



# IOWA ADMINISTRATIVE BULLETIN

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February 4, 2015

NUMBER 16  
Pages 1371 to 1438

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## PREFACE

The Iowa Administrative Bulletin is published biweekly pursuant to Iowa Code chapters 2B and 17A and contains Notices of Intended Action and rules adopted by state agencies.

It also contains Proclamations and Executive Orders of the Governor which are general and permanent in nature; Regulatory Analyses; effective date delays and objections filed by the Administrative Rules Review Committee; Agenda for monthly Administrative Rules Review Committee meetings; and other materials deemed fitting and proper by the Administrative Rules Review Committee.

The Bulletin may also contain public funds interest rates [12C.6]; workers' compensation rate filings [515A.6(7)]; usury rates [535.2(3)"a"]; and agricultural credit corporation maximum loan rates [535.12].

**PLEASE NOTE:** Underscore indicates new material added to existing rules; ~~strike through~~ indicates deleted material.

STEPHANIE A. HOFF, Administrative Code Editor

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### CITATION of Administrative Rules

The Iowa Administrative Code shall be cited as (agency identification number) IAC (chapter, rule, subrule, lettered paragraph, or numbered subparagraph).

441 IAC 79	(Chapter)
441 IAC 79.1	(Rule)
441 IAC 79.1(1)	(Subrule)
441 IAC 79.1(1)"a"	(Paragraph)
441 IAC 79.1(1)"a"(1)	(Subparagraph)

The Iowa Administrative Bulletin shall be cited as IAB (volume), (number), (publication date), (page number), (ARC number).

IAB Vol. XII, No. 23 (5/16/90) p. 2050, ARC 872A

NOTE: In accordance with Iowa Code section 2B.5A, a rule number within the Iowa Administrative Code includes a reference to the statute which the rule is intended to implement: 441—79.1(249A).

## Schedule for Rule Making 2015

NOTICE SUBMISSION DEADLINE	NOTICE PUB. DATE	HEARING OR COMMENTS 20 DAYS	FIRST POSSIBLE ADOPTION DATE 35 DAYS	ADOPTED FILING DEADLINE	ADOPTED PUB. DATE	FIRST POSSIBLE EFFECTIVE DATE	POSSIBLE EXPIRATION OF NOTICE 180 DAYS
<b>*Dec. 17 '14*</b>	Jan. 7 '15	Jan. 27 '15	Feb. 11 '15	Feb. 13 '15	Mar. 4 '15	Apr. 8 '15	July 6 '15
Jan. 2	Jan. 21	Feb. 10	Feb. 25	Feb. 27	Mar. 18	Apr. 22	July 20
Jan. 16	Feb. 4	Feb. 24	Mar. 11	Mar. 13	Apr. 1	May 6	Aug. 3
Jan. 30	Feb. 18	Mar. 10	Mar. 25	Mar. 27	Apr. 15	May 20	Aug. 17
Feb. 13	Mar. 4	Mar. 24	Apr. 8	Apr. 10	Apr. 29	June 3	Aug. 31
Feb. 27	Mar. 18	Apr. 7	Apr. 22	Apr. 24	May 13	June 17	Sep. 14
Mar. 13	Apr. 1	Apr. 21	May 6	May 8	May 27	July 1	Sep. 28
Mar. 27	Apr. 15	May 5	May 20	<b>***May 20***</b>	June 10	July 15	Oct. 12
Apr. 10	Apr. 29	May 19	June 3	June 5	June 24	July 29	Oct. 26
Apr. 24	May 13	June 2	June 17	June 19	July 8	Aug. 12	Nov. 9
May 8	May 27	June 16	July 1	<b>***July 1***</b>	July 22	Aug. 26	Nov. 23
<b>***May 20***</b>	June 10	June 30	July 15	July 17	Aug. 5	Sep. 9	Dec. 7
June 5	June 24	July 14	July 29	July 31	Aug. 19	Sep. 23	Dec. 21
June 19	July 8	July 28	Aug. 12	Aug. 14	Sep. 2	Oct. 7	Jan. 4 '16
<b>***July 1***</b>	July 22	Aug. 11	Aug. 26	<b>***Aug. 26***</b>	Sep. 16	Oct. 21	Jan. 18 '16
July 17	Aug. 5	Aug. 25	Sep. 9	Sep. 11	Sep. 30	Nov. 4	Feb. 1 '16
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Sep. 11	Sep. 30	Oct. 20	Nov. 4	<b>***Nov. 4***</b>	Nov. 25	Dec. 30	Mar. 28 '16
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Oct. 9	Oct. 28	Nov. 17	Dec. 2	<b>***Dec. 2***</b>	Dec. 23	Jan. 27 '16	Apr. 25 '16
<b>***Oct. 21***</b>	Nov. 11	Dec. 1	Dec. 16	<b>***Dec. 16***</b>	Jan. 6 '16	Feb. 10 '16	May 9 '16
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<b>***Nov. 18***</b>	Dec. 9	Dec. 29	Jan. 13 '16	Jan. 15 '16	Feb. 3 '16	Mar. 9 '16	June 6 '16
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<b>***Dec. 16***</b>	Jan. 6 '16	Jan. 26 '16	Feb. 10 '16	Feb. 12 '16	Mar. 2 '16	Apr. 6 '16	July 4 '16

### PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
18	Friday, February 13, 2015	March 4, 2015
19	Friday, February 27, 2015	March 18, 2015
20	Friday, March 13, 2015	April 1, 2015

**PLEASE NOTE:**

Rules will not be accepted after **12 o'clock noon** on the Friday filing deadline days unless prior approval has been received from the Administrative Rules Coordinator's office.

If the filing deadline falls on a legal holiday, submissions made on the following Monday will be accepted.

**\*\*\*Note change of filing deadline\*\*\***

**ENVIRONMENTAL PROTECTION COMMISSION[567]**

Beverage container deposits; hydrogeologic investigation and monitoring; sanitary landfills: biosolids monofills; beautification grant program; waste tire stockpile abatement program, amend ch 107; rescind chs 110, 112, 210, 218 IAB 1/21/15 <b>ARC 1823C</b>	Fourth Floor West Conference Room Wallace State Office Bldg. Des Moines, Iowa	February 18, 2015 1 to 2 p.m.
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**HISTORICAL DIVISION[223]**

Historic preservation and cultural and entertainment district tax credits, amendments to ch 48 IAB 1/21/15 <b>ARC 1836C</b>	Heritage Classroom, First Floor State Historical Building 600 E. Locust Des Moines, Iowa	February 11, 2015 3:30 p.m.
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**LABOR SERVICES DIVISION[875]**

Conveyance safety program, 71.11, 71.13, 71.16, 72.1(8), 72.27, 73.7(10), 73.21 IAB 2/4/15 <b>ARC 1849C</b>	Capitol View Room 1000 E. Grand Ave. Des Moines, Iowa	February 25, 2015 10 a.m. (If requested)
Elevators—child safety guards, 72.26, 73.27 IAB 2/4/15 <b>ARC 1853C</b>	Capitol View Room 1000 E. Grand Ave. Des Moines, Iowa	February 25, 2015 9 a.m. (If requested)

**PUBLIC HEALTH DEPARTMENT[641]**

Grants to counties program for testing, reconstructing and plugging private water wells, 24.1, 24.2, 24.5 to 24.7, 24.9(2), 24.14(3) IAB 1/21/15 <b>ARC 1840C</b>	<i>Origination site:</i> Director's Conference Room, Sixth Floor Lucas State Office Bldg. Des Moines, Iowa  <i>GoToMeeting:</i> <a href="https://www1.gotomeeting.com/register/276590537">https://www1.gotomeeting.com/register/276590537</a> Or by conference call: Toll-free: 1-877-455-1368 Access Code: 867-616-596	February 10, 2015 9 to 11 a.m.
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Vision screening, ch 52 IAB 1/21/15 <b>ARC 1838C</b>	<i>GoToMeeting:</i> <a href="https://www1.gotomeeting.com/join/735837521">https://www1.gotomeeting.com/join/735837521</a> Or by conference call: Toll-free: 1-877-309-2070 Access Code: 735-837-521	February 10, 2015 11 a.m. to 12:30 p.m.
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Local public health services, ch 80 IAB 1/21/15 <b>ARC 1839C</b>	<i>GoToMeeting:</i> <a href="https://www1.gotomeeting.com/register/238776977">https://www1.gotomeeting.com/register/238776977</a> Or by conference call: Toll-free: 1-866-952-8437 Access Code: 325-155-880	February 10, 2015 1:30 to 2:30 p.m.
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**REVENUE DEPARTMENT[701]**

Historic preservation and cultural and entertainment district tax credits, 42.19, 42.54, 52.18, 52.47, 58.10 IAB 1/21/15 <b>ARC 1837C</b>	Heritage Classroom, First Floor State Historical Building 600 E. Locust Des Moines, Iowa	February 11, 2015 3:30 p.m.
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**TRANSPORTATION DEPARTMENT[761]**

Extension of junkyard control to  
national highway system,  
116.1 to 116.3  
IAB 1/21/15 **ARC 1832C**

North Conference Room, First Floor  
Administration Building  
800 Lincoln Way  
Ames, Iowa

February 12, 2015  
10 a.m.  
(If requested)

**UTILITIES DIVISION[199]**

Disconnection of public water  
utility service for failure to pay  
sewer, wastewater, or storm  
drainage bill, 21.4  
IAB 2/4/15 **ARC 1848C**

Room 69, Utilities Board  
1375 E. Court Ave.  
Des Moines, Iowa

March 12, 2015  
1 p.m.

The following list will be updated as changes occur.

“Umbrella” agencies and elected officials are set out below at the left-hand margin in CAPITAL letters.

Divisions (boards, commissions, etc.) are indented and set out in lowercase type under their statutory “umbrellas.”

Other autonomous agencies are included alphabetically in SMALL CAPITALS at the left-hand margin.

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## ARC 1863C

## HUMAN SERVICES DEPARTMENT[441]

## Notice of Intended Action

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code section 237A.12, the Department of Human Services proposes to amend Chapter 110, “Child Development Homes,” Iowa Administrative Code.

These amendments update administrative rules regarding a number of requirements regarding child development homes as follows:

These amendments update the minimum requirements for first-aid kits in child development homes.

These amendments modify administrative rules to allow tamper-resistant electrical outlets to be used in addition to safety caps.

Fire safety rules indicate that combustible materials must be kept away from heating elements. The fire marshal recommends a distance of three feet, and child care providers are held to the three-foot-distance requirement. These amendments propose to adopt the three-foot-distance requirement.

Iowa Code section 237A.3A states, in part, that “[t]he rules shall require a child development home to be located in a single-family residence that is owned, rented, or leased by the person or, for dual registrations, at least one of the persons who is named on the child development home’s certificate of registration.” These amendments add the aforementioned provision.

Iowa Code section 237A.5(2)“i”(2) states, in part, that “[i]f within five years prior to the date of application for registration or license under this chapter, for employment or residence in a child care facility or child care home, or for receipt of public funding for providing child care, a person subject to an evaluation has been . . . found to have committed physical abuse, the person shall be prohibited from involvement with child care for a period of five years from the date of founded abuse.” The language of subparagraph 110.7(3)“f”(1) specifically includes “founded child abuse that was determined to be physical abuse” and does not include dependent adult abuse; therefore, the subparagraph is broadened to include dependent adult abuse by removing the word “child.”

Finally, these amendments rescind rule 441—110.13(237A) to remove an outdated exception that applied to providers renewing a previously issued registration on or after December 2002. This transition time period has been in effect for 12 years and is no longer valid or needed.

Any interested person may make written comments on the proposed amendments on or before February 24, 2015. Comments should be directed to Harry Rossander, Bureau of Policy Coordination, Department of Human Services, Hoover State Office Building, Fifth Floor, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by e-mail to [policyanalysis@dhs.state.ia.us](mailto:policyanalysis@dhs.state.ia.us).

These amendments do not provide for waivers in specified situations because requests for the waiver of any rule may be submitted under the Department’s general rule on exceptions at 441—1.8(17A,217).

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

These amendments are intended to implement Iowa Code section 237A.3A.

The following amendments are proposed.

ITEM 1. Amend paragraph **110.5(1)“c”** as follows:

c. A first-aid kit shall be available and easily accessible whenever children are in the child development home, in the outdoor play area, in vehicles used to transport children, and on field trips. The kit shall be sufficient to address first aid related to minor injury or trauma and shall be stored in

## HUMAN SERVICES DEPARTMENT[441](cont'd)

an area inaccessible to children. The kit shall, at a minimum, include adhesive bandages, antiseptic cleaning materials, tweezers, and disposable plastic gloves.

ITEM 2. Amend paragraph **110.5(1)“e”** as follows:

*e.* Electrical wiring shall be maintained, ~~with~~ and all accessible electrical outlets shall be tamper-resistant outlets or shall be safely capped and electrical. Electrical cords shall be properly used. Improper use includes running cords under rugs, over hooks, through door openings, or other use that has been known to be hazardous.

ITEM 3. Amend paragraph **110.5(1)“f”** as follows:

*f.* Combustible materials shall be kept a minimum of three feet away from furnaces, stoves, water heaters, and gas dryers.

ITEM 4. Adopt the following **new** paragraph **110.5(1)“y”**:

*y.* The child development home shall be located in a single-family residence that is owned, rented, or leased by the person or, for dual registrations, at least one of the persons who is named on the child development home's certificate of registration.

ITEM 5. Amend subparagraph **110.7(3)“f”(1)** as follows:

(1) A person with the following conviction or founded abuse report is prohibited from involvement with child care for five years from the date of the conviction or founded abuse report:

1. Conviction of a controlled substance offense under Iowa Code chapter 124.
2. Founded ~~child~~ abuse that was determined to be physical abuse.

ITEM 6. Rescind and reserve rule **441—110.13(237A)**.

**ARC 1862C**

## HUMAN SERVICES DEPARTMENT[441]

### Notice of Intended Action

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code section 237A.12, the Department of Human Services proposes to amend Chapter 110, “Child Development Homes,” Iowa Administrative Code.

These amendments update requirements for child development home providers as follows:

These amendments add a requirement that providers must document medication given to a child while the child is in the provider's care.

Form 470-5152, Child Care Provider Physical Examination Report, is not an accurate document for examinations for minors in the household. These amendments allow for documentation of physical examinations for minors similar to the documentation for children residing in the child development home.

These amendments allow for a provider who is unable to access a copy of the provider's GED or high school diploma to show verification of higher education participation.

Category “C” child development homes regularly operate with a provider and coprovider. There have been requests by child development home providers to allow for numerous coproviders. Child development homes, if allowed numerous coproviders, would more closely resemble child care centers, which have different licensing requirements. These amendments clarify that there shall be no more than two providers on a registration certificate for a child development home.

Any interested person may make written comments on the proposed amendments on or before February 24, 2015. Comments should be directed to Harry Rossander, Bureau of Policy Coordination, Department of Human Services, Hoover State Office Building, Fifth Floor, 1305 East Walnut Street,

## HUMAN SERVICES DEPARTMENT[441](cont'd)

Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by e-mail to [policyanalysis@dhs.state.ia.us](mailto:policyanalysis@dhs.state.ia.us).

These amendments do not provide for waivers in specified situations because requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217).

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

These amendments are intended to implement Iowa Code section 237A.3A.

The following amendments are proposed.

ITEM 1. Amend paragraph **110.5(1)“d”** as follows:

*d.* Medications shall be given only with the parent's or doctor's written authorization. Each prescribed medication shall be accompanied by a physician's or pharmacist's direction. Both nonprescription and prescription medications shall be in the original container with directions intact and labeled with the child's name. All medications shall be stored properly and, when refrigeration is required, shall be stored in a separate, covered container so as to prevent contamination of food or other medications. All medications shall be stored so they are inaccessible to children. Any medication administered to a child shall be recorded, and the record shall indicate the name of the medication, the date and time of administration, and the amount given.

ITEM 2. Amend paragraph **110.5(2)“a”** as follows:

*a.* A physical examination report. Providers and all members of a provider's household shall have good health as evidenced by a preregistration physical examination. Acceptable physical examinations for persons 18 years of age and older shall be documented on Form 470-5152, Child Care Provider Physical Examination Report. The examination shall include any necessary testing for communicable diseases; shall include a discussion regarding current Advisory Committee on Immunization Practices (ACIP)-recommended vaccinations; shall be performed within six months prior to registration by a licensed medical doctor, doctor of osteopathy, physician assistant or advanced registered nurse practitioner; and shall be repeated at least every three years. For minors in the household, a physical examination report signed by a licensed physician or designee in a clinic supervised by a licensed physician, an annual statement of health, and a signed and dated immunization certificate provided by the state department of public health are required.

ITEM 3. Amend paragraph **110.9(2)“b”** as follows:

*b.* The provider shall have a high school diploma, ~~or~~ GED, or documentation of current or previous enrollment in credit-based coursework from a postsecondary educational institution that is an accredited college or university.

ITEM 4. Amend subparagraph **110.10(2)“a”(2)** as follows:

(2) The provider shall have a high school diploma, ~~or~~ GED, or documentation of current or previous enrollment in credit-based coursework from a postsecondary educational institution that is an accredited college or university.

ITEM 5. Adopt the following **new** paragraph **110.10(2)“c”**:

*c.* No more than two named providers shall be allowed on a registration certificate.

**ARC 1861C**

**INSPECTIONS AND APPEALS DEPARTMENT[481]**

**Notice of Intended Action**

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code chapters 137C and 137D and sections 10A.104 and 137F.2, the Department of Inspections and Appeals hereby gives Notice of Intended Action to amend Chapter 31, “Food Establishment and Food Processing Plant Inspections,” Iowa Administrative Code.

The Department is proposing this rule making to make technical corrections to Chapter 31, which was last amended in 2013. The proposed amendments update references to the most current version of the Code of Federal Regulations (CFR) related to food processing and add two additional CFR provisions.

The proposed amendments:

- Clarify provisions related to certified food protection managers and add an exception for certain taverns that serve food;
- Reinstate an exception to the Food Code related to reduced oxygen packaging of meat products in retail operations, which was inadvertently omitted in the 2013 revision;
- Update food processing standards from the 2013 CFR to the 2014 CFR;
- Add provisions related to certain color additives; and
- Add provisions related to canned vegetables.

Prior to drafting this rule making, the Department circulated the proposed amendments to municipal corporations under agreement with the Department, affected state agencies, and industry, professional and consumer groups. Comments were reviewed, and changes were incorporated into the rule making as appropriate.

Any interested person may make written suggestions or comments on the proposed amendments on or before February 24, 2015. Such written materials should be directed to Steven Mandernach, Department of Inspections and Appeals, Third Floor, Lucas State Office Building, 321 E. 12th Street, Des Moines, Iowa 50319; fax (515)281-3291; or e-mail [steven.mandernach@dia.iowa.gov](mailto:steven.mandernach@dia.iowa.gov).

The rules are subject to waiver under the Department’s general waiver provisions contained in 481—Chapter 6.

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

These amendments are intended to implement Iowa Code chapters 10A and 137F.

The following amendments are proposed.

ITEM 1. Amend subrule 31.1(1) as follows:

**31.1(1) *Certified food protection manager required.*** For purposes of section 2-102.12 of the 2009 Food Code with Supplement, establishments that sell only prepackaged foods are not required to employ an individual who ~~has completed~~ is a certified food protection manager ~~course~~. Temporary food establishments are not required to employ an individual who ~~has completed~~ is a certified food protection manager ~~course~~. Bars or taverns at which food is not prepared, where customers may purchase alcoholic beverages, and where the serving of food is limited to the service of ice, beverages, prepackaged snack foods, popcorn, or peanuts and the reheating of commercially prepared foods that do not require assembly, such as frozen pizza or prepackaged sandwiches, are not required to employ an individual who is a certified food protection manager. For all other establishments, the following time frames apply for employment of an individual who ~~has completed~~ is a certified food protection manager ~~course~~:

*a.* For establishments newly licensed after January 1, 2014, the requirement of section 2-102.12 must be met within six months of licensure.

## INSPECTIONS AND APPEALS DEPARTMENT[481](cont'd)

*b.* Establishments in existence as of January 1, 2014, that do not receive a foodborne illness risk factor or public health intervention violation on or before July 1, 2017, shall meet the requirement of section 2-102.12 by January 1, 2018.

*c.* Establishments in existence as of January 1, 2014, that receive a foodborne illness risk factor or public health intervention violation on or before July 1, 2017, shall meet the requirement of section 2-102.12 within six months of the violation.

*d.* If the individual meeting the requirement of section 2-102.12 leaves employment with an establishment required to meet section 2-102.12, the establishment shall meet the requirement of section 2-102.12 within six months.

ITEM 2. Amend subrule **31.1(8)**, paragraph “(F),” as follows:

(F) A HACCP PLAN is not required when a FOOD ESTABLISHMENT packages raw meat and poultry using a REDUCED OXYGEN PACKAGING method and includes on the package a 30-day “sell by” date from the date the raw meat or poultry was packaged or uses a REDUCED OXYGEN PACKAGING method to PACKAGE TIME/TEMPERATURE CONTROL FOR SAFETY FOOD that is always:

- (1) Labeled with the production time and date,
- (2) Held at 5°C (41°F) or less during refrigerated storage, and
- (3) Removed from its PACKAGE in the FOOD ESTABLISHMENT within 48 hours after PACKAGING.

ITEM 3. Amend subrule 31.2(9), introductory paragraph, as follows:

**31.2(9)** *Adoption of Code of Federal Regulations.* The following parts of the Code of Federal Regulations (April 1, ~~2013~~ 2014) are adopted:

ITEM 4. Reletter paragraphs **31.2(9)“e”** to **“ah”** as **31.2(9)“f”** to **“ai.”**

ITEM 5. Adopt the following new paragraph **31.2(9)“e”**:

*e.* 21 CFR Part 74.101 to 706 (listing of color additives subject to certification).

ITEM 6. Reletter paragraphs **31.2(9)“ai”** to **“bg”** as **31.2(9)“ak”** to **“bi.”**

ITEM 7. Adopt the following new paragraph **31.2(9)“aj”**:

*aj.* 21 CFR Part 155 (canned vegetables).

**ARC 1860C****INSPECTIONS AND APPEALS DEPARTMENT[481]****Notice of Intended Action**

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code sections 231B.2(1), 231C.3(1), and 231D.2(2), the Department of Inspections and Appeals hereby gives Notice of Intended Action to amend Chapter 68, “Elder Group Homes,” Chapter 69, “Assisted Living Programs,” and Chapter 70, “Adult Day Services,” Iowa Administrative Code.

These amendments clarify the contents of an application for certification and the process for notifying the Department of a change of ownership of a program and add a definition for “change of ownership.” These amendments require assisted living programs, elder group homes, and adult day services programs to notify the Department when a change of program manager occurs.

The Department does not believe that the proposed amendments pose a financial hardship on any regulated entity or individual.

## INSPECTIONS AND APPEALS DEPARTMENT[481](cont'd)

Any interested person may make written suggestions or comments on the proposed amendments on or before February 24, 2015. Such written materials should be addressed to the Director, Department of Inspections and Appeals, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0083; faxed to (515)242-6863; or e-mailed to [David.Werning@dia.iowa.gov](mailto:David.Werning@dia.iowa.gov).

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

These amendments are intended to implement Iowa Code sections 231B.2(1), 231C.3(1), and 231D.2(2).

The following amendments are proposed.

ITEM 1. Adopt the following new definition of “Change of ownership” in rule **481—68.1(231B)**:

“*Change of ownership*” means the purchase, transfer, assignment or lease of a certified elder group home and includes a change in the management company responsible for the day-to-day operation of the program, if the management company is ultimately responsible for any enforcement action taken by the department.

ITEM 2. Amend subrule 68.4(1) as follows:

**68.4(1)** A list that includes the names, addresses, and percentage of stock, shares, partnership or other equity interest of all officers, members of the board of directors and trustees ~~and of the designated manager~~, as well as stockholders, partners or any individuals who have greater than a 5 10 percent equity interest ~~in the program~~. each of the following, as applicable:

*a.* The real estate owner or lessor;

*b.* The lessee; and

*c.* The management company responsible for the day-to-day operation of the program.

The program shall notify the department of any changes in the list within no later than ten working days of the after the effective date of the change.

ITEM 3. Amend subrule 68.4(2) as follows:

**68.4(2)** A statement ~~affirming that~~ disclosing whether the individuals listed in subrule 68.4(1) have ~~not~~ been convicted of a felony or an aggravated or serious misdemeanor or found to be in violation of the child abuse or dependent adult abuse code in laws of any state.

ITEM 4. Amend subrule 68.4(3) as follows:

**68.4(3)** A statement disclosing whether any of the individuals listed in subrule 68.4(1) have or have had an ownership interest in an assisted living program, adult day services program, elder group home, home health agency, licensed health care facility as defined in Iowa Code section 135C.1, or licensed hospital as defined in Iowa Code section 135B.1, ~~or a boarding home as defined in 2009 Iowa Acts, Senate File 484, section 3 (to be codified as Iowa Code Supplement section 135O.1)~~, which has been closed in any state due to removal of program, agency, or facility licensure or certification or due to involuntary termination from participation in either the Medicaid or Medicare program; or have been found to have failed to provide adequate protection or services ~~for tenants~~ to prevent abuse or neglect of residents, patients, tenants or participants.

ITEM 5. Rescind rule 481—68.10(231B) and adopt the following new rule in lieu thereof:

**481—68.10(231B) Change of ownership—notification to the department.**

**68.10(1)** Certification, unless conditionally issued, suspended or revoked, may be transferable. If the program’s certification has been conditionally issued, the department must approve a change of ownership prior to the transfer of the certification.

**68.10(2)** In order to transfer certification, the applicant must:

*a.* Meet the requirements of the rules, regulations and standards contained in Iowa Code chapter 231B and 481—Chapter 67 and this chapter; and

*b.* At least 30 days prior to the change of ownership of the program, make application on forms provided by the department.

**68.10(3)** The department may conduct a monitoring within 90 days following a change in the program’s ownership to ensure that the program complies with applicable requirements. If a regulatory

## INSPECTIONS AND APPEALS DEPARTMENT[481](cont'd)

insufficiency is found, the department shall take any necessary enforcement action authorized by applicable requirements.

ITEM 6. Adopt the following **new** subrule 68.19(5):

**68.19(5)** The program shall notify the department in writing within ten business days of a change in the program's manager.

ITEM 7. Adopt the following **new** definition of "Change of ownership" in rule **481—69.1(231C)**:

"*Change of ownership*" means the purchase, transfer, assignment or lease of a certified assisted living program and includes a change in the management company responsible for the day-to-day operation of the program, if the management company is ultimately responsible for any enforcement action taken by the department.

ITEM 8. Amend subrule 69.4(1) as follows:

**69.4(1)** A list that includes the names, addresses, and percentage of stock, shares, partnership or other equity interest of all officers, members of the board of directors and trustees ~~and of the designated manager~~, as well as stockholders, partners or any individuals who have greater than a 5 10 percent equity interest in ~~the program~~. each of the following, as applicable:

a. The real estate owner or lessor;

b. The lessee; and

c. The management company responsible for the day-to-day operation of the program.

The program shall notify the department of any changes in the list ~~within~~ no later than ten working days ~~of~~ after the effective date of the change.

ITEM 9. Amend subrule 69.4(2) as follows:

**69.4(2)** A statement ~~affirming that~~ disclosing whether the individuals listed in subrule 69.4(1) have ~~not~~ been convicted of a felony or an aggravated or serious misdemeanor or found to be in violation of the child abuse or dependent adult abuse code in laws of any state.

ITEM 10. Amend subrule 69.4(3) as follows:

**69.4(3)** A statement disclosing whether any of the individuals listed in subrule 69.4(1) have or have had an ownership interest in an assisted living program, adult day services program, elder group home, home health agency, licensed health care facility as defined in Iowa Code section 135C.1, or licensed hospital as defined in Iowa Code section 135B.1, ~~or a boarding home as defined in 2009 Iowa Acts, Senate File 484, section 3 (to be codified as Iowa Code Supplement section 135O.1)~~, which has been closed in any state due to removal of program, agency, or facility licensure, certification, or registration or due to involuntary termination from participation in either the Medicaid or Medicare program; or have been found to have failed to provide adequate protection or services ~~for participants~~ to prevent abuse or neglect of residents, patients, tenants or participants.

ITEM 11. Amend subrule 69.10(1) as follows:

**69.10(1)** A list that includes the names, addresses and percentage of stock, shares, partnership or other equity interest of all officers, members of the board of directors, and trustees ~~and of the designated manager~~, as well as stockholders, partners or any individuals who have greater than a 5 10 percent equity interest in ~~the program~~. each of the following, as applicable:

a. The real estate owner or lessor;

b. The lessee; and

c. The management company responsible for the day-to-day operation of the program.

The program shall notify the department of any changes in the list ~~within~~ no later than ten working days ~~of~~ after the effective date of the change.

ITEM 12. Amend subrule 69.10(2) as follows:

**69.10(2)** A statement ~~affirming that~~ disclosing whether the individuals listed in subrule 69.10(1) have ~~not~~ been convicted of a felony or an aggravated or serious misdemeanor or found to be in violation of the child abuse or dependent adult abuse code in laws of any state.

## INSPECTIONS AND APPEALS DEPARTMENT[481](cont'd)

ITEM 13. Amend subrule 69.10(3) as follows:

**69.10(3)** A statement disclosing whether any of the individuals listed in subrule 69.10(1) have or have had an ownership interest in a program, adult day services program, elder group home, home health agency, licensed health care facility as defined under Iowa Code section 135C.1<sub>2</sub> or licensed hospital as defined under Iowa Code section 135B.1 ~~or a boarding home as defined in 2009 Iowa Acts, Senate File 484, section 3 (to be codified as Iowa Code Supplement section 135O.1)~~, which has been closed in any state due to removal of program, agency, or facility licensure or certification or due to involuntary termination from participation in either the Medicaid or Medicare program; or have been found to have failed to provide adequate protection or services ~~for tenants~~ to prevent abuse or neglect of residents, patients, tenants or participants.

ITEM 14. Rescind rule 481—69.17(231C) and adopt the following **new** rule in lieu thereof:

**481—69.17(31C) Change of ownership—notification to the department.**

**69.17(1)** Certification, unless conditionally issued, suspended or revoked, may be transferable. If the program's certification has been conditionally issued, the department must approve a change of ownership prior to the transfer of the certification.

**69.17(2)** In order to transfer certification, the applicant must:

- a. Meet the requirements of the rules, regulations and standards contained in Iowa Code chapter 231C and 481—Chapter 67 and this chapter; and
- b. At least 30 days prior to the change of ownership of the program, make application on forms provided by the department.

**69.17(3)** The department may conduct a monitoring within 90 days following a change in the program's ownership to ensure that the program complies with applicable requirements. If a regulatory insufficiency is found, the department shall take any necessary enforcement action authorized by applicable requirements.

ITEM 15. Adopt the following **new** subrule 69.29(7):

**69.29(7)** The program shall notify the department in writing within ten business days of a change in the program's manager.

ITEM 16. Adopt the following **new** definition of "Change of ownership" in rule **481—70.1(231D)**:

*"Change of ownership"* means the purchase, transfer, assignment or lease of a certified adult day services program and includes a change in the management company responsible for the day-to-day operation of the program, if the management company is ultimately responsible for any enforcement action taken by the department.

ITEM 17. Amend subrule 70.4(1) as follows:

**70.4(1)** A list that includes the names, addresses, and percentage of stock, shares, partnership or other equity interest of all officers, members of the board of directors and trustees ~~and of the designated manager~~, as well as stockholders, partners or any individuals who have greater than a 5 10 percent equity interest in ~~the program~~; each of the following, as applicable:

- a. The real estate owner or lessor;
- b. The lessee; and
- c. The management company responsible for the day-to-day operation of the program.

The program shall notify the department of any changes in the list ~~within~~ no later than ten working days ~~of after~~ the effective date of the change.

ITEM 18. Amend subrule 70.4(2) as follows:

**70.4(2)** A statement ~~affirming that~~ disclosing whether the individuals listed in subrule 70.4(1) have ~~not~~ been convicted of a felony or an aggravated or serious misdemeanor or found to be in violation of the child abuse or dependent adult abuse code in laws of any state.

ITEM 19. Amend subrule 70.4(3) as follows:

**70.4(3)** A statement disclosing whether any of the individuals listed in subrule 70.4(1) have or have had an ownership interest in an adult day services program, assisted living program, elder group home,

## INSPECTIONS AND APPEALS DEPARTMENT[481](cont'd)

home health agency, licensed health care facility as defined in Iowa Code section 135C.1<sub>2</sub> or licensed hospital as defined in Iowa Code section 135B.1 ~~or a boarding home as defined in 2009 Iowa Acts, Senate File 484, section 3 (to be codified as Iowa Code Supplement section 135O.1)~~, which has been closed in any state due to removal of program, agency, or facility licensure or certification or due to involuntary termination from participation in either the Medicaid or Medicare program; or have been found to have failed to provide adequate protection or services ~~for participants~~ to prevent abuse or neglect of residents, patients, tenants or participants.

ITEM 20. Amend subrule 70.10(1) as follows:

**70.10(1)** A list that includes the names, addresses and percentage of stock, shares, partnership or other equity interest of all officers, members of the board of directors, and trustees ~~and of the designated manager~~, as well as stockholders, partners or any individuals who have greater than a 5 10 percent equity interest in ~~the program~~. each of the following, as applicable:

*a.* The real estate owner or lessor;

*b.* The lessee; and

*c.* The management company responsible for the day-to-day operation of the program.

The program shall notify the department of any changes in the list ~~within~~ no later than ten working days of after the effective date of the change.

ITEM 21. Amend subrule 70.10(2) as follows:

**70.10(2)** A statement ~~affirming that disclosing whether~~ the individuals listed in subrule 70.10(1) have ~~not~~ been convicted of a felony ~~or an aggravated~~ or serious misdemeanor or found to be in violation of the child abuse or dependent adult abuse code in laws of any state.

ITEM 22. Amend subrule 70.10(3) as follows:

**70.10(3)** A statement disclosing whether any of the individuals listed in subrule 70.10(1) have or have had an ownership interest in an adult day services program, assisted living program, elder group home, home health agency, licensed health care facility as defined under Iowa Code section 135C.1<sub>2</sub> or licensed hospital as defined under Iowa Code section 135B.1 ~~or a boarding home as defined in 2009 Iowa Acts, Senate File 484, section 3 (to be codified as Iowa Code Supplement section 135O.1)~~, which has been closed in any state due to removal of program, agency, or facility licensure or certification or due to involuntary termination from participation in either the Medicaid or Medicare program; or have been found to have failed to provide adequate protection or services ~~for participants~~ to prevent abuse or neglect of residents, patients, tenants or participants.

ITEM 23. Rescind rule 481—70.17(231D) and adopt the following new rule in lieu thereof:

**481—70.17(231D) Change of ownership—notification to the department.**

**70.17(1)** Certification, unless conditionally issued, suspended or revoked, may be transferable. If the program's certification has been conditionally issued, the department must approve a change of ownership prior to the transfer of the certification.

**70.17(2)** In order to transfer certification, the applicant must:

*a.* Meet the requirements of the rules, regulations and standards contained in Iowa Code chapter 231D and 481—Chapter 67 and this chapter; and

*b.* At least 30 days prior to the change of ownership of the program, make application on forms provided by the department.

**70.17(3)** The department may conduct a monitoring within 90 days following a change in the program's ownership to ensure that the program complies with applicable requirements. If a regulatory insufficiency is found, the department shall take any necessary enforcement action authorized by applicable requirements.

ITEM 24. Adopt the following new subrule 70.29(4):

**70.29(4)** The program shall notify the department in writing within ten business days of a change in the program's manager.

**ARC 1858C**

**INSPECTIONS AND APPEALS DEPARTMENT[481]**

**Notice of Intended Action**

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code section 99B.13, the Department of Inspections and Appeals hereby gives Notice of Intended Action to amend Chapter 103, “Bingo,” Iowa Administrative Code.

The proposed amendments implement changes made to Iowa Code section 99B.7(8)“b” and update outdated provisions of the administrative rules.

The Department does not believe that the proposed amendments impose any financial hardship on any regulated entity, body, or individual.

Any interested person may make written suggestions or comments on the proposed amendments on or before February 24, 2015. Such written materials should be addressed to the Director, Department of Inspections and Appeals, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0083; faxed to (515)242-6863; or e-mailed to [david.werning@dia.iowa.gov](mailto:david.werning@dia.iowa.gov).

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

These amendments are intended to implement Iowa Code sections 99B.2 and 99B.7.

The following amendments are proposed.

ITEM 1. Adopt the following **new** definitions of “Senior citizen,” “Senior citizen center,” “Senior citizen group home,” “Senior citizen housing project,” and “Senior citizen organization” in rule **481—103.1(10A,99B)**:

“*Senior citizen*” means a person who is 60 years of age or older.

“*Senior citizen center*” means a facility that maintains a contract with the local area agency on aging. A senior citizen center is a multipurpose or activity center that provides a broad range of services designed for senior citizens and is open to all senior citizens without financial restrictions. A qualified organization which is a senior citizen center shall be controlled by the senior citizens served by the center.

“*Senior citizen group home*” means a facility built or acquired by a governmental entity or a charitable organization and that is exempt under Section 501(c) of the Internal Revenue Code, has one or more buildings, consists of at least ten private rooms or apartments, and is 75 percent occupied by senior citizens. Other units may be occupied by disabled persons without respect to age. A qualified organization which is a senior citizen group home shall be controlled by a resident council which has at least five members selected in a democratic manner by the residents.

“*Senior citizen housing project*” means a facility of at least ten residential units acquired or constructed by a governmental entity or a charitable organization to provide housing to senior citizens. A qualified organization which is a senior citizen housing project shall be controlled by a resident council which consists of at least five members selected in a democratic manner by the residents.

“*Senior citizen organization*” means a senior citizen center, a senior citizen group home or a senior citizen housing project, as defined in these rules.

ITEM 2. Amend rule 481—103.2(10A,99B) as follows:

**481—103.2(10A,99B) License.**

**103.2(1) License required—exception.** A license is required in order to conduct a bingo occasion unless all of the following requirements are met:

a. Participants in the bingo occasion are not charged to enter the premises where bingo is conducted.

b. Participants in the bingo occasion are not charged to play.

## INSPECTIONS AND APPEALS DEPARTMENT[481](cont'd)

c. Any prize awarded at the bingo occasion is donated.

d. The bingo occasion is conducted as an activity and not for fundraising purposes.

**103.2(2) Issuance.** Licenses are issued for two years or 14 days. Licenses issued for 14 days are called limited licenses. Under a 14-day license, a bingo occasion may be conducted only once per each 7 consecutive calendar days during the period specified in the license. Before any organization may conduct bingo ~~games or occasions~~, an application must be approved by the department. The license shall be prominently displayed and is valid only at the gambling location named.

**103.2(3) Location.** Bingo occasions are restricted to the location ~~applied for~~ for which application is made by the qualified organization and approved by the department. A license may be transferred to a different location only after application by the licensee and approval by the department.

**103.2(4) Application.** Application forms are available from the Social and Charitable Gambling Unit, Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319-0083, or by calling (515)281-6848. ~~A short form application for school district boards of directors is available from the department.~~ Applications may also be obtained by visiting <http://dia.iowa.gov/> and clicking on "Social and Charitable Gambling." The Web site has a link to the department's online licensing system and downloadable application forms.

**103.2(5) Senior citizen organizations—exceptions.** Senior citizen organizations, as defined in this chapter, may request the following exceptions:

a. More than 14 bingo occasions to be held in one month.

b. More than 3 bingo occasions to be held in one week.

c. Bingo occasions to last longer than four hours.

**103.2(6) Examples.** ~~Examples~~ The following are examples of various circumstances that affect ~~whether a license is granted are:~~

~~1. a.~~ Qualified organization X applies for and is issued a two-year license to conduct bingo occasions at 313 Cherry Street, Des Moines, Iowa. The license is effective from August 1, ~~1981~~ 2012, to July 31, ~~1983~~ 2014. On October 1, ~~1981~~ 2012, qualified organization Y applies for a 14-day limited license to conduct bingo at the same location. The license is approved and issued because a limited license can be issued for the same location used for a two-year bingo license.

~~2. b.~~ ABC qualified organization applies for and is issued a two-year qualified organization license to conduct bingo at 1002 West 2nd Avenue in Jones Town, Iowa. The license is effective from October 1, ~~1981~~ 2012, to September 30, ~~1983~~ 2014. On November 15, ~~1981~~ 2012, EFG qualified organization applies for a two-year qualified organization license for the same location. A license may be issued to EFG organization for the same location during the same period to conduct any games of chance, games of skill or raffles. EFG organization shall not conduct bingo at the location.

~~3. c.~~ Hometown ~~community school district~~ Community School applies for and is issued a two-year qualified organization license to conduct games of skill, games of chance and raffles at the grade school building. The license is effective from September 1, ~~1981~~ 2012, to August 31, ~~1983~~ 2014. During the time that the Hometown ~~school~~ Community School license is in effect, the school-sponsored pep club applies for a 14-day limited license to conduct games of skill at the grade school building. The school-sponsored pep club may be issued a limited license for the same location during the same time. Under this example, the school-sponsored pep club would not be required to obtain a separate license, because school-affiliated organizations may operate separate events under a ~~school district's~~ school's two-year license.

This rule is intended to implement Iowa Code section 99B.7.

ITEM 3. Amend rule 481—103.3(99B) as follows:

**481—103.3(99B) Bingo occasion.** A qualified organization may conduct only 3 bingo occasions per week, but not more than 14 occasions per month, under a two-year qualified organization license. A week starts on Sunday and ends on Saturday. An occasion begins when the first ball is called and shall end no more than four hours later.

~~103.3(1) No admission fee may be charged. However, a person may be required to purchase one game for \$1 or less to enter the room where bingo is being played.~~

## INSPECTIONS AND APPEALS DEPARTMENT[481](cont'd)

~~103.3(2)~~ **103.3(1)** *Receipts.* At the end of each occasion, the person conducting the games shall announce both the gross receipts and the use to which the net receipts will be dedicated and distributed.

~~103.3(3)~~ Senior citizen organizations named and defined in this subrule may request the following exceptions:

- ~~More than 14 occasions may be held in one month.~~
- ~~More than three occasions may be held in one week.~~
- ~~Occasions may last longer than four hours.~~

~~a.~~ A senior citizen is a person who is 60 years of age or older.

~~b.~~ A senior citizen center is a facility which maintains a contract with the local area agency on aging. It is a multipurpose or activity center, provides a broad range of services designed for senior citizens and is open to all senior citizens without financial restrictions. A qualified organization which is a senior citizen center shall be controlled by the senior citizens served by the center.

~~c.~~ A senior citizen housing project is a facility of at least ten residential units acquired or constructed by a governmental entity or a charitable organization to provide housing to senior citizens. A qualified organization which is a senior citizen housing project shall be controlled by a resident council which consists of at least five members selected in a democratic manner by the residents.

~~d.~~ A senior citizen group home is a facility built or acquired by a governmental entity or a charitable organization. It must be exempt under Section 501(c) of the Internal Revenue Code, have one or more buildings, consist of at least ten private rooms or apartments, and be 75 percent occupied by senior citizens. Other units may be occupied by handicapped persons without respect to age. A qualified organization which is a senior citizen group home shall be controlled by a residents council which has at least five members selected in a democratic manner by the residents.

~~e.~~ **103.3(2)** *Senior citizen organization licensure exception requirements.* To conduct bingo occasions under the exceptions allowed to senior citizen organizations subrule 103.2(5), a qualified senior citizen organization must satisfy the department that it qualifies for the exception. The organization must:

(1) ~~a.~~ Be recognized as a senior citizens' citizen center, a senior citizens' citizen housing project, or a senior citizens' citizen group home;

(2) ~~b.~~ Conduct bingo occasions for at least one month within the limitations on hours and number of occasions required by this rule and Iowa Code section 99B.7(1) "c" prior to requesting the exception;

(3) ~~c.~~ Submit, upon request, records of daily activities referred to in paragraphs "~~f~~" and "~~g~~" 103.3(3) "~~a~~" and "~~b~~"; and

(4) ~~d.~~ Verify that the majority of patrons at the organization's bingo occasions also participate in other activities of the senior citizens' citizen center or are residents of the senior citizen housing project or group home.

**103.3(3)** *Senior citizen organization record requirements.*

~~f.~~ ~~a.~~ A qualified organization which is a senior citizens' citizen center shall maintain, for each bingo occasion conducted, a record showing:

(1) The total number of players; and

(2) A list of all senior citizen players who participate in activities of the senior citizens' citizen center other than bingo, including specific activities and dates of participation.

~~g.~~ ~~b.~~ A qualified organization which is a senior citizens' citizen housing project or group home shall maintain, for each bingo occasion conducted, a record showing:

(1) The total number of players; and

(2) A list of all players who are residents of the housing project or group home.

~~h.~~ ~~c.~~ An organization qualifying for the exception shall review its daily records of participation on a monthly basis. If the majority of the patrons during the previous calendar month do not meet the participation or residence requirement, the organization shall no longer qualify for the exception.

~~i.~~ **103.3(4)** *When a senior citizen organization no longer qualifies for licensure exceptions.* A senior citizen organization which no longer qualifies for the exception licensure exceptions shall adhere to the limits on hours and number of occasions required of other organizations until it can reestablish eligibility

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for the exception. Within seven days after becoming aware of its disqualification, the organization shall notify the department in writing that it no longer qualifies for the exception licensure exceptions.

~~103.3(4) Bingo exceptions. An organization that is exempt from federal income taxes under Section 501(c)(3), 501(c)(4), 501(c)(5), 501(c)(6), 501(c)(7), 501(c)(8), 501(c)(10), or 501(c)(19) of the Internal Revenue Code as defined in Iowa Code section 422.3 shall be authorized to conduct a bingo occasion without a license as otherwise required by this chapter if all of the following requirements are met:~~

~~a. Participants in the bingo occasion are not charged to enter the premises where bingo is conducted.~~

~~b. Participants in the bingo occasion are not charged to play.~~

~~c. Any prize awarded at the bingo occasion shall be donated.~~

~~d. The bingo occasion is conducted as an activity and not for fundraising purposes.~~

This rule is intended to implement Iowa Code section 99B.7(1) "c."

ITEM 4. Amend rule 481—103.4(99B) as follows:

**481—103.4(99B) Game of bingo.** Each game shall meet all of the elements requirements of the definition of "bingo" in Iowa Code section 99B.1(4)(5) to be a legal game of bingo. Games ordinarily considered bingo may be played.

**103.4(1)** A fair and legal game shall meet at least all of the following criteria:

~~a. No player may be required to buy a packet or to play one game in order to play another game;~~  
Concealed numbers on a playing face are not allowed.

~~b. The game requires an announcer or caller;~~

~~c. Numbers shall be announced so all players can hear clearly;~~

~~d. A free space is or spaces are allowed;~~

~~e. The game proceeds as the caller selects and announces the numbers. If a caller miscalls a number or misreads a ball, only the number on the ball may be used. Miscalled numbers are invalid;~~

~~f. House rules may require that a player have the last number called for a bingo. If not posted in the house rules, the player is not required to have the last number called.~~

~~g. Each game ends when it is determined that a player has covered the announced pattern of spaces. The caller or another worker shall verify the numbers on winning cards. The caller checks for additional bingos and officially closes the game.~~

~~h. Wild numbers are allowed, but must be chosen using a random selection method.~~

~~103.4(2) Activities on the following list are not allowed:~~

~~a. Video bingo and games of chance such as barnyard bingo;~~

~~b. Free numbers. A free space may be given;~~

~~c. Concealed numbers on a playing face; or~~

~~d. Rescinded IAB 9/29/04, effective 11/3/04.~~

**103.4(3) 103.4(2)** Any player may request that all numbers drawn and all numbers not drawn be verified when the winning card or cards are verified. Numbers shall be verified in the presence of the member in charge and the caller. The player who requested verification may observe the count.

**103.4(4) 103.4(3)** The cost to play each game shall not exceed \$1 \$5. Cards or games may be sold only within the premises of the bingo occasion. The cost for each packet, playing face, or tear sheet shall be the same for each participant, i.e., the cost for an opportunity to play shall be equal. Players may pay for games with cash or, at the option of the licensee, checks.

~~a. All cards or games shall be assigned a price.~~

~~b. The price shall be posted. Cards may be sold only for the posted price.~~

~~c. Rescinded IAB 5/1/91, effective 6/5/91.~~

~~d. Free games shall not be given. Free games include gift cards redeemable for games. This paragraph does not prohibit giving free concession items such as food, beverages or daubers.~~

~~e. Bingo games allowing for a trade-in of a bingo card during a bingo game for not more than fifty cents per trade-in may be allowed.~~

**103.4(5) 103.4(4)** Cards for each category shall be distinctly marked. Each shall be easy to distinguish from all others.

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- a. Bingo games or cards may be printed on only one side.
  - b. In each game, the bingo operator must ensure that duplicate playing faces are not sold.
- This rule is intended to implement Iowa Code sections 99B.1(5), 99B.3(1) and 99B.7(1).

ITEM 5. Amend subrule 103.5(3) as follows:

**103.5(3)** The following information shall be correctly posted before the beginning of each bingo occasion and shall not be changed after the bingo occasion begins:

- a. Description of each game to be played;
- b. Price of each game;
- c. Prize for each game or method for determining the prize for each game; and
- d. Jackpot rules, if any.

EXAMPLE: Single bingo \$1 per game, \$50 payout.

ITEM 6. Amend rule ~~481—103.5(99B)~~, implementation sentence, as follows:

This rule is intended to implement Iowa Code section ~~99B.1(20)~~ 99B.1(24).

ITEM 7. Amend subrule **103.6(1)**, Note, as follows:

NOTE: Prizes of more than \$600 require the deduction of 5 percent withholding taxes, ~~plus any applicable local option or school taxes, for the state of Iowa.~~ See ~~103.6(6)~~, paragraph 103.6(5) "g."

ITEM 8. Rescind subrule **103.6(2)**.

ITEM 9. Renumber subrules **103.6(3)** to **103.6(6)** as **103.6(2)** to **103.6(5)**.

ITEM 10. Amend renumbered subrule 103.6(2) as follows:

**103.6(2)** Prizes awarded in games with more than one winner shall be shared equally. It is permissible to round ~~to the nearest dollar~~ up or down, provided doing so does not exceed the maximum payout for that particular game.

Examples of prizes awarded in games with more than one winner:

1. Two winners with a total of three bingos: Player 1 has two bingos in separate squares, and Player 2 has one bingo in one square. Player 1 receives 2/3 of the prize, and Player 2 receives 1/3 of the prize.

2. Multiple winners equally splitting a prize with rounding to the nearest dollar: Six players all win the single \$100 prize. The appropriate payout is \$16.66 each, but rounding to the nearest dollar (\$17) for each winner would result in a payout of \$102, in violation of the maximum payout for a nonjackpot bingo game.

ITEM 11. Amend renumbered subrule 103.6(3) as follows:

**103.6(3)** ~~Merchandise such as scholarships, airline tickets and other similar items awarded as prizes shall not be converted to cash by the donor or provider. Winning lottery tickets or shares awarded as prizes may be converted to cash pursuant to lottery rules and statutes. An animal shall not be awarded as a prize for persons participating in a game or fair event.~~

ITEM 12. Amend renumbered paragraph **103.6(5)** "g" as follows:

g. Cash prizes over \$600 require the deduction of 5 percent withholding tax, ~~plus any applicable local option or school tax.~~ This tax is to be withheld by the organization conducting the game. The amount deducted shall be remitted to the Iowa department of revenue on behalf of the prize winner.

ITEM 13. Amend subrule 103.7(4) as follows:

**103.7(4)** ~~Persons conducting bingo and paid~~ Paid workers shall not play during an a bingo occasion in which they work. Persons conducting bingo shall not play during any bingo occasion conducted by the qualified organization for which they work. A person conducting bingo includes: persons overseeing the bingo games, persons controlling and accounting for the bingo occasion's net receipts, persons directing the work of bingo workers, and any persons having management or oversight responsibilities.

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ITEM 14. Amend rule 481—103.9(99B) as follows:

**481—103.9(99B) Location.** Bingo occasions may be conducted on premises either owned or leased by the qualified organization.

1. All buildings in which bingo ~~is~~ occasions are conducted must meet state or local standards for occupancy and safety.

2. The name of the licensee shall be posted on the sign of each building or location where bingo occasions are held.

3. A name which is closely associated with the licensee and which clearly identifies the lawful uses of the proceeds may also be used. Generic-type names, such as “Nelson Street Bingo” or “Uncle Bob’s Bingo,” shall not be used.

~~4.~~ 4. The rent shall not be related to nor be a percentage of the receipts.

~~2.~~ 5. The licensee may terminate any lease or rental agreement without paying a penalty or forfeiting money or a deposit. Damage deposit money is excepted.

~~3.~~ 6. Alcoholic beverages may be served in a bingo location if that location possesses a beer permit or liquor license.

~~4.~~ 7. The lessor of the building shall not participate in conducting bingo.

~~5.~~ 8. During a bingo occasion, the lessor shall not sell any beverage, food or any other merchandise in the ~~area~~ room in which bingo is played.

~~6.~~ 9. Only one licensed organization may hold bingo occasions at a location. However, the following exception applies: A 14-day limited licensee may hold bingo occasions at the same location.

This rule is intended to implement Iowa Code section 99B.7.

ITEM 15. Rescind paragraph **103.13(2)“b”** and adopt the following **new** paragraph in lieu thereof:

*b.* Daily Bingo Inventory Usage (Table C). This form must show:

(1) For each loose sheet of bingo paper sold, the color, paper size, game(s) played, daily count start, purchases, voids, number of sheets sold, and daily count end.

(2) If packets are purchased preassembled, the color of the top sheet, paper size, daily count start, purchases, voids, number of packets sold, and daily count end.

(3) If packets are assembled by the organization, the color of the top sheet, paper size, daily count start, purchases, voids, number of packets sold, and daily count end. Also, each loose sheet of bingo paper used to assemble the packet must be accounted for by decreasing the applicable loose sheet bingo paper inventory under subparagraph 103.13(2)“b”(1) at the time of assembly.

ITEM 16. Rescind paragraph **103.13(2)“c”** and adopt the following **new** paragraph in lieu thereof:

*c.* Records shall be maintained for three years for review by the department.

ITEM 17. Amend subrule **103.14(1)**, Exception, as follows:

EXCEPTION: Limited funds of the organization may be deposited to pay initial or unexpected emergency expenses. The amount of nonbingo funds deposited in the bingo account shall not exceed ~~\$750~~ **\$7500**. Records shall be kept which identify this money.

ITEM 18. Amend paragraph **103.14(3)“c”** as follows:

*c.* To transfer proceeds from a bingo checking account to a bingo savings account pending disbursement for a qualified purpose.

ITEM 19. Amend rule 481—103.15(10A,99B) as follows:

**481—103.15(10A,99B) Bingo savings account and bingo change fund.**

**103.15(1) *Bingo savings account.*** When an organization places bingo receipts in any savings account, bingo funds shall be separate and recognizable from all other funds of the same organization. All funds in a bingo savings account shall be transferred into that account from a bingo checking account. Funds shall be transferred back to the bingo checking account before they are spent.

**103.15(2) *Bingo change fund.*** Moneys used as a change fund, if necessary, should be provided by the organization for each bingo occasion. The change fund can increase or decrease as appropriate for

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the anticipated participation in the bingo occasion. The balance of the change fund at the end of the fiscal year must be dedicated by July 30 and reported as required by rule 481—103.16(10A,99B). The fiscal year begins July 1 and ends June 30 of the following year. The change fund should be maintained in a secure manner.

This rule is intended to implement Iowa Code sections section 99B.2(3) and 99B.7(1)“p.”.

ITEM 20. Amend rule 481—103.16(10A,99B) as follows:

**481—103.16(10A,99B) Reports.**

**103.16(1)** Each organization which conducts bingo shall submit a report of all transactions for each calendar quarter fiscal year. The quarterly report form shall be provided by the department. The fiscal year begins July 1 and ends June 30 of the following year.

1. ~~The first quarter is from January 1 to March 31;~~
2. ~~The second quarter is from April 1 to June 30;~~
3. ~~The third quarter is from July 1 to September 30;~~
4. ~~The fourth quarter is from October 1 to December 31.~~

**103.16(2)** Annual gambling reports may be completed online by visiting <http://dia.iowa.gov/> and clicking on “Social and Charitable Gambling.” A paper version of the annual gambling report may be obtained from the Social and Charitable Gambling Unit, Iowa Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319-0083; or by telephone (515)281-6840.

**103.16(3)** ~~Reports written on forms provided by the department are due 30 days after the end of the quarter fiscal year. When the due date is on Saturday, Sunday, or a legal holiday, the report is due the next business day. 481—subrule 100.8(2) contains further specific information.~~

**103.16(4)** The department may require a qualified organization to submit records of specific occasions with the quarterly annual report.

**103.16(5)** All transactions of any school group or parent support group using a district schoolwide license shall be on the quarterly annual report.

This rule is intended to implement Iowa Code sections 99B.2(4) and 99B.16.

ITEM 21. Amend rule 481—103.18(10A,99B) as follows:

**481—103.18(10A,99B) Penalties.** Failure to comply with the law and these rules may cause a gambling license to be denied, suspended or revoked. Criminal violations are governed by Iowa Code sections 99B.2(2), 99B.2(4), 99B.2(5), 99B.7(6), 99B.9(4), 99B.15, and 99B.16.

ITEM 22. Adopt the following new rule 481—103.19(99B):

**481—103.19(99B) Electronic bingo.**

**103.19(1)** A qualified organization may lease electronic bingo equipment from a manufacturer or distributor licensed by the department. For purposes of this rule, “electronic bingo equipment” means an electronic device that aids in the use of a bingo card during a bingo game.

**103.19(2)** Electronic bingo equipment shall be used only by disabled individuals.

*a.* For purposes of this rule, “disability” means, with respect to an individual, a physical or mental impairment that substantially limits one or more of the major life activities of the individual, a record of physical or mental impairment that substantially limits one or more of the major life activities of the individual, or being regarded as an individual with a physical or mental impairment that substantially limits one or more of the major life activities of the individual.

*b.* “Disability” does not include any of the following:

- (1) Homosexuality or bisexuality.
- (2) Transvestitism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, or other sexual behavior disorders.
- (3) Compulsive gambling, kleptomania, or pyromania.
- (4) Psychoactive substance abuse disorders resulting from current illegal use of drugs.

**103.19(3)** Electronic bingo devices shall be used in the following manner:



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Preassembled Bingo Packets								
Color on Top	Paper Size	Game(s) Played	Daily Count Start	(+) Purchases	(-) Voids	(-) # Sold	(+/- Over/ Under)	Daily Count End

  

Bingo Packets Assembled In-House								
<i>When you assemble these packets, you must also decrease the applicable loose sheet bingo paper inventory above using the column Voids/Packet Assembly.</i>								
Color on Top	Paper Size	Game(s) Played	Daily Count Start	(+) Assembled	(-) Voids	(-) # Sold	(+/- Over/ Under)	Daily Count End

ITEM 24. Rescind and reserve **Table D** at the end of **481—Chapter 103**.

**ARC 1859C**

**INSPECTIONS AND APPEALS DEPARTMENT[481]**

**Notice of Intended Action**

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code section 99B.13, the Department of Inspections and Appeals hereby gives Notice of Intended Action to amend Chapter 104, “General Provisions for All Amusement Devices,” and Chapter 105, “Registered Amusement Devices,” Iowa Administrative Code.

The proposed amendments are technical changes to make the rules consistent with current statutory language, including changing prize limits from \$5 to \$50 and updating penalties. These amendments also eliminate the requirement for an annual report, which is not required by the Iowa Code, and change instances of “electrical and mechanical” to “electrical or mechanical” to make the terminology consistent.

The Department does not believe that the proposed amendments impose any financial hardship on any regulated entity, body, or individual.

Any interested person may make written suggestions or comments on the proposed amendments on or before February 24, 2015. Such written materials should be addressed to the Director, Department of Inspections and Appeals, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0083; faxed to (515)242-6863; or e-mailed to [david.werning@dia.iowa.gov](mailto:david.werning@dia.iowa.gov).

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

These amendments are intended to implement Iowa Code section 99B.13.

The following amendments are proposed.

ITEM 1. Amend rule **481—104.1(10A,99B)**, definitions of “Amusement device” and “Prize,” as follows:

“*Amusement device*” means an electrical and or mechanical device possessed and used in accordance with Iowa Code section 99B.10. An amusement device is not a game of skill or chance as defined in Iowa Code section 99B.1, a gambling device, or a device that plays poker, blackjack, or keno. Roulette

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wheels, slot machines, and other devices specified in Iowa Code section 725.9 as gambling devices are not amusement devices.

“Prize” means a ticket(s) or token(s) that is dispensed by an amusement device as an award for use and that is worth up to \$5 \$50 in merchandise.

ITEM 2. Amend rule 481—104.2(99B) as follows:

**481—104.2(99B) Device restrictions.** An amusement device, except for an amusement device which shall be registered pursuant to ~~2007 Iowa Acts, Senate File 510, section 2(1)“f.”~~ Iowa Code section 99B.10(1)“f.” may be owned, possessed, or offered for use by any person at any location. All amusement devices shall comply with all of the following:

1. to 3. No change.
4. The device may be designed or adapted to award merchandise or tickets or tokens redeemable for merchandise not to exceed a retail value of more than \$5 \$50 per play or game.
5. to 9. No change.

ITEM 3. Amend subrule 104.4(1) as follows:

**104.4(1)** Merchandise with a retail value of no more than \$5 \$50 per transaction may be awarded.

ITEM 4. Amend paragraph **104.4(3)“c”** as follows:

c. Tickets or tokens may be redeemed for merchandise if the retail value of the merchandise does not exceed \$5 \$50 per transaction.

ITEM 5. Amend paragraph **104.4(3)“d”** as follows:

d. Tickets or tokens may be accumulated to purchase merchandise not greater than \$5 \$50 per transaction in retail value.

ITEM 6. Amend paragraph **104.4(3)“e”** as follows:

e. Tickets or tokens may be redeemed for food and beverage if the combined value of the food and beverage does not exceed \$5 \$50 per transaction.

ITEM 7. Amend rule 481—104.5(99B) as follows:

**481—104.5(99B) Registration.** An amusement device must be registered if it meets the registration requirements set forth in ~~2007 Iowa Acts, Senate File 510, section 2(1)“f.”~~ Iowa Code section 99B.10(1)“f.” Additional licenses or registrations under Iowa Code chapter 99B are not required.

ITEM 8. Amend the following definitions in rule **481—105.1(10A,99B)**:

“Amusement device registration availability” means a registration position which becomes available;

1. ~~when~~ When a distributor or owner:
  - ~~is~~ Is going out of business,
  - ~~fails~~ Fails to renew a registration by the renewal due date, or
  - ~~has~~ Has an electrical ~~and~~ or mechanical device seized by law enforcement and the seizure is upheld through a forfeiture hearing; or
2. ~~when~~ When any other legal order has been issued which pertains to violations of Iowa Code chapter 99B, 123, or 123A.

“Distributor” means, for the purposes of Iowa Code sections 99B.10, 99B.10A, and 99B.10B, any person who owns electrical ~~and~~ or mechanical amusement devices that are registered as provided in Iowa Code section 99B.10(4) and that are offered for use at more than a single location or premises.

“Manufacturer” means, for the purposes of Iowa Code sections 99B.10, 99B.10A, and 99B.10B, any person engaged in business in this state that originally produces an electrical ~~and~~ or mechanical amusement device required to be registered under Iowa Code section 99B.10(4) or produces individual components for use in such a device.

“Manufacturer’s representative” means, for the purposes of Iowa Code sections 99B.10, 99B.10A, and 99B.10B, any person engaged in business in this state that promotes or sells electrical ~~and~~ or mechanical amusement devices required to be registered under Iowa Code section 99B.10(4) or

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promotes or sells individual components for use in such devices on behalf of a manufacturer of such devices or components. An agreement between the manufacturer's representative and the manufacturer may be in place, but is not necessary.

"*Owner*" means, for the purposes of Iowa Code sections 99B.10A and 99B.10B, any person that owns an operable ~~electrical and mechanical amusement device required to be registered under 2007 Iowa Acts, Senate File 510, section 2(1) "f."~~ registered electrical or mechanical amusement device. An owner that operates for profit is allowed up to two machines at a single location. An owner that meets the requirements of Iowa Code section 99B.7(1) "*m*" is allowed up to four machines at a single location.

"*Prize*" means a ticket(s) or token(s) that is dispensed by a registered amusement device as an award for use and that is worth up to ~~\$5~~ \$50 in merchandise.

"*Registered amusement device*" means an electrical ~~and~~ or mechanical amusement device in operation subject to registration by the department pursuant to ~~2007 Iowa Acts, Senate File 510, section 2(1) "f."~~ Iowa Code section 99B.10(1) "f" and includes both the external and internal components. Any change in the registered amusement device, including the external and internal components of the registered amusement device, constitutes a new registered amusement device for which registration by the owner is required. The word "change" as used herein does not include repairs or replacement of parts that do not change or alter the operation of the device as originally registered by the owner. If the repairs or replacement parts alter the operation of the device as originally registered, then the device must be reregistered before it is made available for operation.

"*Security mechanism*" means an appliance which prevents a person from operating an electrical ~~and~~ or mechanical amusement device by not allowing the acceptance of money until action is taken by the owner or owner's designee to allow the person to operate the device.

ITEM 9. Amend subrule 105.2(1) as follows:

**105.2(1)** The number of electrical ~~and~~ or mechanical amusement devices registered by the department shall not exceed 6,928, the total number of devices registered by the department as of April 28, 2004.

ITEM 10. Amend subrule 105.2(2) as follows:

**105.2(2)** The department shall not initially register an electrical ~~and~~ or mechanical amusement device that is required to be registered ~~pursuant to 2007 Iowa Acts, Senate File 510, section 2(1) "f,"~~ to an owner for a location for which only a Class "B" or a Class "C" beer permit has been issued pursuant to Iowa Code chapter 123 on or after April 28, 2004.

ITEM 11. Amend subrule **105.2(3)**, Example 1, as follows:

EXAMPLE 1: An electrical ~~and~~ or mechanical amusement device is registered with the department and is located at a convenience store that has a Class "C" beer permit.

1. If the amusement device needs to be repaired, the owner may repair it without losing the registration position or buying a new registration tag. A repair constitutes any changes to a device as long as the type of game and the number of devices in a location is not changed.

2. If the amusement device needs to be replaced because it is defective, it must be replaced with the same game in order to keep the registration position.

3. The amusement device cannot be moved from one location to another under a Class "B" or a Class "C" beer permit, even if the number of registered devices at a location does not change.

4. If a location with a Class "B" or a Class "C" beer permit had only one amusement device registered on April 28, 2004, the maximum number of devices allowed at that location shall be one.

ITEM 12. Amend subrule 105.2(6) as follows:

**105.2(6)** The registered amusement device shall be registered in accordance with these rules and shall comply with all of the requirements of Iowa Code section 99B.10 ~~as amended by 2007 Iowa Acts, Senate File 510, section 2,~~ this chapter, 481—Chapter 104, and any other applicable laws or rules.

ITEM 13. Amend subrule 105.2(8) as follows:

**105.2(8)** If the department, or the department's designee, determines that a registered amusement device is not in compliance with the requirements of this chapter or any other provision of Iowa law,

## INSPECTIONS AND APPEALS DEPARTMENT[481](cont'd)

the device may be subject to seizure, and any registration associated with the device, including the registration of the manufacturer, manufacturer's representative, distributor, or owner, may be revoked or suspended.

ITEM 14. Amend paragraph **105.2(10)“c”** as follows:

c. A person may request to be added to the waiting list by calling or writing the department at Department of Inspections and Appeals, Social and Charitable ~~Gaming~~ Gambling Unit, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0083; (515)281-6848 6840.

ITEM 15. Amend subrule **105.2(11)**, Example 3, as follows:

EXAMPLE 3: An amusement device is located in a bar that has the appropriate liquor license. On April 28, 2004, this location had only one amusement device. An additional amusement device may be added to this location.

1. If the amusement device needs to be repaired, it may be repaired without the loss of the device's registration position.

2. If the amusement device is defective and needs to be replaced, it can be replaced with the same game under the original registration without the incurring of additional charges.

3. If the amusement device is replaced with a new amusement device that has a different game, before the device is moved to the premises, the process for initial registration shall be followed pursuant to this chapter and Iowa Code chapter 99B ~~as amended by 2007 Iowa Acts, Senate File 510~~. The replacement of the amusement device creates an amusement device registration availability, and the position will be offered to the next person on the waiting list pursuant to this rule.

ITEM 16. Amend subrule 105.2(14) as follows:

**105.2(14)** The registration application for all new amusement devices must be accompanied by the receipt, invoice, or bill of sale containing the seller's name, company name, and address, transaction date, ~~and motherboard serial number, and name of the game~~.

ITEM 17. Amend subrule 105.5(1) as follows:

**105.5(1)** Each person that registers with the department shall pay an annual registration fee as follows:

a. For a manufacturer or manufacturer's representative, \$2,500, ~~effective upon renewal~~.

b. For a distributor, \$5,000, ~~effective upon renewal~~.

c. For an owner of no more than two ~~electrical and mechanical amusement devices registered as provided in Iowa Code section 99B.10(4)~~ registered amusement devices at a single location or premises that is not an organization that meets the requirements of Iowa Code section 99B.7(1) "m," \$2,500. ~~The registration fee shall be effective immediately.~~

ITEM 18. Amend subrule 105.5(2) as follows:

**105.5(2)** Registration forms are available from the Department of Inspections and Appeals, Social and Charitable ~~Gaming~~ Gambling Unit, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0083, or by telephone at (515)281-6848 6840.

ITEM 19. Amend subrule 105.6(5), introductory paragraph, as follows:

**105.6(5)** Each electrical ~~and~~ or mechanical amusement device required to be registered pursuant to Iowa Code section 99B.10 ~~as amended by 2007 Iowa Acts, Senate File 510, section 2~~, shall include on the amusement device a counting mechanism.

ITEM 20. Amend subrule 105.6(6) as follows:

**105.6(6)** Each electrical ~~and~~ or mechanical device required to be registered pursuant to Iowa Code section 99B.10 at a location for which only a Class "B" or a Class "C" beer permit has been issued pursuant to Iowa Code chapter 123 shall include on the device a security mechanism that prevents the device from being operated by a person until action is taken by the owner or owner's designee to allow the person to operate the device.

## INSPECTIONS AND APPEALS DEPARTMENT[481](cont'd)

ITEM 21. Amend rule 481—105.7(99B) as follows:

**481—105.7(99B) Violations.** Failure to comply with the limitations imposed on the use and possession of registered amusement devices in Iowa Code chapter 99B may result in the following:

1. Conviction for illegal gambling may result under the provisions of Iowa Code chapter 725.
2. Suspension or revocation of a wine or beer permit or of a liquor license may result under the provisions of Iowa Code chapter 123.
3. Property may be forfeited under the provisions of Iowa Code chapter 809.
4. Violation of any laws pertaining to gambling may result in suspension or revocation of a registration as prescribed in Iowa Code section 99B.10B or 99B.10C.
5. ~~The department may revoke a registration or refuse to issue a registration for cause.~~
6. ~~A registration may be revoked if the registrant or agent of the registrant violates or permits a violation of Iowa Code chapter 99B.~~
7. 5. A Unless otherwise prescribed in Iowa Code section 99B.10B or 99B.10C, a registration may be revoked upon the violation of any rule adopted by the department under this chapter gambling law, rule or regulation including Iowa Code chapter 99B, 481—Chapter 104, or this chapter.
8. 6. A registration may be revoked if the registrant or an agent of the registrant engages in any act or omission that would have permitted the department to refuse to issue a registration under Iowa Code chapter 99B.
9. ~~The registration of a registered amusement device may be revoked upon evidence of noncompliance with any laws or rules governing such devices.~~
10. 7. A person under the age of 21 shall not participate in the operation of an electrical and or mechanical amusement device. A person who violates the provisions of Iowa Code section 99B.10C(1) commits a scheduled violation under Iowa Code section 805.8C(4).
11. ~~A person owning or leasing an electrical and mechanical amusement device who knowingly allows a person under the age of 21 to participate in the operation of an electrical and mechanical amusement device or a person who knowingly participates in the operation of an electrical and mechanical amusement device with a person under the age of 21 is guilty of a simple misdemeanor. The period for revocation or refusal to issue or both shall not exceed two years.~~

ITEM 22. Amend subrule 105.9(1) as follows:

**105.9(1)** The department may revoke, suspend, or deny a registration issued pursuant to Iowa Code section 99B.10A ~~as amended by 2007 Iowa Acts, Senate File 510, sections 3 and 4,~~ for cause following 30 days' written notice delivered by certified mail, return receipt requested, or by personal service and an opportunity for hearing pursuant to 481—105.8(10A,99B).

ITEM 23. Rescind subrules **105.9(6)** and **105.9(9)**.

ITEM 24. Renumber subrules **105.9(7)**, **105.9(8)** and **105.9(10)** as **105.9(6)**, **105.9(7)** and **105.9(8)**.

ITEM 25. Amend rule 481—105.10(99B) as follows:

**481—105.10(99B) Reports Annual verification of device location.** Each distributor, or owner, ~~or~~ qualified organization that owns amusement devices shall annually submit a report of the volume of business activity for each device by location and a cumulative total for all locations, with the annual distributor or owner registration, verify all device locations.

**105.10(1)** The report forms are available from the Department of Inspections and Appeals, Social and Charitable Gaming Unit, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0083. ~~The report form shall contain all information required by the department of inspections and appeals to accurately determine the volume of business activity for each device. Information collected by the department as part of the reporting process shall be considered confidential pursuant to 481—paragraph 5.13(1)“c.”~~

**105.10(2)** ~~Distributors, owners, and qualified organizations may also complete the report form electronically at the following Web site: <https://dia.iowa.gov/gmms>.~~

## INSPECTIONS AND APPEALS DEPARTMENT[481](cont'd)

~~105.10(3)~~ The reports are due July 31. When the due date falls on Saturday, Sunday or a legal holiday, the report is due on the next business day. The reporting period begins July 1 and ends the following June 30.

~~105.10(4)~~ Records pertaining to the volume of business of the amusement device shall be maintained for a period of five years and shall be made available upon request to representatives of the department or the department's designee.

ITEM 26. Amend paragraph **105.11(1)“a”** as follows:

a. The applicant and responsible person's history of compliance with Iowa Code sections 99B.10, 99B.10A and 99B.10B as amended by 2007 Iowa Acts, Senate File 510, and with other gambling laws and rules.

ITEM 27. Amend rule 481—105.12(10A,99B) as follows:

**481—105.12(10A,99B) Suspension or revocation of a registration.** If a registrant or the person responsible for the amusement device violates the law, including Iowa Code chapter 99B as amended by 2007 Iowa Acts, Senate File 510, 481—Chapter 104, this chapter, or any other laws or administrative rules, the registrant's registration may be suspended or revoked.

Examples of violations of law or rules include: awarding cash prizes, redeeming tokens or tickets for more than \$5 \$50 of merchandise in a transaction, allowing a person less younger than 21 years of age to use a registered amusement device, moving an amusement device without updating its registration to the new location, allowing an amusement device in a location without the appropriate liquor control license, and failing to file an annual ~~report~~ verification of device location.

ITEM 28. Amend **481—Chapter 105**, implementation sentence, as follows:

These rules are intended to implement Iowa Code ~~chapter 99B~~ as amended by 2007 Iowa Acts, Senate File 510 sections 99B.10, 99B.10A, 99B.10B, and 99B.10C.

**ARC 1855C**

## IOWA FINANCE AUTHORITY[265]

### Notice of Intended Action

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code sections 17A.3(1)“b,” 16.5(1)“r,” and 16.5(1)“f,” the Iowa Finance Authority proposes to amend Chapter 15, “Purchasing,” Iowa Administrative Code.

The purpose of this amendment is to update the implementation sentence at the end of the chapter.

The Authority does not intend to grant waivers under the provisions of these rules, other than as may be allowed under the Authority's general rules concerning waivers.

The Authority will receive written comments on the proposed amendment until 4:30 p.m. on February 24, 2015. Comments may be addressed to Mark Thompson, Iowa Finance Authority, 2015 Grand Avenue, Des Moines, Iowa 50312. Comments may also be faxed to Mark Thompson at (515)725-4901 or e-mailed to [mark.thompson@iowa.gov](mailto:mark.thompson@iowa.gov).

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

This amendment is intended to implement Iowa Code section 16.5(1)“f.”

The following amendment is proposed.

Amend **265—Chapter 15**, implementation sentence, as follows:

These rules are intended to implement Iowa Code section ~~16.5~~ as amended by 2007 Iowa Acts, Senate File 431, section 19. 16.5(1)“f.”

**ARC 1856C****IOWA FINANCE AUTHORITY[265]****Notice of Intended Action**

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code sections 17A.3(1)“b,” 16.5(1)“r,” and 16.48, the Iowa Finance Authority proposes to amend Chapter 23, “Transitional Housing Revolving Loan Program,” Iowa Administrative Code.

The purpose of these amendments is to update a cross reference in rule 265—23.1(16) and the implementation sentence at the end of the chapter.

The Authority does not intend to grant waivers under the provisions of these rules, other than as may be allowed under the Authority’s general rules concerning waivers.

The Authority will receive written comments on the proposed amendments until 4:30 p.m. on February 24, 2015. Comments may be addressed to Mark Thompson, Iowa Finance Authority, 2015 Grand Avenue, Des Moines, Iowa 50312. Comments may also be faxed to Mark Thompson at (515)725-4901 or e-mailed to [mark.thompson@iowa.gov](mailto:mark.thompson@iowa.gov).

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

These amendments are intended to implement Iowa Code section 16.48.

The following amendments are proposed.

ITEM 1. Amend rule 265—23.1(16) as follows:

**265—23.1(16) Purpose.** Through its transitional housing revolving loan program (program), the authority seeks to assist in the development of affordable housing for parents who are reuniting with their children while completing or participating in substance abuse treatment. This chapter implements ~~2005 Iowa Acts, House File 825, section 55, which adds Iowa Code section 16.184 to the authority’s enabling statute~~ Iowa Code section 16.48.

ITEM 2. Amend ~~265—Chapter 23~~, implementation sentence, as follows:

These rules are intended to implement Iowa Code section ~~16.5(17) and 2005 Iowa Acts, House File 825, section 55~~ 16.48.

**ARC 1866C****IOWA FINANCE AUTHORITY[265]****Notice of Intended Action**

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code sections 17A.3(1)“b,” 16.5(1)“r,” and 16.131, the Iowa Finance Authority proposes to amend Chapter 26, “Water Pollution Control Works and Drinking Water Facilities Financing,” Iowa Administrative Code.

The purpose of this amendment is to update the implementation sentence at the end of the chapter.

The Authority does not intend to grant waivers under the provisions of these rules, other than as may be allowed under the Authority’s general rules concerning waivers.

## IOWA FINANCE AUTHORITY[265](cont'd)

The Authority will receive written comments on the proposed amendment until 4:30 p.m. on February 24, 2015. Comments may be addressed to Mark Thompson, Iowa Finance Authority, 2015 Grand Avenue, Des Moines, Iowa 50312. Comments may also be faxed to Mark Thompson at (515)725-4901 or e-mailed to [mark.thompson@iowa.gov](mailto:mark.thompson@iowa.gov).

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

This amendment is intended to implement Iowa Code section 16.5(1)“r.”

The following amendment is proposed.

Amend **265—Chapter 26**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections ~~16.5(17)~~ 16.5(1)“r” and 16.133.

**ARC 1865C**

## IOWA FINANCE AUTHORITY[265]

### Notice of Intended Action

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code sections 17A.3(1)“b,” 16.5(1)“r,” and 16.56, the Iowa Finance Authority proposes to amend Chapter 29, “Jump-Start Housing Assistance Program,” Iowa Administrative Code.

The purpose of these amendments is to remove a cross reference and to update the implementation sentence at the end of the chapter.

The Authority does not intend to grant waivers under the provisions of these rules, other than as may be allowed under the Authority’s general rules concerning waivers.

The Authority will receive written comments on the proposed amendments until 4:30 p.m. on February 24, 2015. Comments may be addressed to Mark Thompson, Iowa Finance Authority, 2015 Grand Avenue, Des Moines, Iowa 50312. Comments may also be faxed to Mark Thompson at (515)725-4901 or e-mailed to [mark.thompson@iowa.gov](mailto:mark.thompson@iowa.gov).

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

These amendments are intended to implement Iowa Code sections 16.5(1)“r” and 16.56.

The following amendments are proposed.

ITEM 1. Amend paragraph **29.3(1)“b”** as follows:

*b. Funds made available pursuant to 2009 Iowa Acts, Senate File 376.* The authority shall allocate program funds made available under 2009 Iowa Acts, Senate File 376, section 29, Disaster Damage Housing Assistance Grant Fund [~~creating Iowa Code section 16.186~~], by inviting local government participants to submit an application for funding. The authority shall award program funding made available under this paragraph based upon priority criteria to be specified in the application form including, but not limited to, the following:

(1) and (2) No change.

ITEM 2. Amend **265—Chapter 29**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections 16.5(1)“r,” ~~and~~ 16.40, and 16.56, 2009 Iowa Acts, Senate File 376, section 29, and 2009 Iowa Acts, House File 64, division I.

**ARC 1864C****IOWA FINANCE AUTHORITY[265]****Notice of Intended Action**

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code sections 17A.3(1)“b,” 16.5(1)“r,” and 16.2D, the Iowa Finance Authority proposes to amend Chapter 31, “Council on Homelessness,” Iowa Administrative Code.

The purpose of these amendments is to update a cross reference in subrule 31.1(2) and in the implementation sentence at the end of the chapter.

The Authority does not intend to grant waivers under the provisions of these rules, other than as may be allowed under the Authority’s general rules concerning waivers.

The Authority will receive written comments on the proposed amendments until 4:30 p.m. on February 24, 2015. Comments may be addressed to Mark Thompson, Iowa Finance Authority, 2015 Grand Avenue, Des Moines, Iowa 50312. Comments may also be faxed to Mark Thompson at (515)725-4901 or e-mailed to [mark.thompson@iowa.gov](mailto:mark.thompson@iowa.gov).

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

These amendments are intended to implement Iowa Code sections 16.5(1)“r” and 16.2D.

The following amendments are proposed.

ITEM 1. Amend subrule 31.1(2) as follows:

**31.1(2) Council members and staff.** The powers of the council are vested in and exercised by 38 voting members appointed by the governor in accordance with Iowa Code section ~~16.100A~~ 16.2D. The 26 voting members selected from the general public shall each serve a two-year term. Terms shall be staggered so half of the voting members are appointed in one year and half are appointed in the year thereafter. Initially, the council shall, as soon as all members have been appointed, promptly elect a chairperson and a vice chairperson, both to a term not to exceed two years ending in May. The chairperson and vice chairperson shall not both be either general public members or agency director members. Thereafter, the chairperson and vice chairperson positions shall rotate between agency director members and general public members so that the chairperson and vice chairperson shall not both be either general public members or agency director members at the same time. Staff assistance and administrative support shall be provided by the Iowa finance authority as approved by the executive director.

ITEM 2. Amend **265—Chapter 31**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections 16.5(1)“r” and ~~16.100A~~ 16.2D.

**ARC 1849C****LABOR SERVICES DIVISION[875]****Notice of Intended Action**

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code section 89A.3, the Elevator Safety Board hereby gives Notice of Intended Action to amend Chapter 71, “Administration of the Conveyance Safety Program,” Chapter

## LABOR SERVICES DIVISION[875](cont'd)

72, “Conveyances Installed On or After January 1, 1975,” and Chapter 73, “Conveyances Installed Prior to January 1, 1975,” Iowa Administrative Code.

Iowa Code subsection 89A.13(7) requires that every three years the Elevator Safety Board conduct a comprehensive review of existing rules, regulations, and standards. These amendments stem from that process.

These amendments make technical changes; remove obsolete language; reduce two fees and increase one fee to better reflect actual costs; and amend rules to conform to statutory authority and current practice. The rule for handicapped restricted use elevators that was inadvertently removed from Chapter 72 in 2000 is restored. The inspection schedule for construction elevators is set at a three-month interval to coincide with the inspection schedule recommended by the American Society for Mechanical Engineers.

The purposes of these amendments are to protect the health and safety of the public, make the rules more clear, align the language with statutory authority and current practice, and implement legislative intent.

If requested in accordance with Iowa Code section 17A.4(1)“b” by the close of business on February 24, 2015, a public hearing will be held on February 25, 2015, at 10 a.m. in the Capitol View Room, 1000 East Grand Avenue, Des Moines, Iowa. Interested persons will be given the opportunity to make oral statements and file documents concerning the proposed amendments. The facility for the oral presentations is accessible to and functional for persons with physical disabilities. Persons who have special requirements should call (515)281-5915 in advance to arrange access or other needed services.

Written data, views, or arguments to be considered in adoption shall be submitted no later than February 25, 2015, to Division of Labor Services, 1000 East Grand Avenue, Des Moines, Iowa 50319-0209. Comments may be sent electronically to [kathleen.uehling@iwd.iowa.gov](mailto:kathleen.uehling@iwd.iowa.gov).

No variance procedures are included in this rule making. Applicable variance procedures are set forth in 875—Chapter 66.

After analysis and review of this rule making, no adverse impact on jobs is expected.

These amendments are intended to implement Iowa Code chapter 89A.

The following amendments are proposed.

ITEM 1. Amend subparagraph **71.11(2)“a”(1)** as follows:

(1) Each construction elevator and CPH shall be inspected at intervals not to exceed three months. All other periodic conveyance inspections by state inspectors shall be conducted annually unless the labor commissioner determines resources do not allow annual inspections. If the labor commissioner determines quarterly inspections of construction elevators and CPHs and annual inspections of other state-inspected conveyances are not feasible due to insufficient resources, the labor commissioner shall determine the inspection schedule.

ITEM 2. Amend paragraph **71.11(3)“a”** as follows:

a. The labor commissioner’s designee shall inspect altered conveyances, construction elevators, CPHs, previously dormant conveyances being returned to service, wind tower lifts exempted from ASME A17.1 by rule 875—72.12(89A), relocated conveyances, and new conveyances.

ITEM 3. Rescind and reserve rule **875—71.13(89A)**.

ITEM 4. Amend paragraph **71.16(2)“a”** as follows:

a. ~~Hydraulic elevator: \$100~~ Construction elevator: \$200.

ITEM 5. Reletter paragraphs **71.16(2)“e”** to **“j”** as **71.16(2)“g”** to **“l.”**

ITEM 6. Adopt the following **new** paragraphs **71.16(2)“e”** and **“f”**:

e. Handicapped restricted use elevator: \$100.

f. Other hydraulic elevator: \$100.

## LABOR SERVICES DIVISION[875](cont'd)

ITEM 7. Amend subrule 71.16(4) as follows:

**71.16(4) Alteration permits.**

a. The fee for any elevator alteration permit ~~except a CPH extension~~ shall be \$500 and shall cover the initial print review, alteration permit, and initial inspection.

b. The fee for each CPH extension shall be \$150. The total fee required for all planned CPH extensions shall be submitted with the installation permit application pursuant to subrule 71.5(3).

c. The fee for an alteration permit shall be \$500 if the only alteration is the addition or replacement of an escalator skirt brush.

~~e. d.~~ For all other conveyances, the fees for new installations shall apply to alterations.

ITEM 8. Amend subrule 72.1(8), introductory paragraph, as follows:

**72.1(8)** For installations ~~on or after~~ between July 19, 2012, and January 30, 2014:

ITEM 9. Adopt the following new rule 875—72.27(89A):

**875—72.27(89A) Handicapped restricted use elevators.** All handicapped restricted use elevators must meet ANSI A17.1 (1981), Part V. Additionally, the elevators shall comply with the following limitations:

1. The elevator shall be used only by a maximum of one disabled person and one attendant at a time. Where a disabled person cannot operate the elevator in a manner which will ensure access to all operating controls and safety features, an attendant shall accompany the disabled person.

2. The elevator shall be key-operated and shall not be capable of being called by buttons or switches but may be called by a key operator.

3. Keys to operate the elevator shall be in the control of the disabled person, the attendant or persons in positions of responsibility at the location.

4. A list shall be maintained at the location indicating the persons holding keys for the operation of the elevator.

5. Each landing and the elevator car shall be posted to indicate that the elevator is only for the use of disabled persons.

6. The travel distance of the elevator shall not exceed 50 feet.

ITEM 10. Amend subrule 73.7(10) as follows:

**73.7(10)** All electrical equipment ~~in the machine room~~ pertaining to the elevator shall be grounded and shall conform to ANSI C1-1975 (NFPA 70-1975).

ITEM 11. Amend rule 875—73.21(89A), introductory paragraph, as follows:

**875—73.21(89A) Handicapped restricted use elevators.** All handicapped restricted use elevators must meet ANSI A17.1 (1981), Part V. ~~Permits will be reissued only for locations where other elevators do not exist and where the absence of the elevator would deprive a known group of physically disabled individuals use of the building.~~ Additionally, the elevators shall comply with the following limitations:

**ARC 1853C**

**LABOR SERVICES DIVISION[875]**

**Notice of Intended Action**

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code section 89A.3, the Elevator Safety Board hereby gives Notice of Intended Action to amend Chapter 72, “Conveyances Installed On or After January 1, 1975,” and Chapter 73, “Conveyances Installed Prior to January 1, 1975,” Iowa Administrative Code.

## LABOR SERVICES DIVISION[875](cont'd)

In March 2014, an elevator industry trade publication published a detailed study about children being trapped and seriously injured due to hazardous elevator doors. The study also described weaknesses in the applicable codes. The Elevator Safety Board (Board) studied this issue, and the proposed amendments are the result. The entrapment risk occurs primarily in elevators built to the residential elevator code, and elevators built to the residential code are not allowed in buildings under the Board's jurisdiction. However, for a number of years Iowa law allowed residential elevators to be installed in public buildings. It is estimated that there are about 200 residential elevators operating in public buildings in Iowa. The proposed amendments require that safety devices be installed in these elevators to prevent child entrapment.

The purposes of these amendments are to protect the health and safety of the public and implement legislative intent.

If requested in accordance with Iowa Code section 17A.4(1)“b” by the close of business on February 24, 2015, a public hearing will be held on February 25, 2015, at 9 a.m. in the Capitol View Room, 1000 East Grand Avenue, Des Moines, Iowa. Interested persons will be given the opportunity to make oral statements and file documents concerning the proposed amendments. The facility for the oral presentations is accessible to and functional for persons with physical disabilities. Persons who have special requirements should call (515)281-5915 in advance to arrange access or other needed services.

Written data, views, or arguments to be considered in adoption shall be submitted by interested persons no later than February 25, 2015, to Division of Labor Services, 1000 East Grand Avenue, Des Moines, Iowa 50319-0209. Comments may be sent electronically to [kathleen.uehling@iwd.iowa.gov](mailto:kathleen.uehling@iwd.iowa.gov).

No variance procedures are included in this rule making. Applicable variance procedures are set forth in 875—Chapter 66.

After analysis and review of this rule making, an impact on jobs may occur. However, these rules are intended to prevent a specific hazard to children with a minimum of expense.

These amendments are intended to implement Iowa Code chapter 89A.

The following amendments are proposed.

ITEM 1. Adopt the following **new** rule 875—72.26(89A):

**875—72.26(89A) Child safety guards.** Unless the car door on a passenger elevator consists of a solid panel, the following criteria shall be met:

**72.26(1)** A multipoint light curtain shall be installed between the car door and the edge of the car platform.

**72.26(2)** A second multipoint light curtain shall be installed at the hoistway opening of each floor where a gap of more than 5 inches exists between the car light curtain and the hoistway door.

**72.26(3)** Each light curtain required by this rule must deactivate the elevator if the light curtain does not function or if the light curtain is obstructed by an object larger than a 4-inch ball.

ITEM 2. Adopt the following **new** rule 875—73.27(89A):

**875—73.27(89A) Child safety guards.** Unless the car door on a passenger elevator consists of a solid panel, the following criteria shall be met:

**73.27(1)** A multipoint light curtain shall be installed between the car door and the edge of the car platform.

**73.27(2)** A second multipoint light curtain shall be installed at the hoistway opening of each floor where a gap of more than 5 inches exists between the car light curtain and the hoistway door.

**73.27(3)** Each light curtain required by this rule must deactivate the elevator if the light curtain does not function or if the light curtain is obstructed by an object larger than a 4-inch ball.

**ARC 1847C****LOTTERY AUTHORITY, IOWA[531]****Notice of Intended Action**

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority granted in Iowa Code section 99G.9(3), the Board of Directors of the Iowa Lottery Authority hereby gives Notice of Intended Action to amend Chapter 1, “General Operation of the Lottery,” Chapter 2, “Purchasing,” Chapter 3, “Procedure for Rule Making,” Chapter 5, “Contested Cases,” Chapter 6, “Declaratory Orders,” Chapter 18, “Scratch Ticket General Rules,” Chapter 19, “Pull-Tab General Rules,” and Chapter 20, “Computerized Games—General Rules,” Iowa Administrative Code.

Chapters 1 to 3, 5, 6 and 18 to 20 are each being amended to update the new business address of the Iowa Lottery Authority.

In addition, the rules in Chapters 18, 19, and 20 are being amended to update the method for relaying game odds to players. Consistent with Iowa Code section 99G.9(3)“c,” the Lottery maintains materials on the games offered by the Lottery and the odds of winning the prizes available for each game at Lottery offices, and those materials are available for review by the public. In addition, the Lottery presently utilizes other methods to ensure players have access to information on game odds. These methods include providing game odds in brochures and written materials found at the retail locations where Iowa Lottery products are sold, as well as posting odds and other game information on the Iowa Lottery’s Web site, [www.ialottery.com](http://www.ialottery.com).

Lottery games use specially ordered paper for tickets and play slips. Consistent with the present administrative rules, those preprinted tickets and play slips contain game odds. The Lottery supplies game tickets and game slips to over 2,000 Iowa Lottery retailers across the state. If a change or upgrade to a game has an impact on published game odds, the process for recalling, reordering, and resupplying tickets and stocks to each Iowa Lottery retailer can create a significant administrative expense. Any such expense necessarily lowers the Lottery proceeds that provide support for veterans, supplement the state General Fund, and back the Vision Iowa program. That expense would seem unwarranted, as prize and odds information is already available at Lottery offices, at retail locations, and, in today’s world, online.

These amendments were identified through a regular review of the Iowa Lottery Authority’s administrative rules.

Interested persons may submit comments on the proposed amendments orally or in writing until 4:30 p.m. on February 24, 2015, to Rob Porter, Vice President/General Counsel, Iowa Lottery Authority, through the following methods:

- Via mail to 13001 University Avenue, Clive, Iowa 50325-8225;
- Via e-mail to [rkporter@ialottery.com](mailto:rkporter@ialottery.com);
- Via telephone to (515)725-7851; or
- Via fax to (515)725-7905.

The Board does not intend to grant waivers under the provisions of these rules.

After analysis and review of this rule making, the Board finds that there is no impact on jobs.

These amendments are intended to implement Iowa Code chapter 99G.

The following amendments are proposed.

ITEM 1. Amend rule 531—1.3(17A), introductory paragraph, as follows:

**531—1.3(17A) Location.** Lottery headquarters is located at ~~2323 Grand Avenue, Des Moines, Iowa 50312-5307~~ 13001 University Avenue, Clive, Iowa 50325-8225. The lottery has regional

## LOTTERY AUTHORITY, IOWA[531](cont'd)

offices located throughout the state offering some of the services available at the headquarters office. Information regarding lottery headquarters and regional offices can be obtained on the lottery Web site, [www.ialottery.com](http://www.ialottery.com), on point-of-sale game-play publications, and by contacting the lottery headquarters. The lottery authority board may be contacted through lottery headquarters. Office hours at all offices are 8 a.m. to 4:30 p.m., Monday through Friday. Prize redemption operations close at 4 p.m.

ITEM 2. Amend rule 531—1.4(17A), introductory paragraph, as follows:

**531—1.4(17A) Board meetings.** The lottery authority board shall meet at least quarterly and may meet more often if necessary. The chief executive officer, the chairperson of the board, or a majority of the board may call a special board meeting. Board meetings are generally held at lottery headquarters at ~~2323 Grand Avenue, Des Moines, Iowa 50312-5307~~ 13001 University Avenue, Clive, Iowa 50325-8225. Board meetings may be held by teleconference.

ITEM 3. Amend subrule 1.5(5) as follows:

**1.5(5)** Copies of public lottery business records may be obtained upon a written request made to the Iowa Lottery Authority, ~~2323 Grand Avenue, Des Moines, Iowa 50312-5307~~ 13001 University Avenue, Clive, Iowa 50325-8225. The lottery may charge reasonable fees, including staff research and copying time, for the processing of any public records production requests.

ITEM 4. Amend rule 531—2.17(99G), introductory paragraph, as follows:

**531—2.17(99G) Vendor appeals.** Any vendor whose bid or proposal has been timely filed and who is aggrieved by the award of the lottery may appeal the decision by filing a written notice of appeal before the Iowa Lottery Authority Board, ~~2323 Grand Avenue, Des Moines, Iowa 50312-5307~~ 13001 University Avenue, Clive, Iowa 50325-8225, within three days of the date of the award, exclusive of Saturdays, Sundays, and state legal holidays. The notice of appeal must actually be received at this address within the time frame specified to be considered timely. The notice of appeal shall state the grounds upon which the vendor challenges the lottery's award. Following receipt of a notice of appeal which has been timely filed, the board shall notify the aggrieved vendor and the vendor who received the contract award of the procedures to be followed in the appeal. The board may appoint a designee to proceed with the appeal on its behalf.

ITEM 5. Amend subrule 3.5(1) as follows:

**3.5(1) Written comments.** For at least 20 days after publication of the Notice of Intended Action, persons may submit argument, data, and views, in writing, on the proposed rule. Such written submissions should identify the proposed rule to which they relate and should be submitted to the Iowa Lottery Authority, ~~2323 Grand Avenue, Des Moines, Iowa 50312-5307~~ 13001 University Avenue, Clive, Iowa 50325-8225, or the person designated in the Notice of Intended Action.

ITEM 6. Amend subrule 3.5(5) as follows:

**3.5(5) Accessibility.** The lottery shall schedule oral proceedings in rooms accessible to and functional for persons with physical disabilities. Persons who have special requirements should contact the Iowa Lottery Authority, ~~2323 Grand Avenue, Des Moines, Iowa 50312-5307~~ 13001 University Avenue, Clive, Iowa 50325-8225, telephone (515)281-7900 in advance to arrange access or other needed services.

ITEM 7. Amend subrule 3.6(2), introductory paragraph, as follows:

**3.6(2) Mailing list.** Small businesses or organizations of small businesses may be registered on the lottery's small business impact list by making a written application addressed to the Iowa Lottery Authority, ~~2323 Grand Avenue, Des Moines, Iowa 50312-5307~~ 13001 University Avenue, Clive, Iowa 50325-8225. The application for registration shall state:

ITEM 8. Amend subrule 3.11(1) as follows:

**3.11(1) General.** When requested by a person, either prior to the adoption of a rule or within 30 days after its publication in the Iowa Administrative Bulletin as an adopted rule, the lottery shall issue a concise statement of reasons for the rule. Requests for such a statement must be in writing and be delivered to the

LOTTERY AUTHORITY, IOWA[531](cont'd)

Iowa Lottery Authority, ~~2323 Grand Avenue, Des Moines, Iowa 50312-5307~~ 13001 University Avenue, Clive, Iowa 50325-8225. The request should indicate whether the statement is sought for all or only a specified part of the rule. Requests will be considered made on the date received.

ITEM 9. Amend subrule 5.12(3) as follows:

**5.12(3) Filing—when required.** After the notice of hearing, all pleadings, motions, documents or other papers in a contested case proceeding shall be filed with the Office of the Chief Executive Officer, Iowa Lottery Authority, ~~2323 Grand Avenue, Des Moines, Iowa 50312-5307~~ 13001 University Avenue, Clive, Iowa 50325-8225. All pleadings, motions, documents or other papers that are required to be served upon a party shall be filed simultaneously in the office of the chief executive officer.

ITEM 10. Amend rule 531—6.1(17A), introductory paragraph, as follows:

**531—6.1(17A) Petition for declaratory order.** Any person may file a petition with the lottery for a declaratory order as to the applicability to specified circumstances of a statute, rule, or order within the primary jurisdiction of the lottery, at the Iowa Lottery Authority, ~~2323 Grand Avenue, Des Moines, Iowa 50312-5307~~ 13001 University Avenue, Clive, Iowa 50325-8225. A petition is deemed filed when it is received by that office. The lottery shall provide the petitioner with a file-stamped copy of the petition if the petitioner provides the lottery an extra copy for this purpose. The petition must be typewritten or legibly handwritten in ink and must substantially conform to the following form:

ITEM 11. Amend subrule 6.3(3), introductory paragraph, as follows:

**6.3(3)** A petition for intervention shall be filed at the Iowa Lottery Authority, ~~2323 Grand Avenue, Des Moines, Iowa 50312-5307~~ 13001 University Avenue, Clive, Iowa 50325-8225. Such a petition is deemed filed when it is received by that office. The lottery will provide the petitioner with a file-stamped copy of the petition for intervention if the petitioner provides an extra copy for this purpose. A petition for intervention must be typewritten or legibly handwritten in ink and must substantially conform to the following form:

ITEM 12. Amend rule 531—6.5(17A) as follows:

**531—6.5(17A) Inquiries.** Inquiries concerning the status of a declaratory order proceeding may be made to the Chief Executive Officer, Iowa Lottery Authority, ~~2323 Grand Avenue, Des Moines, Iowa 50312-5307~~ 13001 University Avenue, Clive, Iowa 50325-8225.

ITEM 13. Amend subrule 6.6(2) as follows:

**6.6(2) Filing—when required.** All petitions for declaratory orders, petitions for intervention, briefs, or other papers in a proceeding for a declaratory order shall be filed with the Iowa Lottery Authority, ~~2323 Grand Avenue, Des Moines, Iowa 50312-5307~~ 13001 University Avenue, Clive, Iowa 50325-8225. All petitions, briefs, or other papers that are required to be served upon a party shall be filed simultaneously with the lottery.

ITEM 14. Amend rule 531—18.7(99G), introductory paragraph, as follows:

**531—18.7(99G) Disclosure of odds.** The overall probability of purchasing a winning ticket shall be displayed on ~~each ticket~~ the Iowa lottery's Web site and in game literature made available by the lottery.

ITEM 15. Amend subrule 18.8(3) as follows:

**18.8(3) Prizes claimed at lottery.** The specific game rules shall specify prizes that may be claimed only from the lottery. To claim a prize from the lottery, the player may personally present the completed claim form obtained from a licensed retailer or any lottery office and the ticket to any lottery office or may mail the ticket and claim form to the Iowa Lottery Authority, ~~2323 Grand Avenue, Des Moines, Iowa 50312-5307~~ 13001 University Avenue, Clive, Iowa 50325-8225. If the claim is validated by the lottery, the prize or a check, warrant, or draft shall be forwarded to the player in payment of the amount due less any applicable state or federal income tax withholding. If the claim is not validated by the lottery, the claim shall be denied and the player shall be promptly notified.

LOTTERY AUTHORITY, IOWA[531](cont'd)

ITEM 16. Amend rule 531—19.7(99G), introductory paragraph, as follows:

**531—19.7(99G) Disclosure of odds.** The overall probability of purchasing a winning ticket shall be stated on the ~~ticket~~ Iowa lottery's Web site and in game literature made available by the lottery.

ITEM 17. Amend subrule 19.8(3) as follows:

**19.8(3) Prizes claimed at lottery.** The specific game rules shall specify prizes that may be claimed only from the lottery. To claim a prize from the lottery, the player may personally present the completed claim form obtained from a licensed retailer or any lottery office and the ticket to any lottery office or may mail the ticket and claim form to the Iowa Lottery Authority, ~~2323 Grand Avenue, Des Moines, Iowa 50312-4999~~ 13001 University Avenue, Clive, Iowa 50325-8225. If the claim is validated by the lottery, the prize or a check, warrant, or draft shall be forwarded to the player in payment of the amount due less any applicable state or federal income tax withholding. If the claim is not validated by the lottery, the claim shall be denied and the player shall be promptly notified.

ITEM 18. Amend rule 531—20.8(99G), introductory paragraph, as follows:

**531—20.8(99G) Disclosure of odds.** The overall probability of purchasing a winning ticket or share shall be stated on the ~~game ticket~~ Iowa lottery's Web site and in the game literature made available by the lottery.

ITEM 19. Amend subrule 20.14(1), introductory paragraph, as follows:

**20.14(1)** To receive payment for a prize or prizes on any single game ticket or share that total \$600 or less, the winner may take the signed ticket or share directly to any lottery retailer authorized to sell and validate the game, or to any lottery office, or mail the signed ticket or share, along with a completed claim form, to Iowa Lottery Authority, ~~2323 Grand Avenue, Des Moines, Iowa 50312-5307~~ 13001 University Avenue, Clive, Iowa 50325-8225.

ITEM 20. Amend subrule 20.14(2) as follows:

**20.14(2)** To receive payment for a prize or prizes on any single game ticket or share that total more than \$600, the winner may submit the signed ticket or share and a completed claim form directly to any lottery office. The winner may also mail the signed ticket or share and claim form to Iowa Lottery Authority, ~~2323 Grand Avenue, Des Moines, Iowa 50312-5307~~ 13001 University Avenue, Clive, Iowa 50325-8225.

**ARC 1857C**

## **REVENUE DEPARTMENT[701]**

### **Notice of Intended Action**

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code sections 17A.3, 421.14, and 422.68, the Department of Revenue hereby gives Notice of Intended Action to amend Chapter 42, “Adjustments to Computed Tax and Tax Credits,” and Chapter 52, “Filing Returns, Payment of Tax, Penalty and Interest, and Tax Credits,” Iowa Administrative Code.

The proposed amendments are necessary to reflect the enactment of 2014 Iowa Acts, Senate File 2339, which made changes to the Redevelopment Tax Credits Program for brownfield and grayfield sites; to reorganize some existing rules to provide clarity; and to add requirements to the information that must be provided to the Department when a tax credit is transferred. The additional information required for transfers will allow the Department to provide the legislative Tax Expenditure Committee with additional data that will aid in the Committee's evaluation of the program.

## REVENUE DEPARTMENT[701](cont'd)

The proposed amendments will not necessitate additional expenditures by political subdivisions or agencies and entities which contract with political subdivisions.

Any person who believes that the application of the discretionary provisions of these amendments would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any.

The Department has considered the factors listed in Iowa Code section 17A.4A. The Department will issue a regulatory analysis as provided in Iowa Code section 17A.4A if a written request is filed by delivery or by mailing postmarked no later than March 9, 2015, to Alana Stamas, Policy and Communications Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. Alternatively, requests may be e-mailed to [alana.stamas@iowa.gov](mailto:alana.stamas@iowa.gov). The request may be made by the Administrative Rules Review Committee, the Administrative Rules Coordinator, at least 25 persons signing that request who each qualify as a small business, or an organization representing at least 25 such persons.

Any interested person may make written suggestions or comments on these proposed amendments on or before February 24, 2015. Such written comments should be e-mailed to Alana Stamas at [alana.stamas@iowa.gov](mailto:alana.stamas@iowa.gov) or mailed to Alana Stamas, Policy and Communications Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. Persons who want to convey their views orally should contact Alana Stamas, Policy and Communications Division, Department of Revenue, at (515)725-2265 or at the Department of Revenue offices on the fourth floor of the Hoover State Office Building.

After analysis and review of this rule making, the Department finds that the changes to the Redevelopment Tax Credit program are likely to have a positive impact on jobs by helping more developers finance the redevelopment of underutilized existing infrastructure and helping nonprofits finance redevelopment projects.

These amendments are intended to implement Iowa Code sections 15.119, 15.293A as amended by 2014 Iowa Acts, Senate File 2339, 422.11V, and 422.33.

The following amendments are proposed.

ITEM 1. Amend rule 701—42.41(15,422) as follows:

**701—42.41(15,422) Redevelopment tax credit.** The economic development authority is authorized by the general assembly and the governor to oversee the implementation and administration of the redevelopment tax credit program. Effective for tax years beginning on or after July 1, 2009, a taxpayer whose project has been approved by the Iowa brownfield redevelopment advisory council and the economic development authority may claim a redevelopment tax credit once the taxpayer has been issued a tax credit certificate for the project by the economic development authority. The credit is based on the taxpayer's qualifying investment in a brownfield or grayfield site. The administrative rules for a redevelopment project for the brownfield redevelopment authority which qualifies for the tax credit the economic development authority's administration of this program, including definitions of brownfield and grayfield sites, may be found in rules 261—65.11(15) and 261—65.12(15).

**42.41(1) Eligibility for the credit.** The economic development authority is responsible for developing a system for registration and authorization of projects receiving redevelopment tax credits. For the fiscal year beginning July 1, 2009, the maximum amount of tax credits allowed was \$1 million, and the amount of credits authorized for any one redevelopment project could not exceed \$100,000. For the fiscal year beginning July 1, 2011, the maximum amount of tax credits allowed cannot exceed \$5 million, and the amount of credit authorized for any one redevelopment project cannot exceed \$500,000. For the fiscal year beginning July 1, 2012, and subsequent fiscal years, the maximum amount of tax credits allowed cannot exceed \$10 million, and the amount of credit authorized for any one redevelopment project cannot exceed \$1 million. For more information, see Iowa Administrative Code 261—Chapter 65.

**42.41(2) Computation and claiming Amount of the credit.**

*a. Maximum credit total.* For the fiscal year beginning July 1, 2009, the maximum amount of tax credits allowed is \$1 million, and the amount of credit authorized for any one redevelopment project

## REVENUE DEPARTMENT[701](cont'd)

cannot exceed \$100,000. For the fiscal year beginning July 1, 2011, the maximum amount of tax credit allowed cannot exceed \$5 million, and the amount of credit authorized for any one redevelopment project cannot exceed \$500,000. For the fiscal year beginning July 1, 2012, the maximum amount of tax credits allowed cannot exceed \$10 million, and the amount of credit authorized for any one redevelopment project cannot exceed \$1 million. For the fiscal year beginning July 1, 2013, and for each subsequent fiscal year, the maximum amount of tax credits issued by the authority shall be an amount determined by the economic development authority board but not in excess of the amount established pursuant to Iowa Code section 15.119.

*b. Maximum credit per project.* The maximum amount of a tax credit for a qualifying investment in any one qualifying redevelopment project shall not exceed 10 percent of the maximum amount of tax credits available in any one fiscal year pursuant to paragraph 42.41(2)“a.”

*a. c. Percentage computation.* The amount of the tax credit shall equal one of the following: (1) to (4) No change.

**42.41(3) Claiming the credit.**

*b. a. Certificate issuance.* Upon completion of the project, the Iowa department of economic development authority will issue a tax credit certificate to the taxpayer. The tax credit certificate will include the taxpayer’s name, address and federal identification number, the tax type for which the credit will be claimed, the amount of the credit, the tax year for which the credit may be claimed and the tax credit certificate number. In addition, the tax credit certificate will include a place for the name and tax identification number of a transferee and the amount of the tax credit being transferred, as provided in subrule 42.41(3) 42.41(4). To claim the tax credit, the taxpayer must include the tax credit certificate with the tax return for the tax period set forth on the certificate.

*e. b. Pro rata share.* If a taxpayer claiming the tax credit is a partnership, limited liability company, S corporation, or an estate or trust electing to have the income taxed directly to the individual, an individual may claim the credit. The amount claimed by an individual must be based on the individual’s pro rata share of the individual’s earnings of the partnership, limited liability company, S corporation, or estate or trust.

*d.* The increase in the basis of the redevelopment property that would otherwise result from the qualified redevelopment costs shall be reduced by the amount of the redevelopment tax credit. For example, if a qualifying investment in a grayfield site totaled \$100,000 whereby a \$12,000 redevelopment tax credit was issued, the increase in the basis of the property would total \$88,000 for Iowa tax purposes (\$100,000 less \$12,000).

*e. c. Carryforward.* To claim the tax credit, the taxpayer must attach the tax credit certificate to the tax return for the tax period set forth on the certificate. Any Except as provided in paragraph 42.41(3)“d,” any credit in excess of the tax liability for the tax year may be credited to the tax liability for the following five years or until used, whichever is the earlier. The tax credit shall not be carried back to a tax year prior to the year in which the taxpayer redeems the credit.

*d. Refundability.* A tax credit in excess of the taxpayer’s liability for the tax year is refundable if all of the conditions of economic development authority 261—paragraph 65.11(4)“b” are met.

**42.41(3) 42.41(4) Transfer of the credit.** The redevelopment tax credit can be transferred to any person or entity. However, a certificate indicating that the credit is refundable is only transferrable to the extent permitted by economic development authority 261—paragraph 65.11(4)“b.”

*a. Submission of transferred tax credit certificate to the department—information required.* Within 90 days of transfer of the tax credit certificate, the transferee must submit the transferred tax credit certificate to the department of revenue, along with a statement which contains the transferee’s name, address and tax identification number and the amount of the tax credit being transferred, the amount of all consideration provided in exchange for the tax credit, and the names of recipients of any consideration provided in exchange for the tax credit. If a payment of money was any part of the consideration provided in exchange for the tax credit, the transferee shall list the amount of the payment of money in its statement to the department of revenue. If any part of the consideration provided in exchange for the tax credit included nonmonetary consideration, including but not limited to any promise, representation, performance, discharge of debt or nonmonetary rights or property, the

## REVENUE DEPARTMENT[701](cont'd)

transferee shall describe the nature of nonmonetary consideration and disclose any value the transferor and transferee assigned to the nonmonetary consideration. The transferee must indicate on its statement to the department of revenue if no consideration was provided in exchange for the tax credit. If the transferee is a partnership, limited liability company, S corporation, or estate or trust claiming the credit for individual or corporation income tax, the transferee shall provide a list of the partners, members, shareholders or beneficiaries and information on how the redevelopment tax credit should be divided among the partners, members, shareholders or beneficiaries. The transferee shall also provide the tax identification numbers and addresses of the partners, members, shareholders or beneficiaries.

*b. Issuance of replacement certificate by the department.* Within 30 days of receiving the transferred tax credit certificate and the statement from the transferee, the department of revenue will issue a replacement tax credit certificate to the transferee. ~~If the transferee is a partnership, limited liability company, S corporation, or estate or trust claiming the credit for individual or corporation income tax, the transferee shall provide a list of the partners, members, shareholders or beneficiaries and information on how the redevelopment tax credit should be divided among the partners, members, shareholders or beneficiaries. The transferee shall also provide the tax identification numbers and addresses of the partners, members, shareholders or beneficiaries.~~

*c. Claiming the transferred tax credit.* The replacement tax credit certificate must contain the same information as that on the original tax credit certificate and must have the same effective taxable year as the original tax credit certificate. The replacement tax credit certificate may reflect a different tax type than the original tax credit certificate. The transferee may use the amount of the tax credit for any tax year for which the original transferor could have claimed the tax credit. Any consideration received for the transfer of the tax credit certificate shall not be included in Iowa taxable income for individual income tax, corporation income tax, or franchise tax purposes. Any consideration paid for the transfer of the tax credit certificate shall not be deducted from Iowa taxable income for individual income tax, corporation income tax, or franchise tax purposes.

**42.41(5) Basis reduction of the redevelopment property.** The increase in the basis of the redevelopment property that would otherwise result from the qualified redevelopment costs shall be reduced by the amount of the redevelopment tax credit. For example, if a qualifying investment in a grayfield site totaled \$100,000 for which a \$12,000 redevelopment tax credit was issued, the increase in the basis of the property would total \$88,000 for Iowa tax purposes (\$100,000 less \$12,000).

This rule is intended to implement Iowa Code sections 15.293A as amended by 2014 Iowa Acts, Senate File 2339, and 422.11V and section 15.119 as amended by 2013 Iowa Acts, House File 620.

ITEM 2. Amend rule 701—52.39(15,422) as follows:

**701—52.39(15,422) Redevelopment tax credit.** The economic development authority is authorized by the general assembly and the governor to oversee the implementation and administration of the redevelopment tax credit program. Effective for tax years beginning on or after July 1, 2009, a taxpayer whose project has been approved by the Iowa brownfield redevelopment advisory council and the economic development authority may claim a redevelopment tax credit once the taxpayer has been issued a tax credit certificate for the project by the economic development authority. The credit is based on the taxpayer's qualifying investment in a brownfield or grayfield site. The administrative rules for a redevelopment project for the brownfield redevelopment authority which qualifies for the tax credit the economic development authority's administration of this program, including definitions of brownfield and grayfield sites, may be found in rules 261—65.11(15) and 261—65.12(15).

**52.39(1) Eligibility for the credit.** The economic development authority is responsible for developing a system for registration and authorization of projects receiving redevelopment tax credits. For the fiscal year beginning July 1, 2009, the maximum amount of tax credits allowed was \$1 million, and the amount of credits authorized for any one redevelopment project could not exceed \$100,000. For fiscal years beginning July 1, 2011, the maximum amount of tax credits allowed cannot exceed \$5 million, and the amount of credit authorized for any one redevelopment project cannot exceed \$500,000. For the fiscal year beginning July 1, 2012, and subsequent fiscal years, the maximum amount of tax credits allowed cannot exceed \$10 million, and the amount of credit authorized for any one

## REVENUE DEPARTMENT[701](cont'd)

redevelopment project cannot exceed \$1 million. For more information, see Iowa Administrative Code 261—Chapter 65.

**52.39(2) Computation and claiming Amount of the credit.**

a. *Maximum credit total.* For the fiscal year beginning July 1, 2009, the maximum amount of tax credits allowed is \$1 million, and the amount of credit authorized for any one redevelopment project cannot exceed \$100,000. For the fiscal year beginning July 1, 2011, the maximum amount of tax credits allowed cannot exceed \$5 million, and the amount of credit authorized for any one redevelopment project cannot exceed \$500,000. For the fiscal year beginning July 1, 2012, the maximum amount of tax credits allowed cannot exceed \$10 million, and the amount of credit authorized for any one redevelopment project cannot exceed \$1 million. For the fiscal year beginning July 1, 2013, and for each subsequent fiscal year, the maximum amount of tax credits issued by the authority shall be an amount determined by the economic development authority board but not in excess of the amount established pursuant to Iowa Code section 15.119.

b. *Maximum credit per project.* The maximum amount of a tax credit for a qualifying investment in any one qualifying redevelopment project shall not exceed 10 percent of the maximum amount of tax credits available in any one fiscal year pursuant to paragraph 52.39(2)“a.”

a- c. *Percentage computation.* The amount of the tax credit shall equal one of the following: (1) to (4) No change.

**52.39(3) Claiming the credit.**

b- a. *Certificate issuance.* Upon completion of the project, the Iowa department of economic development authority will issue a tax credit certificate to the taxpayer. The tax credit certificate shall include the taxpayer’s name, address and federal identification number, the tax type for which the credit will be claimed, the amount of the credit, the tax year for which the credit may be claimed and the tax credit certificate number. In addition, the tax credit certificate will include a place for the name and tax identification number of a transferee and the amount of the tax credit being transferred, as provided in subrule ~~52.39(3)~~ 52.39(4). To claim the tax credit, the taxpayer must include the tax credit certificate with the tax return for the tax period set forth on the certificate.

e- b. *Pro rata share.* If a taxpayer claiming the tax credit is a partnership, limited liability company, S corporation, or an estate or trust electing to have the income taxed directly to the individual, an individual may claim the credit. The amount claimed by an individual must be based on the individual’s pro rata share of the individual’s earnings of the partnership, limited liability company, S corporation, or estate or trust.

d. *The increase in the basis of the redevelopment property that would otherwise result from the qualified redevelopment costs shall be reduced by the amount of the redevelopment tax credit. For example, if a qualifying investment in a grayfield site totaled \$100,000 for which a \$12,000 redevelopment tax credit was issued, the increase in the basis of the property would total \$88,000 for Iowa tax purposes (\$100,000 less \$12,000).*

e- c. *Carryforward.* To claim the tax credit, the taxpayer must attach the tax credit certificate to the tax return for the tax period set forth on the certificate. Any Except as provided in paragraph 52.39(3)“d,” any credit in excess of the tax liability for the tax year may be credited to the tax liability for the following five years or until used, whichever is the earlier. The tax credit shall not be carried back to a tax year prior to the year in which the taxpayer redeems the credit.

d. *Refundability.* A tax credit in excess of the taxpayer’s liability for the tax year is refundable if all of the conditions of economic development authority 261—paragraph 65.11(4)“b” are met.

**52.39(3) 52.39(4) Transfer of the credit.** The redevelopment tax credit can be transferred to any person or entity. However, a certificate indicating that the credit is refundable is only transferrable to the extent permitted by economic development authority 261—paragraph 65.11(4)“b.”

a. *Submission of transferred tax credit certificate to the department—information required.* Within 90 days of transfer of the tax credit certificate, the transferee must submit the transferred tax credit certificate to the department of revenue, along with a statement which contains the transferee’s name, address and tax identification number and the amount of the tax credit being transferred, the amount of all consideration provided in exchange for the tax credit, and the names of

## REVENUE DEPARTMENT[701](cont'd)

recipients of any consideration provided in exchange for the tax credit. If a payment of money was any part of the consideration provided in exchange for the tax credit, the transferee shall list the amount of the payment of money in its statement to the department of revenue. If any part of the consideration provided in exchange for the tax credit included nonmonetary consideration, including but not limited to any promise, representation, performance, discharge of debt or nonmonetary rights or property, the transferee shall describe the nature of nonmonetary consideration and disclose any value the transferor and transferee assigned to the nonmonetary consideration. The transferee must indicate on its statement to the department of revenue if no consideration was provided in exchange for the tax credit. If the transferee is a partnership, limited liability company, S corporation, or estate or trust claiming the credit for individual or corporation income tax, the transferee shall provide a list of the partners, members, shareholders or beneficiaries and information on how the redevelopment tax credit should be divided among the partners, members, shareholders or beneficiaries. The transferee shall also provide the tax identification numbers and addresses of the partners, members, shareholders or beneficiaries.

*b. Issuance of replacement certificate by the department.* Within 30 days of receiving the transferred tax credit certificate and the statement from the transferee, the department of revenue will issue a replacement tax credit certificate to the transferee. If the transferee is a partnership, limited liability company, S corporation, or estate or trust claiming the credit for individual or corporation income tax, the transferee shall provide a list of the partners, members, shareholders or beneficiaries and information describing how the redevelopment tax credit should be divided among the partners, members, shareholders or beneficiaries. The transferee shall also provide the tax identification numbers and addresses of the partners, members, shareholders or beneficiaries.

*c. Claiming the transferred tax credit.* The replacement tax credit certificate must contain the same information as that on the original tax credit certificate and must have the same effective taxable year as the original tax credit certificate. The replacement tax credit certificate may reflect a different tax type than the original tax credit certificate. The transferee may use the amount of the tax credit for any tax year for which the original transferor could have claimed the tax credit. Any consideration received for the transfer of the tax credit certificate shall not be included in Iowa taxable income for individual income tax, corporation income tax, or franchise tax purposes. Any consideration paid for the transfer of the tax credit certificate shall not be deducted from Iowa taxable income for individual income tax, corporation income tax, or franchise tax purposes.

**52.39(5) Basis reduction of the redevelopment property.** The increase in the basis of the redevelopment property that would otherwise result from the qualified redevelopment costs shall be reduced by the amount of the redevelopment tax credit. For example, if a qualifying investment in a grayfield site totaled \$100,000 for which a \$12,000 redevelopment tax credit was issued, the increase in the basis of the property would total \$88,000 for Iowa tax purposes (\$100,000 less \$12,000).

This rule is intended to implement Iowa Code sections 15.293A as amended by 2014 Iowa Acts, Senate File 2339, and 422.33 and section 15.119 as amended by 2013 Iowa Acts, House File 620.

## USURY

In accordance with the provisions of Iowa Code section 535.2, subsection 3, paragraph “a,” the Superintendent of Banking has determined that the maximum lawful rate of interest shall be:

February 1, 2014 — February 28, 2014	5.00%
March 1, 2014 — March 31, 2014	4.75%
April 1, 2014 — April 30, 2014	4.75%
May 1, 2014 — May 31, 2014	4.75%
June 1, 2014 — June 30, 2014	4.75%
July 1, 2014 — July 31, 2014	4.50%
August 1, 2014 — August 31, 2014	4.50%

USURY(cont'd)

September 1, 2014 — September 30, 2014	4.50%
October 1, 2014 — October 31, 2014	4.50%
November 1, 2014 — November 30, 2014	4.50%
December 1, 2014 — December 31, 2014	4.25%
January 1, 2015 — January 31, 2015	4.25%
February 1, 2015 — February 28, 2015	4.25%

**ARC 1848C****UTILITIES DIVISION[199]****Notice of Intended Action**

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to Iowa Code sections 17A.4, 476.86, and 476.87, the Utilities Board (Board) gives notice that on January 15, 2015, the Board issued an order in Docket No. RMU-2014-0004, In re: Disconnection of Public Water Utility Service for Failure to Pay Sewer, Wastewater, or Storm Drainage Bill [199 IAC Chapter 21], “Order Proposing Amendments to Implement Iowa Code § 476.20(1)(b),” in which the Board proposes amendments to the Board’s water service rules to implement the new statutory provisions in Iowa Code section 476.20(1)“b” that allow a public water utility to enter into an agreement with a city utility, city enterprise, combined city utility, or combined city enterprise to disconnect water service if an overdue debt is owed for wastewater service or services of sewer systems, storm water drainage systems, or sewage treatment.

In compliance with Executive Order 80, on August 11, 2014, the Board issued an order appointing members of a Stakeholder Group to provide recommendations to the Board regarding proposed rules to implement Iowa Code section 476.20(1)“b.” The Governor’s Office requested that the Board utilize the procedures established in Executive Order 80 in developing proposed rules to implement the new statute and appointment of the Stakeholder Group is required by the Executive Order. Notice of the formation of the Stakeholder Group was published in the Iowa Administrative Bulletin in IAB Vol. XXXVII, No. 1 (7/9/14), p. 25.

The members of the Stakeholder Group appointed by the Board are as follows: Julie Smith, Iowa Association of Municipal Utilities; Jeffrey K. Rosencrants, Iowa American Water Company (Ken Jones replaced Rosencrants as the Iowa American member); John Long, Consumer Advocate Division of the Iowa Department of Justice; Jim Odean, City of Davenport, Iowa; Jessica Kinser, City of Clinton, Iowa; Kristine Stone, City of Bettendorf, Iowa; and Don Tormey, Iowa Utilities Board.

In the August 11, 2014, order, the Board listed several issues for the Stakeholder Group to address related to establishment of customer protections when a customer’s water service may be disconnected pursuant to Iowa Code section 476.20(1)“b.” Stakeholder Group members, as well as members of the public, responded to the questions.

On September 4, 2014, the Stakeholder Group held a meeting by teleconference. At the meeting, Don Tormey was elected Chair of the Stakeholder Group, Larry Johnson of the Governor’s Office discussed the requirements of Executive Order 80, and distribution of information and a date for the next meeting were discussed. The Stakeholder Group decided that information would be distributed to the Stakeholder Group by electronic mail and Don Tormey would be the person responsible for collecting information from the Stakeholder Group and then disseminating information to the Stakeholder Group. The Stakeholder Group decided to have a public meeting in one of the cities served by Iowa American. After the teleconference, a public meeting was scheduled for October 29, 2014, in Davenport, Iowa.

## UTILITIES DIVISION[199](cont'd)

The public meeting was held as scheduled. In addition to Stakeholder Group members, persons representing Clinton and persons representing Iowa American Water Company attended the meeting and made comments concerning the recommendations discussed by the Stakeholder Group. Based upon the comments from the members of the public and the members of the Stakeholder Group, recommendations that included three alternative rule proposals were provided to the Board on December 9, 2014. After reviewing the recommendations and considering the customer protections in the Board's water service rules in Chapter 21, the Board is proposing the amendments described in this Notice.

The order approving this Notice of Intended Action, which addresses the recommendations of the Stakeholder Group, can be found on the Board's Electronic Filing System (EFS) Web site, <http://efs.iowa.gov>, in Docket No. RMU-2014-0004.

Pursuant to Iowa Code section 17A.4(1)"a" and "b," any interested person may file a written statement of position pertaining to the proposed amendments. The statement must be filed on or before February 24, 2015. The statement should be filed electronically through the Board's EFS. Instructions for making an electronic filing can be found on the EFS Web site at <http://efs.iowa.gov>. Any person who does not have access to the Internet may file comments on paper pursuant to 199 IAC 14.4(5). An original and ten copies of paper comments must be filed. Both electronic and written filings shall comply with the format requirements in 199 IAC 2.2(2) and clearly state the author's name and address and make specific reference to this docket. All paper communications should be directed to the Executive Secretary, Iowa Utilities Board, 1375 E. Court Avenue, Room 69, Des Moines, Iowa 50319-0069.

The Board has scheduled an oral presentation to be held at the address listed above at 1 p.m. on March 12, 2015, to allow for further comments and for interested persons to respond to Board questions.

After analysis and review of this rule making, the Board tentatively concludes that the proposed amendments, if adopted, will have a beneficial effect on the ability of cities served by public water utilities regulated by the Board to recover debts owed for wastewater service or services of sewer systems, storm water drainage systems, or sewage treatment in an amount in excess of \$4 million.

These amendments are intended to implement Iowa Code sections 17A.4 and 476.20(1)"b."

The following amendments are proposed.

ITEM 1. Amend subrule 21.4(7) as follows:

**21.4(7) Refusal or disconnection of service.** Service may be refused or discontinued only for the reasons listed in paragraphs "a" through "f" below. Unless otherwise stated, the customer shall be permitted at least 12 days, excluding Sundays and legal holidays, following mailing of notice of disconnect in which to take necessary action before service is discontinued. When a prospective customer is refused service, the utility shall notify the prospective customer promptly of the reason for the refusal to serve and of the applicant's right to appeal the utility's decision to the board.

- a. Without notice in the event of an emergency.
- b. Without notice in the event of tampering with the equipment furnished and owned by the utility or obtaining water by fraudulent means.
- c. For violation of or noncompliance with the utility's rules on file with the board.
- d. For failure of the customer to permit the utility reasonable access to its equipment.
- e. For nonpayment of bill provided that the utility has: (1) made a reasonable attempt to effect collection; and (2) given the customer written notice that the customer has at least 12 days, excluding Sundays and legal holidays, in which to make settlement of the account. In the event there is dispute concerning a bill for water service, the utility may require the customer to pay a sum of money equal to the amount of the undisputed portion of the bill pending settlement and thereby avoid discontinuance of service for nonpayment of the disputed bill for up to 45 days after the rendering of the bill. The 45 days shall be extended by up to 60 days if requested of the utility by the board in the event the customer files a written complaint with the board.

~~f. When a prospective customer is refused service, the utility shall notify the prospective customer promptly of the reason for the refusal to serve and of the applicant's right to appeal the utility's decision to the board.~~

## UTILITIES DIVISION[199](cont'd)

f. For failure to pay a debt owed to a city utility, city enterprise, combined city utility, or combined city enterprise for wastewater service or services of sewer systems, storm water drainage systems, or sewage treatment. Disconnection of water service pursuant to this paragraph shall only be allowed if the governing body of a city utility, city enterprise, combined city utility, or combined city enterprise has entered into a written agreement with the public water utility that includes provisions:

(1) Requiring that a notice of disconnection of water service for failure to pay a debt owed to the city utility, city enterprise, combined city utility, or combined city enterprise for wastewater service or services of sewer systems, storm water drainage systems, or sewage treatment be made by the public water utility and allow the customer 12 days, excluding Sundays and legal holidays, after the mailing of the notice to take necessary action to satisfy the debt.

(2) Providing for prompt notice from the city utility, city enterprise, combined city utility, or combined city enterprise to the public water utility that the debt for wastewater service or services of sewer systems, storm water drainage systems, or sewage treatment has been satisfied and providing that, once notified of the payment of the debt, the public water utility shall reconnect water service to the customer as provided for in the public water utility's tariff.

(3) Requiring the city utility, city enterprise, combined city utility, or combined city enterprise, prior to contacting the public water utility for disconnection of water service to a customer, to have completed the disconnection notification procedures established in the tariffs or ordinances of the city utility, city enterprise, combined city utility, or combined city enterprise.

(4) Providing that the customer may be charged a fee for disconnection and reconnection of water service by the public water utility for failure of the customer to pay a debt owed to the city utility, city enterprise, combined city utility, or combined city enterprise for wastewater service or services of sewer systems, storm water drainage systems, or sewage treatment, that the fee be no greater than the rates or charges established for reconnection and disconnection of water service in the water utility's tariffs approved by the utilities board, and that recovery of lost revenue by the public water utility as a result of disconnection of water service pursuant to this paragraph is not authorized under these rules.

ITEM 2. Amend paragraph **21.4(9)“c”** as follows:

c. Failure to pay for a different type or class of public utility service. Disconnection of water service pursuant to the provisions of paragraph 21.4(7) “f” is not considered a different type or class of public utility service for purposes of subrule 21.4(9).

## ARC 1852C

## HUMAN SERVICES DEPARTMENT[441]

## Adopted and Filed Emergency After Notice

Pursuant to the authority of Iowa Code section 237A.12, the Department of Human Services amends Chapter 110, "Child Development Homes," Iowa Administrative Code.

This amendment rescinds paragraph 110.5(1)"a" and adopts a new paragraph in lieu thereof to require that child development home providers have readily accessible accurate emergency contact information regarding the children in care. Presently, there are no administrative rules that require providers to have a paper copy of emergency contact information.

A Notice of Intended Action proposing to amend paragraph 110.5(1)"a" was published in the Iowa Administrative Bulletin as **ARC 1556C** on July 23, 2014. That amendment was Adopted and Filed and published in the Iowa Administrative Bulletin on October 1, 2014, as **ARC 1636C**. The Administrative Rules Review Committee reviewed the Adopted and Filed amendment, **ARC 1636C**, at its meeting held on October 14, 2014. Due to concerns with the way the stated requirements were shown in the Adopted and Filed amendment, the Committee voted to impose a 70-day delay on the January 1, 2015, effective date of the amendment. The amendment would then become effective on March 12, 2015, rather than January 1, 2015.

In discussion with the members of the Committee, the Department agreed to refine paragraph 110.5(1)"a" to clarify the requirement for contact information, and, consequently, a second Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 1738C** on November 26, 2014, to provide the requested clarification. The Department received no comments on the proposed amendment. The adopted amendment is identical to that published under Notice of Intended Action as **ARC 1738C** and supersedes the amendment whose effective date had been delayed.

Pursuant to Iowa Code section 17A.5(2)"b"(2), the Department finds that the normal effective date of this amendment, 35 days after publication, should be waived and the amendment should be made effective January 15, 2015. The normal effective date can be waived since this amendment confers a benefit on the public by ensuring that child development home providers have readily accessible accurate emergency contact information regarding the children in their care. In addition, the normal effective date may be waived because this amendment reflects an adjustment requested by the Administrative Rules Review Committee to a previously adopted and filed amendment.

The Council on Human Services adopted this amendment on January 14, 2015.

This amendment does not provide for waivers in specified situations because requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217).

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

This amendment is intended to implement Iowa Code section 237A.12.

This amendment became effective January 15, 2015.

The following amendment is adopted.

Rescind paragraph **110.5(1)"a"** and adopt the following new paragraph in lieu thereof:

*a.* The home shall have a nonpay, working land-line or mobile telephone with emergency numbers posted for police, fire, ambulance, and the poison information center. The number for each child's parent, for a responsible person who can be reached when the parent cannot, and for the child's physician shall be written on paper and readily accessible by the telephone. The home must prominently display all emergency information, and all travel vehicles must have a paper copy of emergency parent contact information.

[Filed Emergency After Notice 1/15/15, effective 1/15/15]

[Published 2/4/15]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/4/15.

**ARC 1843C****INSURANCE DIVISION[191]****Adopted and Filed Emergency After Notice**

Pursuant to the authority of Iowa Code section 505.8, the Insurance Division hereby adopts an amendment to Chapter 43, “Annuity Mortality Tables for Use in Determining Reserve Liabilities for Annuities,” Iowa Administrative Code.

Chapter 43 establishes reserving standards for annuity and pure endowment contracts. This adopted rule making delays the mandatory effective date of the use of the 2012 IAR Mortality Table from January 1, 2015, to January 1, 2016. The delayed mandatory effective date is appropriate to protect the public interest and prevents Iowa-domiciled insurers from being placed at a competitive disadvantage that would adversely affect both the insurer and its policyholders.

This amendment was published under Notice of Intended Action in the December 10, 2014, Iowa Administrative Bulletin as **ARC 1794C**.

Interested persons were able to make written suggestions or comments on the proposed amendment through December 30, 2014. Written and verbal comments were received. A public hearing was held on December 30, 2014, at 10 a.m. at the offices of the Iowa Insurance Division, 601 Locust Street, Fourth Floor, Des Moines, Iowa. Kimberlee Cross, Assistant Chief Examiner, acted as hearing officer.

Testimony at the public hearing was overwhelmingly in support of the proposed amendment. Two comments were received, one requesting that the delayed mandatory effective date not be an option, and the second that clarification be made to ensure that insurers understand that contracts issued after January 1, 2016, are subject to the same subrule as those issued on or after January 1, 2015. Based upon the comments, the Division made one change to the amendment as published in the Notice of Intended Action. The change clarifies that those contracts issued after January 1, 2016, are subject to subrule 43.3(4).

The Division finds, pursuant to Iowa Code section 17A.5(2)“b”(2), that the normal effective date of this amendment, 35 days after publication, should be waived and this amendment should be made effective January 14, 2015. The Division finds that this amendment is critical for providing consistent guidance to insurers to enable pricing of products offered to the public and to prevent Iowa-domiciled insurers from being placed at a competitive disadvantage. The interested parties have worked with the Insurance Division to develop the amendment. A public hearing was held, and the amendment to the rule is clarifying in nature and not substantive.

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

This amendment is intended to implement Iowa Code chapter 508.

This amendment became effective on January 14, 2015.

The following amendment is adopted.

Amend subrule 43.3(5) as follows:

**43.3(5)** Except as provided in subrule 43.3(4), the 2012 IAR Mortality Table ~~shall~~ may be used for determining the minimum standard of valuation for any individual annuity or pure endowment contract issued on or after January 1, 2015. For any individual annuity or pure endowment contract issued on or after January 1, 2016, except as provided in subrule 43.3(4), the 2012 IAR Mortality Table shall be used as provided in this subrule.

[Filed Emergency After Notice 1/14/15, effective 1/14/15]

[Published 2/4/15]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 2/4/15.

**ARC 1844C****INSURANCE DIVISION[191]****Adopted and Filed Emergency After Notice**

Pursuant to the authority of Iowa Code sections 505.8 and 521A.8, the Insurance Division hereby adopts amendments to Chapter 45, "Insurance Holding Company Systems," Iowa Administrative Code.

Chapter 45 establishes standards and procedures for insurance companies that are part of an insurance holding company system. This adopted rule making sets forth procedural requirements which the Insurance Commissioner deems necessary to carry out the provisions of Iowa Code chapter 521A as amended by 2014 Iowa Acts, Senate File 2104. The actions and information required by these amendments are necessary and appropriate to the public interest and protect the solvency of insurers within the insurance holding company system by monitoring transactions between insurers and their affiliates and assessing the "enterprise risk" within the insurance holding company system and determining the impact of such risk upon the solvency of insurers within the insurance group. The amendments add new Form F, which is the newly required annual enterprise risk report that must be filed by an insurer's ultimate controlling person. The amendments also list specific provisions that must be included in an insurer's cost-sharing and management service agreements with other members of its holding company system.

These amendments were published under Notice of Intended Action in the December 10, 2014, Iowa Administrative Bulletin as **ARC 1784C**.

Interested persons were able to make written suggestions or comments on the proposed amendments through December 30, 2014. Written and oral comments were received. A public hearing was held on December 30, 2014, at 10 a.m. at the offices of the Iowa Insurance Division, 601 Locust Street, Fourth Floor, Des Moines, Iowa. Kimberlee Cross, Assistant Chief Examiner, acted as the hearing officer.

Testimony at the public hearing was in support of the proposed amendments. One written comment that requested an exemption or delayed effective date for certain insurance companies from filing Form F was received. Upon consideration of all oral and written comments, the Division made one nonsubstantive change to Form B, Item 7, paragraph (c), to correct an internal reference. In addition, two cross references to 2014 Iowa Acts, Senate File 2104, which is now codified, have been changed to Iowa Code cross references, and a typo was corrected in Form D, Item 5, paragraph (f), second sentence, by changing the word "changes" to "charges."

The Division finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of these amendments, 35 days after publication, should be waived and these amendments should be made effective January 14, 2015. The Division finds that these amendments are critical for providing guidance to insurers to enable consistency in reporting enterprise risk management reports. A public hearing was held, and the amendments to the rules are clarifying in nature and not substantive.

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

These amendments are intended to implement Iowa Code chapter 521A as amended by 2014 Iowa Acts, Senate File 2104.

These amendments became effective January 14, 2015.

The following amendments are adopted.

ITEM 1. Amend rule 191—45.5(521A) as follows:

**191—45.5(521A) Registration of insurers.**

**45.5(1) Annual registration.** Any insured required to file an annual registration statement pursuant to Iowa Code section 521A.4 shall furnish all the information required on ~~FORM~~ Form B hereto annexed and hereby made a part of these rules.

**45.5(2) Amendment to Form B.** An amendment to Form B shall be filed within 15 days after the end of any month in which there is a material change to the information provided in the annual registration statement. Amendments shall be filed in the Form B format with only those items which are being amended reported. Each amendment shall include at the top of the cover page "Amendment No. [insert

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number] to Form B for [insert year]” and shall indicate the date of the change and not the date of the original filing.

**45.5(3) Summary registration.** An insurer required to file an annual registration statement pursuant to Iowa Code section 521A.4 is also required to furnish information required on ~~FORM~~ Form C, hereby made a part of these ~~regulations~~ rules. ~~An insurer shall file a copy of FORM C in each state in which the insurer is authorized to do business, if requested by the commissioner of that state.~~ Form C shall include all amendments for the statement period.

ITEM 2. Amend rule 191—45.9(521A) as follows:

**191—45.9(521A) Transactions subject to prior notice—notice filing.**

**45.9(1)** An insurer required to give notice of a proposed transaction pursuant to Iowa Code section 521A.5 shall furnish the required information on ~~FORM~~ Form D, hereby made a part of these ~~regulations~~ rules.

**45.9(2)** Agreements for cost-sharing services and management services shall, at a minimum and as applicable:

- a.* Identify the person providing services and the nature of such services;
- b.* Set forth the methods to allocate costs;
- c.* Require timely settlement, not less frequently than on a quarterly basis, and compliance with the requirements in the Accounting Practices and Procedures Manual;
- d.* Prohibit advancement of funds by the insurer to the affiliate except to pay for services defined in the agreement;
- e.* State that the insurer will maintain oversight for functions provided to the insurer by the affiliate and that the insurer will monitor services annually for quality assurance;
- f.* Define books and records of the insurer to include all books and records developed or maintained under or related to the agreement;
- g.* Specify that all books and records of the insurer are and shall remain the property of the insurer and are subject to control of the insurer;
- h.* State that all funds and invested assets of the insurer are the exclusive property of the insurer, held for the benefit of the insurer, and subject to the control of the insurer;
- i.* Include standards for termination of the agreement with and without cause;
- j.* Include provisions for indemnification of the insurer in the event of gross negligence or willful misconduct on the part of the affiliate providing the services;
- k.* Specify that if the insurer is placed in receivership or seized by the commissioner under the state receivership Act:
  - (1) All of the rights of the insurer under the agreement extend to the receiver or the commissioner; and
  - (2) All books and records will immediately be made available to the receiver or the commissioner and shall be turned over to the receiver or the commissioner immediately upon the receiver’s or the commissioner’s request;
- l.* Specify that the affiliate has no automatic right to terminate the agreement if the insurer is placed in receivership pursuant to Iowa Code chapter 507C; and
- m.* Specify that the affiliate will continue to maintain any systems, programs, or other infrastructure notwithstanding a seizure by the commissioner under Iowa Code chapter 507C, and will make them available to the receiver for so long as the affiliate continues to receive timely payment for services rendered.

ITEM 3. Amend rule 191—45.10(521A) as follows:

**191—45.10(521A) Extraordinary dividends and other distributions.**

**45.10(1)** Requests for approval of extraordinary dividends or any other extraordinary distribution to shareholders shall include the following:

- 45.10(1) a.** The date established for payment of the dividend;

INSURANCE DIVISION[191](cont'd)

*b.* The amount of the proposed dividend;

~~45.10(2)~~ *c.* A statement as to whether the dividend is to be in cash or other property and, if in property, a description thereof of its cost, and its fair market value together with an explanation of the basis for valuation;

~~45.10(3)~~ *d.* The A copy of the calculations used to determine that the proposed dividend is extraordinary, including the amounts and dates of all dividends (including regular dividends) paid within the period of 24 consecutive months ending on the date fixed for payment of the proposed dividend for which approval is sought and commencing on the day after the same day of the same month in the second and immediately preceding years;

~~45.10(4)~~ *e.* A balance sheet and statement of income for the period intervening from the last annual statement filed with the commissioner and the end of the month preceding the month in which the request for dividend approval is submitted;

~~45.10(5)~~ *f.* A brief statement as to the effect of the proposed dividend upon the insurer's surplus and the reasonableness of surplus in relation to the insurer's outstanding liabilities and the adequacy of surplus relative to the insurer's financial needs.

~~45.10(6)~~ ~~45.10(2)~~ A dividend or distribution to an insurer's shareholders which exceeds the greater of (a) 10 percent of the insurer's surplus as regards policyholders as of the 31st day of December next preceding, or (b) the net gain from operations of such insurer if the insurer is a life insurer, or the net income if the insurer is not a life insurer, not including realized capital gains, for the 12-month period ending the 31st day of December next preceding ~~must~~ shall be submitted to the commissioner 30 days in advance for approval. The commissioner may deem such dividend to be excessive and to constitute grounds under 191—subrule ~~5.23(6)~~ 110.4(5) for finding the insurer to be in a financially hazardous condition and subject to the provisions of 191—subrule ~~5.24(2)~~ 110.5(2).

ITEM 4. Adopt the following new rules 191—45.11(521A) and 191—45.12(521A):

**191—45.11(521A) Enterprise risk report.** The ultimate controlling person of an insurer required to file an enterprise risk report pursuant to Iowa Code section 521A.4(12) shall furnish the required information on Form F, hereby made a part of these rules.

**191—45.12(521A) Forms—additional information and exhibits.** In addition to the information expressly required to be included in Form A, Form B, Form C, Form D, and Form F, the commissioner may request such further material information, if any, as may be necessary to make the information contained therein not misleading. The person filing may also file such exhibits as the person may desire in addition to those expressly required by the statement. The exhibits shall be marked as to indicate clearly the subject matter to which they refer. Changes to Form A, B, C, D, or F shall include on the top of the cover page the phrase: "Change No. [insert number] to" and shall indicate the date of the change and not the date of the original filing.

ITEM 5. Amend **191—Chapter 45**, Forms A and B, as follows:

FORM A

STATEMENT REGARDING THE  
ACQUISITION OF CONTROL OF OR MERGER WITH A DOMESTIC INSURER

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Name of Domestic Insurer  
BY

---

Name of Acquiring Person (Applicant)

Filed with the Insurance Division of Iowa

Dated: \_\_\_\_\_, 20 \_\_\_\_\_

INSURANCE DIVISION[191](cont'd)

Name, Title, Address and Telephone Number of Individual to Whom Notices and Correspondence Concerning This Statement Should be Addressed:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

FORM A

**Item 1.** No change.

**Item 2. Identity and background of the applicant.**

(a) and (b) No change.

(c) Furnish a chart or listing clearly presenting the identities of the interrelationships among the applicant and all affiliates of the applicant. ~~No affiliate need be identified if its total assets are equal to less than one half of one percent of the total assets of the ultimate controlling person affiliated with the applicant.~~ Indicate in such chart or listing the percentage of voting securities of each such person which is owned or controlled by the applicant or by any other such person. If control of any person is maintained other than by the ownership or control of voting securities, indicate the basis of such control. ~~As to~~ For each person specified in such chart or listing, indicate the type of organization (e.g., corporation, trust, partnership) and the state or other jurisdiction of domicile. If court proceedings involving a reorganization or liquidation are pending with respect to any such person, indicate which person, and set forth the title of the court, nature of proceedings and the date when commenced.

**Item 3. Identity and background of individuals associated with the applicant.**

~~State~~ On the biographical affidavit, include a third-party background check, and state the following with respect to (1) the applicant if an individual or (2) all persons who are directors, executive officers or owners of 10 percent or more of the voting securities of the applicant if the applicant is not an individual.

(a) to (d) No change.

**Item 4. to Item 11.** No change.

**Item 12. Financial statements, and exhibits, and three-year financial projections.**

(a) Financial statements, and exhibits, and three-year financial projections of the insurer(s) shall be attached to this statement as an appendix, but list under this item the financial statements, and exhibits, and projections so attached.

(b) and (c) No change.

**Item 13. Agreement requirements for enterprise risk management.** Applicant agrees to provide, to the best of its knowledge and belief, the information required by Form F within 15 days after the end of the month in which the acquisition of control occurs.

**Item 13 14. Signature and certification.** No change.

FORM B

INSURANCE HOLDING COMPANY SYSTEM  
ANNUAL REGISTRATION STATEMENT

Filed with the Insurance Division of Iowa

By

\_\_\_\_\_  
Name of Registrant  
On Behalf of the Following Insurance Companies

INSURANCE DIVISION[191](cont'd)

Name	Address

Date: \_\_\_\_\_, 20 \_\_\_\_\_

Name, Title, Address and Telephone Number of Individual to Whom Notices and Correspondence Concerning This Statement Should Be Addressed:

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FORM B

**Item 1.** No change.

**Item 2. Organizational chart.**

Furnish a chart or listing clearly presenting the identities of and interrelationships among all affiliated persons within the insurance holding company system. ~~No affiliate need be shown if its total assets are equal to less than one-half of 1 percent of the total assets of the ultimate controlling person within the insurance holding company system.~~ The chart or listing should show the percentage of each class of voting securities of each affiliate which is owned, directly or indirectly, by another affiliate. If control of any person within the system is maintained other than by the ownership or control of voting securities, indicate the basis of such control. ~~As to~~ For each person specified in such chart or listing, indicate the type of organization (e.g., corporation, trust, partnership) and the state or other jurisdiction of domicile.

**Item 3. The ultimate controlling person.**

As to the ultimate controlling person in the insurance holding company system furnish ~~the~~ all of the following information:

(a) to (g) No change.

**Item 4. Biographical information.**

~~Furnish~~ If the ultimate controlling person is a corporation, an organization, a limited liability company, or other legal entity, furnish the following information for the directors and executive officers of the ultimate controlling person: the individual's name, address, principal occupation and all offices and positions held during the past five years; and any conviction of crimes other than minor traffic violations during the past ten years. If the ultimate controlling person is an individual, furnish the individual's name and address, the individual's principal occupation and all offices and positions held during the past five years, and any conviction of crimes other than minor traffic violations.

**Item 5. and Item 6.** No change.

**Item 7. Financial statements and exhibits.**

(a) No change.

(b) ~~The~~ If the ultimate controlling person is a corporation, an organization, a limited liability company, or other legal entity, the financial statements shall include the annual financial statements of the ultimate controlling person in the insurance holding company system as of the end of the person's latest fiscal year.

If at the time of the initial registration, the annual financial statements for the latest fiscal year are not available, annual statements for the previous fiscal year may be filed and similar financial information shall be filed for any subsequent period to the extent such information is available. Such financial

INSURANCE DIVISION[191](cont'd)

statements may be prepared on either an individual basis, or, unless the commissioner otherwise requires, on a consolidated basis if such consolidated statements are prepared in the usual course of business.

Other than with respect to the foregoing, such financial statement shall be filed in a standard form and format adopted by the National Association of Insurance Commissioners, unless an alternative form is accepted by the commissioner. Documentation and financial statements filed with the Securities and Exchange Commission or audited generally accepted accounting principles financial statements shall be deemed to be an appropriate form and format.

Unless the commissioner otherwise permits, the annual financial statements shall be accompanied by the certificate of an independent public accountant to the effect that such statements present fairly the financial position of the ultimate controlling person and the results of its operations for the year then ended, in conformity with generally accepted accounting principles or with requirements of insurance or other accounting principles prescribed or permitted under law. If the ultimate controlling person is an insurer who is actively engaged in the business of insurance, the annual financial statements need not be certified, provided they are based on the Annual Statement of such insurer filed with the insurance department of the insurer's domiciliary state and are in accordance with requirements of insurance or other accounting principles prescribed or permitted under the law and regulations of such state.

Any ultimate controlling person who is an individual may file personal financial statements that are reviewed rather than audited by an independent public accountant. The review shall be conducted in accordance with standards for review of personal financial statements published in the Personal Financial Statements Guide by the American Institute of Certified Public Accountants. In order for personal financial statements to be in conformity with generally accepted accounting principles, the statements shall be accompanied by the independent public accountant's standard review report stating that the accountant is not aware of any material modifications that should be made to the financial statements.

(c) Exhibits shall include copies of the latest annual reports to shareholders of the ultimate controlling person and proxy material used by the ultimate controlling person; and any additional documents or papers required by FORM Form B requested by the commissioner, Form A, or documents otherwise required by the commissioner to be filed.

**Item 8. Annual Form C required.** A Form C, Summary of Changes to Registration Statement, shall be prepared and filed with this Form B.

SIGNATURES

Signatures and certification of the form as follows:

SIGNATURE

Pursuant to the requirements of Iowa Code section 521A.4 and Regulation No. 4.01 rule 191-45.5(521A), the Registrant has caused this registration statement to be duly signed on its behalf in the City of \_\_\_\_\_ and State of \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_.

(SEAL)

\_\_\_\_\_  
(Name of Registrant)

By \_\_\_\_\_  
(Name) (Title)

Attest:

\_\_\_\_\_  
(Signature of Officer)

\_\_\_\_\_  
(Title)

INSURANCE DIVISION[191](cont'd)

## CERTIFICATION

The undersigned deposes and says that deponent has duly executed the attached ~~application~~ annual registration statement dated \_\_\_\_\_, 20 \_\_\_\_\_, for and on behalf of \_\_\_\_\_;

(Name of Company)

that deponent is the \_\_\_\_\_ of such company, and that deponent is authorized to

(Title of Officer)

execute and file such instrument. Deponent further says that deponent is familiar with such instrument and the contents thereof, and that the facts therein set forth are true to the best of the deponent's knowledge, information and belief.

(Signature) \_\_\_\_\_

(Type or print name beneath) \_\_\_\_\_

ITEM 6. Amend **191—Chapter 45**, Form C, title, as follows:

## FORM C

SUMMARY OF CHANGES TO REGISTRATION STATEMENTITEM 7. Amend **191—Chapter 45**, Form D, Items 2, 4 and 5, as follows:**Item 2. Description of the transaction.**

Furnish the following information for each transaction for which notice is being given:

(a) A statement as to whether notice is being given under Iowa Code section 521A.5(1) "b" or section 521A.5(1) "c."

(b) A statement of the nature of the transaction.

(c) A statement describing how the transaction meets the "fair and reasonable" standard under Iowa Code section 521A.5(1) "a"(1).

~~(e)~~ (d) The proposed effective date of the transaction.

**Item 4. Reinsurance.**

If the transaction is a reinsurance agreement or modification thereto, or a reinsurance pooling agreement or modification thereto, as described in Iowa Code section 521A.5(1) "c," furnish a description of the known or estimated amount of liability to be ceded or assumed in each calendar year, the period of time during which the agreement will be in effect, and a statement of whether an agreement will be in effect, and a statement of whether an agreement or understanding exists between the insurer and a nonaffiliate to the effect that any portion of the assets constituting the consideration for the agreement will be transferred to one or more of the insurer's affiliates. Furnish a brief description of the consideration involved in the transaction; and a brief statement as to the effect of the transaction upon the insurer's surplus.

No notice need be given for reinsurance agreements or modification thereto if the reinsurance premium or a change in the insurer's liabilities, or the projected reinsurance premium or change in the insurer's liabilities in any of the next three years, in connection with the reinsurance agreement or modification thereto is less than ~~25~~ 5 percent of the insurer's surplus as regards policyholders, as of the preceding 31st day of December. Notice shall be given for all reinsurance pooling agreements including modifications thereto.

**Item 5. Management agreements, service agreements and cost-sharing agreements.**

For management and service agreements, furnish:

(a) and (b) No change.

For cost-sharing arrangements, furnish:

(a) and (b) No change.

(c) A brief description of each party's expenses or costs covered by the agreement; ~~and~~

INSURANCE DIVISION[191](cont'd)

(d) A brief description of the accounting basis to be used in calculating each party's costs under the agreement;

(e) A brief statement as to the effect of the transaction upon the insurer's policyholder surplus;

(f) A statement regarding the cost allocation methods that specifies whether the proposed charges are based on cost or market. If the proposed charges are market-based, the rationale for using market instead of cost, including justification for the company's determination that amounts are fair and reasonable, shall be included; and

(g) A statement regarding compliance with the NAIC Accounting Practices and Procedures Manual regarding expense allocation.

ITEM 8. Adopt the following **new** Form F in **191—Chapter 45**:

FORM F

ENTERPRISE RISK REPORT

Filed with the Insurance Division of the State of Iowa

By

\_\_\_\_\_

Name of Registrant/Applicant

On Behalf of/Related to the Following Insurance Companies

Name	Address

Date: \_\_\_\_\_, 20 \_\_\_\_\_

Name, Title, Address and Telephone Number of Individual to Whom Notices and Correspondence Concerning This Statement Should Be Addressed:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Item 1. Enterprise risk.**

The registrant/applicant, to the best of its knowledge and belief, shall provide information regarding the following areas that could produce enterprise risk as defined in Iowa Code section 521A.1(5) provided such information is not disclosed in the insurance holding company system annual registration statement filed on behalf of the registrant/applicant or another insurer for which the registrant/applicant is the ultimate controlling person:

(a) Any material developments regarding strategy, internal audit findings, compliance or risk management affecting the insurance holding company system;

(b) Acquisition or disposal of insurance entities and reallocating of existing financial or insurance entities within the insurance holding company system;

(c) Any changes of shareholders of the insurance holding company system exceeding 10 percent or more of voting securities;

INSURANCE DIVISION[191](cont'd)

(d) Developments in various investigations, regulatory activities or litigation that may have a significant bearing or impact on the insurance holding company system;

(e) Business plan of the insurance holding company system and summarized strategies for the next 12 months;

(f) Identification of material concerns of the insurance holding company system raised by supervisory college, if any, in the last year;

(g) Identification of insurance holding company system capital resources and material distribution patterns;

(h) Identification of any negative movement or discussions with rating agencies which may have caused, or may cause, potential negative movement in the credit ratings and individual insurer financial strength ratings assessment of the insurance holding company system (including both the rating score and outlook);

(i) Information on corporate or parental guarantees throughout the holding company and the expected source of liquidity should such guarantees be called upon; and

(j) Identification of any material activity or development of the insurance holding company system that, in the opinion of senior management, could adversely affect the insurance holding company system.

The registrant/applicant may attach the appropriate form most recently filed with the U.S. Securities and Exchange Commission, provided the registrant/applicant includes specific references to those areas listed in Item 1 for which the form provides responsive information. If the registrant/applicant is not domiciled in the United States, it may attach its most recent public audited financial statement filed in its country of domicile, provided the registrant/applicant includes specific references to those areas listed in Item 1 for which the financial statement provides responsive information.

**Item 2. Obligation to report.**

If the registrant/applicant has not disclosed any information pursuant to Item 1, the registrant/applicant shall include a statement affirming that, to the best of its knowledge and belief, it has not identified enterprise risk subject to disclosure pursuant to Item 1.

[Filed Emergency After Notice 1/14/15, effective 1/14/15]

[Published 2/4/15]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/4/15.

## ARC 1850C

## HUMAN SERVICES DEPARTMENT[441]

## Adopted and Filed

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services amends Chapter 78, “Amount, Duration and Scope of Medical and Remedial Services,” and Chapter 88, “Managed Health Care Providers,” Iowa Administrative Code.

These amendments replace references to the multi-axial classification of mental disorders used prior to the implementation of the fifth edition of the Diagnostic and Statistical Manual of Mental Disorders (DSM-5) in 2013 with appropriate references to the new DSM-5.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 1729C** on November 12, 2014. The Department received comments from one respondent on these amendments. The respondent requested that the Department modify the proposed amendments to include licensed physician assistant (PA) in the definition of “licensed practitioner of the healing arts.”

The Department agrees with the respondent’s proposed change to the amendments. In Item 2, subrule 78.12(1), the definition of “‘Licensed practitioner of the healing arts’ or ‘LPHA,’” was changed to include “a physician assistant (PA).”

The Council on Human Services adopted these amendments on January 14, 2015.

These amendments do not provide for waivers in specified situations because requests for the waiver of any rule may be submitted under the Department’s general rule on exceptions at 441—1.8(17A,217).

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

These amendments are intended to implement Iowa Code section 249A.4.

These amendments will become effective April 1, 2015.

The following amendments are adopted.

ITEM 1. Amend rule 441—78.12(249A), introductory paragraph, as follows:

**441—78.12(249A) Behavioral health intervention.** Payment will be made for behavioral health intervention services not otherwise covered under this chapter that are designed to minimize or, if possible, eliminate the symptoms or causes of ~~an Axis I psychological~~ a mental disorder, subject to the limitations in this rule.

ITEM 2. Amend subrule 78.12(1) as follows:

**78.12(1) Definitions.**

~~“Axis I disorder” means a diagnosed mental disorder, except for personality disorders and mental retardation, as set forth in the “Diagnostic and Statistical Manual IV-TR,” Fourth Edition.~~

“Behavioral health intervention” means skill-building services that focus on:

1. Addressing the mental and functional disabilities that negatively affect a member’s integration and stability in the community and quality of life;
2. Improving a member’s health and well-being related to the member’s ~~Axis-I~~ mental disorder by reducing or managing the symptoms or behaviors that prevent the member from functioning at the member’s best possible functional level; and
3. Promoting a member’s mental health recovery and resilience through increasing the member’s ability to manage symptoms.

“Licensed practitioner of the healing arts” or “LPHA,” as used in this rule, means a practitioner such as a physician (M.D. or D.O.), a physician assistant (PA), an advanced registered nurse practitioner (ARNP), a psychologist, a social worker (LMSW or LISW), a marital and family therapist (LMFT), or a mental health counselor (LMHC) who:

1. Is licensed by the applicable state authority for that profession;
2. Is enrolled in the Iowa Plan for Behavioral Health (Iowa Plan) pursuant to 441—Chapter 88, Division IV; and
3. Is qualified to provide clinical assessment services (Current Procedural Terminology code 90801) under the Iowa Plan pursuant to 441—Chapter 88, Division IV.

## HUMAN SERVICES DEPARTMENT[441](cont'd)

“Mental disorder” means a disorder, dysfunction, or dysphoria diagnosed pursuant to the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, published by the American Psychiatric Association, excluding intellectual disabilities, personality disorders, medication-induced movement disorders and other adverse effects of medication, and other conditions that may be a focus of clinical attention.

ITEM 3. Amend paragraph **78.12(6)“a”** as follows:

a. Consistent with the diagnosis and treatment of the member’s condition and specific to a daily impairment caused by an ~~Axis-I~~ mental disorder;

ITEM 4. Amend paragraph **78.45(1)“c”** as follows:

c. The member has a validated principal ~~DSM-IV-TR Axis-I~~ mental health diagnosis consistent with a severe and persistent mental illness. For this purpose, a mental health diagnosis means a disorder, dysfunction, or dysphoria diagnosed pursuant to the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, published by the American Psychiatric Association, excluding neurodevelopmental disorders, substance-related disorders, personality disorders, medication-induced movement disorders and other adverse effects of medication, and other conditions that may be a focus of clinical attention. Members with a primary diagnosis of substance-related disorder, developmental disability, or organic disorder are not eligible for ACT services.

ITEM 5. Amend subrule 88.65(5) as follows:

**88.65(5) Covered diagnoses.** Services for a covered diagnosis cannot be denied solely on the basis of an individual’s also having a noncovered diagnosis. Mental health services, including inpatient care, cannot be denied solely on the basis of an individual’s having no ~~Axis-I~~ diagnosis pursuant to the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, published by the American Psychiatric Association. The contractor will be responsible for ensuring, arranging, monitoring, and reimbursing services necessary for the behavioral care and treatment of the covered diagnoses for Iowa Plan enrollees who are diagnosed with a covered diagnosis and a noncovered diagnosis.

The services defined at subrules 88.65(3) and 88.65(4) shall be provided to all Iowa Plan enrollees who meet the diagnostic criteria for the following disorders listed in the International Classification of Diseases—Ninth Edition (ICD-9):

1. Mental health: 290-302.9; 306-309.9; 311-314.9.
2. Substance abuse: 303-305.9.

[Filed 1/15/15, effective 4/1/15]

[Published 2/4/15]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 2/4/15.

**ARC 1851C**

**HUMAN SERVICES DEPARTMENT[441]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 237A.12, the Department of Human Services amends Chapter 110, “Child Development Homes,” Iowa Administrative Code.

The purpose of this amendment is to modify the height requirements for fences around swimming pools at child development homes. Many child development homes are unable to find approved pool covers for inflatable pools and, therefore, must fence in their pools. Rules currently indicate that fencing must be four feet above the side walls, which often would require eight-foot fencing. Most city ordinances do not allow fencing over six feet. This creates a barrier for child development homes to have pools at their homes that meet rule requirements.

Federal recommendations indicate that pools should be enclosed with a fence that is four to six feet high or higher. An effective fence is one that prevents a child from getting over, under, or through it and keeps children from gaining access to the pool. Recommendations cited in “Caring for Our Children”

HUMAN SERVICES DEPARTMENT[441](cont'd)

include a fencing height of at least five feet. The Web site [poolsafely.gov](http://poolsafely.gov) indicates that the top of the barrier should be at least 48 inches above the surface measure on the side of the barrier which faces away from the swimming pool.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 1739C** on November 26, 2014. The Department received no comments on this amendment. This amendment is identical to that published under Notice of Intended Action.

The Council on Human Services adopted this amendment on January 14, 2015.

This amendment does not provide for waivers in specified situations because requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217). After analysis and review of this rule making, no impact on jobs has been found.

This amendment is intended to implement Iowa Code section 237A.12.

This amendment will become effective April 1, 2015.

The following amendment is adopted.

Amend paragraph **110.5(1)“r”** as follows:

*r.* When there is a swimming or wading pool on the premises:

(1) A wading pool shall be drained daily and shall be inaccessible to children when it is not in use.

(2) An aboveground or in-ground swimming pool that is not fenced shall be covered whenever the pool is not in use. The cover shall meet or exceed the ~~standards of the American Society for Testing and Materials~~ ASTM International (formerly known as the American Society for Testing and Materials) specification intended to reduce the risk of drowning by inhibiting access to the water by children under five years of age.

(3) An uncovered aboveground swimming pool shall be enclosed with an approved fence that is ~~four feet above the side walls~~ non-climbable and has a minimum height of four feet.

(4) An uncovered in-ground swimming pool shall be enclosed with a fence that is at least four feet high and flush with the ground.

[Filed 1/15/15, effective 4/1/15]

[Published 2/4/15]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/4/15.

**ARC 1845C**

## **IOWA FINANCE AUTHORITY[265]**

### **Adopted and Filed**

Pursuant to the authority of Iowa Code sections 17A.3(1)“b,” 16.5(1)“e,” 16.5(1)“r,” 16.5(1)“m,” and 16.36, the Iowa Finance Authority hereby amends Chapter 10, “Mortgage Credit Certificates,” Iowa Administrative Code.

The purposes of these amendments are to update the provisions of the rules relating to the Mortgage Credit Certificates Program that pertain to charges and to update the implementation sentence.

Notice of Intended Action was published in the Iowa Administrative Bulletin on November 12, 2014, as **ARC 1724C**.

The Authority received no public comment on the proposed amendments. The Authority revised the amendments published under Notice in order to update the implementation sentence to reflect amendments to Iowa Code chapter 16.

The Iowa Finance Authority adopted these amendments on January 7, 2015.

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

These amendments are intended to implement Iowa Code sections 16.5(1)“e,” 16.5(1)“m,” and 16.36.

These amendments will become effective on March 11, 2015.

The following amendments are adopted.

## IOWA FINANCE AUTHORITY[265](cont'd)

ITEM 1. Amend rule 265—10.2(16) as follows:

**265—10.2(16) Participating lenders.** The authority will disseminate a summary of the MCC program to mortgage lenders operating within Iowa. Each branch office of a mortgage lender is deemed to be a separate mortgage lender. Any mortgage lender as defined in Iowa Code section 16.1 may become a participating lender by entering into an MCC lender participation agreement with the authority. All other participating lenders may take applications for MCCs on loans closed after the effective date of the participation agreement. Each participating lender shall pay a \$100 annual participation fee. The authority shall set and post on its Web site annual participation fees to be paid by participating lenders as a condition of participating in the MCC program.

ITEM 2. Amend rule 265—10.4(16) as follows:

**265—10.4(16) MCC procedures.** Applications for MCCs may be made with any participating lender. The applicant shall provide the lender with all information that is necessary to secure a mortgage loan and an MCC. An applicant must meet the eligibility requirements set out in rule 265—10.3(16). If the eligibility requirements are met, the participating lenders may nonetheless deny a loan, subject to all reporting and disclosure requirements of applicable state and federal law, for any reason premised on sound lending practices, including underwriting risk evaluation, portfolio diversification, and limitations on restrictions on investments or available funds. If the loan is approved, the terms of the loan, including interest rate, length of loan, down payment, fees, origination charge and repayment schedule, shall not be greater than those available to similar customers that do not make application for an MCC. However, the lender may collect a one-time MCC commitment fee of up to \$200, which may be paid by the borrower, lender, or any other party. ~~Of this fee, \$100~~ An MCC program application fee must accompany the MCC application and be submitted to the authority by the lender. The balance of the fee may be kept by the lender as compensation for processing the MCC. The amount of the maximum allowable MCC commitment fee and the amount of the MCC program application fee shall be set by the authority from time to time and posted on the authority's Web site.

No MCC will be issued unless the requirements and procedures set out in the MCC program guide are complied with by all parties to the home sale and financing.

ITEM 3. Amend **265—Chapter 10**, implementation sentence, as follows:

These rules are intended to implement Iowa Code section ~~16.15, subsection 7~~ sections 16.5(1)“e,” 16.5(1)“m,” and 16.36.

[Filed 1/14/15, effective 3/11/15]

[Published 2/4/15]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/4/15.

**ARC 1854C**

**IOWA FINANCE AUTHORITY[265]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code sections 17A.3(1)“b,” 16.5(1)“r,” and 16.5(1)“m,” the Iowa Finance Authority hereby amends Chapter 27, “Military Service Member Home Ownership Assistance Program,” Iowa Administrative Code.

The purposes of these amendments are to bring the rules relating to the Military Home Ownership Assistance Program into compliance with 2014 Iowa Acts, Senate File 303, section 55, and to clarify related provisions of the rules.

Notice of Intended Action was published in the Iowa Administrative Bulletin on September 3, 2014, as **ARC 1594C**. These amendments were also Adopted and Filed Emergency and published in the Iowa Administrative Bulletin on September 3, 2014, as **ARC 1595C**.

## IOWA FINANCE AUTHORITY[265](cont'd)

The Authority received no public comment on the proposed amendments and made no revisions to the amendments published under Notice.

The Iowa Finance Authority adopted these amendments on December 10, 2014.

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

These amendments are intended to implement Iowa Code section 16.54.

These amendments will become effective on March 11, 2015, at which time the Adopted and Filed Emergency amendments are hereby rescinded.

The following amendments are adopted.

ITEM 1. Amend the following definitions in rule **265—27.2(16)**:

“*Eligible service member*” means a person purchasing his or her primary residence in the state of Iowa who, at the time of applying application for a grant under the program, (1) is or was, if discharged under honorable conditions, a member of the national guard, reserve, or regular component of the armed forces of the United States under Title 10 or Title 32 and has served at least 90 days of active duty service, other than training, beginning on or after September 11, 2001, ~~and, if no longer in active service, was discharged in character other than dishonorable~~ or during the period of the Persian Gulf Conflict, beginning August 2, 1990, and ending April 6, 1991; (2) was honorably discharged due to injuries incurred while on active federal service beginning on or after September 11, 2001, or during the period of the Persian Gulf Conflict, beginning August 2, 1990, and ending April 6, 1991; or (3) is a surviving spouse of a service member who met the eligibility criteria of (1) or (2) above.

“*Participating lender*” means a lender approved for participation in one or more of the authority’s first mortgage financing home buyer programs ~~and a lender approved to facilitate loans under the military home ownership assistance program only~~. Eligible home buyer program participating lenders are those that make available the authority’s home buyer program to customers in the same manner as other mortgage loan programs. ~~This requirement applies to branch and affiliate organizations that facilitate mortgage financing with the military assistance. The authority may require participating lenders to provide evidence of proof of compliance, such as origination of mortgage loans made pursuant to one or more of the authority’s home buyer mortgage programs or mortgage rate sheets evidencing availability of the authority’s mortgage programs.~~ The authority maintains a list of participating lenders on its Web site: [www.iowafinanceauthority.gov](http://www.iowafinanceauthority.gov).

“*Qualified mortgage*” means a permanent mortgage loan made pursuant to one of the authority’s home buyer mortgage programs unless the lender offers a lower annual percentage interest rate (APR), fixed-rate, fully amortizing first mortgage ~~or, in cases where the home buyer is not eligible for standard 30-year, fixed-rate FHA, RD, VA, Fannie Mae, or Freddie Mac mortgage financing, any permanent, fully amortizing mortgage loan made by a participating lender with a maturity date of not less than five years.~~ meeting the requirements of paragraph 27.3(2) “a.” The authority’s home buyer mortgage program information may be obtained on the authority’s Web site at [www.iowafinanceauthority.gov](http://www.iowafinanceauthority.gov).

ITEM 2. Adopt the following **new** definition in rule **265—27.2(16)**:

“*Facilitating lender*” means a lender that is not a participating lender but that is approved by the authority to make loans under the military home ownership assistance program pursuant to Iowa Code section 16.54(5) and subrule 27.3(7).

ITEM 3. Amend subrule 27.3(2) as follows:

**27.3(2) *Financed home purchases.***

a. In the case of the purchase of a qualified home that is to be financed, the eligible service member must apply for assistance under the program through a participating lender or a lender approved to facilitate MHOA assistance. The mortgage financing provided shall be a mortgage loan made pursuant to one of the authority’s home buyer mortgage programs if the service member qualifies for it; provided, however, that notwithstanding the foregoing, a service member may utilize a mortgage loan that is not made pursuant to one of the authority’s home buyer mortgage programs ~~which is from a lender approved to facilitate MHOA assistance if:~~

(1) such mortgage loan is offered by either:

1. A lender that participates in one of the authority’s first mortgage financing programs, or

IOWA FINANCE AUTHORITY[265](cont'd)

2. A lender approved pursuant to Iowa Code section 16.54(5); and

(2) The authority determines that the offered financing would be economically feasible and financially advantageous for the eligible service member. The authority shall presume an offer of financing to be financially advantageous for the eligible service member if the offered financing has an annual percentage rate that is at least 25 basis points lower than the most nearly equivalent loan offered by participating lenders on the same date pursuant to one of the authority's home buyer mortgage programs.

If the service member does not qualify for one of the authority's home buyer mortgage programs, another permanent, fixed-rate, fully amortizing mortgage loan may be used.

b. To apply for the military assistance, the eligible service member shall provide the lender with all of the following:

- (1) Status documentation;
- (2) A bona fide purchase agreement with any addenda or attachments for a primary residence;
- (3) A complete loan application on Form 1003;
- (4) A copy of a government-issued photo identification card or a lender certification that a government-issued photo identification card has been provided;
- (5) A copy of the subject appraisal; and
- (6) Documentation that demonstrates the home will be occupied as a primary residence.

c. The eligible service member shall assist the participating lender in completing an MHOA application on a form approved by the authority stating the amount of the assistance being requested. In the event the service member is not using one of the authority's mortgage programs, the request submission must include early truth-in-lending and good-faith estimate disclosures, ~~and, if the service member is not eligible for a 30-year, fixed-rate mortgage loan, the request submission must also include fully amortized financing and information documenting ineligibility for FHA, VA, RD, Fannie Mae or Freddie Mac financing.~~

d. No change.

ITEM 4. Amend subrule 27.3(7) as follows:

**27.3(7) Approval process for facilitating lender status.** ~~An~~ Pursuant to Iowa Code section 16.54(5), an Iowa-regulated or federally regulated lender with a physical location in the state of Iowa may submit an application to the authority for approval, even if such lender does not participate in the authority's home ownership programs for home buyers. The application shall include a written request to be approved as an MHOA facilitating lender, a check for \$500 payable to the authority, a narrative describing the lender's mortgage origination process, including mortgage loan products offered through the lender, documentation of Iowa or federal regulation showing that the applicant is in good standing, an errors and omissions insurance declaration evidencing coverage of at least \$300,000, and a completed electronic funds transfer form. Lenders should allow a minimum of two weeks' response time from the authority. The approval to be a facilitating lender shall be valid for one year, and lenders annually will need to submit an application, including the application fee. The application fee may not be charged in part or in full to a service member or to a property seller. Any approval granted pursuant hereto shall be contingent upon the approved lender's offering eligible service members a lower annual percentage rate than the annual percentage rates available at such time from lenders that participate in the authority's first mortgage financing programs.

[Filed 1/15/15, effective 3/11/15]

[Published 2/4/15]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/4/15.

**ARC 1846C****TRANSPORTATION DEPARTMENT[761]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 307.10 and 307.12, the Iowa Department of Transportation, on January 13, 2015, adopted amendments to Chapter 13, "Contested Cases," Iowa Administrative Code.

Notice of Intended Action for these amendments was published in the November 26, 2014, Iowa Administrative Bulletin as **ARC 1736C**.

Item 1 makes changes to expand the retention period of contested case records to coincide with Iowa Code section 17A.12, which requires that records relating to oral proceedings be retained for at least five years. Item 2 corrects an Iowa Code citation within the chapter's implementation sentence.

These rules do not provide for waivers. Any person who believes that the person's circumstances meet the statutory criteria for a waiver may petition the Department for a waiver under 761—Chapter 11.

These amendments are identical to those published under Notice of Intended Action.

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

These amendments are intended to implement Iowa Code sections 17A.12 and 10A.801.

These amendments will become effective March 11, 2015.

The following amendments are adopted.

ITEM 1. Amend rule 761—13.10(17A) as follows:

**761—13.10(17A) Maintenance of records.** The department shall retain for ~~three~~ at least five years from the date of the final decision copies of ~~decisions~~ the record made before the presiding officer, the decision received from the presiding officers officer, ~~decisions~~ the decision issued by the director, and related correspondence.

ITEM 2. Amend **761—Chapter 13**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapter 17A and Iowa Code section ~~10A.202~~ 10A.801.

[Filed 1/15/15, effective 3/11/15]

[Published 2/4/15]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/4/15.