary

This proposed chapter articulates practice standards for closing a real estate business. The chapter provides the public and licensees with guidelines relevant to the provisions for when a licensee wishes to close the licensee’s practice. The Commission has quite a few people who retire or want to transfer to another company and no longer have their business open. This is a good source of information to follow.

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 comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Commission no later than 4:30 p.m. on January 30, 2024. Comments should be directed to:

Renee Paulsen
Real Estate Commission
6200 Park Avenue
Des Moines, Iowa 50321
Email: renee.paulsen@iowa.gov

Public Hearing

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

January 30, 2024
11 to 11:20 a.m.

6200 Park Avenue
Des Moines, Iowa

January 31, 2024
11 to 11:20 a.m.

6200 Park Avenue
Des Moines, Iowa

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 Commission 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. Rescind 193E—Chapter 8 and adopt the following **new** chapter in lieu thereof:

CHAPTER 8
CLOSING A REAL ESTATE BUSINESS

193E—8.1(543B) Closing a real estate firm. The following steps are necessary for the voluntary closing of a real estate brokerage firm. The individual broker or the designated broker:

8.1(1) Notifies the commission via electronic application upon closing the firm. The following information may be included:

- a. The date the firm closed or will close;
- b. The location where records and files will be stored for a minimum of five years; and
- c. The name, address, and telephone number of the custodian who will be storing the records and files;

8.1(2) Notifies all licensees associated with the firm in writing of the effective date of the closing. The former affiliated broker makes every reasonable effort to return the licenses of any licensees associated with the firm at the time of closing to the commission within 72 hours, with written notice that the firm is closed;

8.1(3) Notifies all listing and management clients as well as parties and co-brokers to existing contracts, in writing, advising of the date the firm will close. All listing and management clients are advised in writing that they may enter into a new listing or management agreement with the broker of their choice;

8.1(4) Removes advertising signs from all properties that were listed with or managed by the firm. Arranges to cancel advertising in the name of the firm, including office signs, Internet to include websites and social media, and telephone listing advertisements;

8.1(5) Maintains all escrow or trust accounts until all moneys are transferred to the lending institution, an escrow company or an attorney for closing of the transaction, or are otherwise properly disbursed as agreed to in writing by the parties having an interest in the funds; and

8.1(6) Arranges for pending contracts to be closed by a lending institution, an escrow company or an attorney. In the case of a sale, transfer or merger of an existing brokerage, the acquiring broker may close the pending transactions acquired from the selling broker after having first obtained the express written consent of all parties to the transactions. The broker notifies all parties involved in pending transactions as to the name, address, and telephone number of the closing agent.

193E—8.2(543B) Involuntary closing of a sole-proprietor brokerage. Upon the death or disability of a sole-proprietor broker in which the affairs of the broker cannot be carried on, the following steps are necessary for closing the real estate brokerage business:

8.2(1) All licensees associated with the broker cease all brokerage activity until their licenses have been transferred to another broker;

8.2(2) The executor or legal representative of the broker's estate, if an attorney or a broker, may conclude pending business; and

8.2(3) The administrator or executor of the broker's estate or the legal representative of the broker may follow the procedures established in rule 193E—8.1(543B) for voluntary closing.

193E—8.3(543B) Involuntary closing of a corporation, partnership, or association brokerage firm.

8.3(1) In the event of an involuntary closing of a brokerage firm as a result of the death or incapacity of one or more of the licensed broker officers, broker partners or broker associates of a real estate corporation, partnership or association in which the affairs of the broker, partnership, corporation or association cannot be carried on, the following steps are necessary for closing the real estate brokerage business:

a. All licensees associated with the firm cease all brokerage activity until their licenses have been transferred to another broker;

b. The executor of the broker's estate, if an attorney, or the legal representative of the firm may conclude pending business; and

c. The administrator or executor of the broker's estate or the legal representative of the broker may follow the procedures established in rule 193E—8.1(543B) for voluntary closing.

8.3(2) In the event of the death or incapacity of a designated broker for a firm, the affairs of the firm may be carried on by naming a new designated broker. The commission is notified of the change within 72 hours.

These rules are intended to implement Iowa Code chapters 17A, 272C and 543B.