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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 2016

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
Dec. 30 '15	Jan. 20 '16	Feb. 9 '16	Feb. 24 '16	Feb. 26 '16	Mar. 16 '16	Apr. 20 '16	July 18 '16
Jan. 15	Feb. 3	Feb. 23	Mar. 9	Mar. 11	Mar. 30	May 4	Aug. 1
Jan. 29	Feb. 17	Mar. 8	Mar. 23	Mar. 25	Apr. 13	May 18	Aug. 15
Feb. 12	Mar. 2	Mar. 22	Apr. 6	Apr. 8	Apr. 27	June 1	Aug. 29
Feb. 26	Mar. 16	Apr. 5	Apr. 20	Apr. 22	May 11	June 15	Sep. 12
Mar. 11	Mar. 30	Apr. 19	May 4	May 6	May 25	June 29	Sep. 26
Mar. 25	Apr. 13	May 3	May 18	***May 18***	June 8	July 13	Oct. 10
Apr. 8	Apr. 27	May 17	June 1	June 3	June 22	July 27	Oct. 24
Apr. 22	May 11	May 31	June 15	June 17	July 6	Aug. 10	Nov. 7
May 6	May 25	June 14	June 29	***June 29***	July 20	Aug. 24	Nov. 21
May 18	June 8	June 28	July 13	July 15	Aug. 3	Sep. 7	Dec. 5
June 3	June 22	July 12	July 27	July 29	Aug. 17	Sep. 21	Dec. 19
June 17	July 6	July 26	Aug. 10	Aug. 12	Aug. 31	Oct. 5	Jan. 2 '17
June 29	July 20	Aug. 9	Aug. 24	***Aug. 24***	Sep. 14	Oct. 19	Jan. 16 '17
July 15	Aug. 3	Aug. 23	Sep. 7	Sep. 9	Sep. 28	Nov. 2	Jan. 30 '17
July 29	Aug. 17	Sep. 6	Sep. 21	Sep. 23	Oct. 12	Nov. 16	Feb. 13 '17
Aug. 12	Aug. 31	Sep. 20	Oct. 5	Oct. 7	Oct. 26	Nov. 30	Feb. 27 '17
Aug. 24	Sep. 14	Oct. 4	Oct. 19	***Oct. 19***	Nov. 9	Dec. 14	Mar. 13 '17
Sep. 9	Sep. 28	Oct. 18	Nov. 2	***Nov. 2***	Nov. 23	Dec. 28	Mar. 27 '17
Sep. 23	Oct. 12	Nov. 1	Nov. 16	***Nov. 16***	Dec. 7	Jan. 11 '17	Apr. 10 '17
Oct. 7	Oct. 26	Nov. 15	Nov. 30	***Nov. 30***	Dec. 21	Jan. 25 '17	Apr. 24 '17
Oct. 19	Nov. 9	Nov. 29	Dec. 14	***Dec. 14***	Jan. 4 '17	Feb. 8 '17	May 8 '17
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PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
8	Friday, September 23, 2016	October 12, 2016
9	Friday, October 7, 2016	October 26, 2016
10	Wednesday, October 19, 2016	November 9, 2016

PLEASE NOTE:

Rules will not be accepted after **12 o'clock noon** on the filing deadline 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*****

CHIEF INFORMATION OFFICER, OFFICE OF THE[129]

Broadband infrastructure—targeted service areas, project certification, chs 20, 21 IAB 8/31/16 ARC 2699C	Conference Room A-5 Hoover State Office Bldg. Des Moines, Iowa	September 20, 2016 1 to 2 p.m.
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DENTAL BOARD[650]

Dental and dental hygiene examinations, 12.1 to 12.4 IAB 8/31/16 ARC 2700C	Board Office, Suite D 400 S.W. 8th St. Des Moines, Iowa	September 21, 2016 2 p.m.
Licensure to practice dentistry or dental hygiene, 11.2, 11.3(2), 11.5, 11.6(2) IAB 8/31/16 ARC 2701C	Board Office, Suite D 400 S.W. 8th St. Des Moines, Iowa	September 21, 2016 2 p.m.

EDUCATIONAL EXAMINERS BOARD[282]

Standard teaching license—evidence of successful teaching experience, 13.7 IAB 8/31/16 ARC 2689C	Room 3 Southwest Grimes State Office Bldg. Des Moines, Iowa	September 21, 2016 1 p.m.
Coaching—transitional authorization, certificate of CPR training, 13.28(29), 22.1 IAB 8/31/16 ARC 2690C	Room 3 Southwest Grimes State Office Bldg. Des Moines, Iowa	September 21, 2016 1 p.m.

HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605]

Emergency management employees—removal of prohibition from seeking elective office, 7.4(2) IAB 9/14/16 ARC 2713C	Cyclones Conference Room, Suite 500 7900 Hickman Rd. Windsor Heights, Iowa	October 4, 2016 11 a.m.
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INSURANCE DIVISION[191]

Burial sites and cemeteries, adopt ch 101; rescind ch 140 IAB 9/14/16 ARC 2718C	Division Offices, Fourth Floor Two Ruan Center 601 Locust St. Des Moines, Iowa	October 4, 2016 10 a.m.
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Calculation of adjusted gross receipts, 5.4(10) IAB 8/31/16 ARC 2686C	Commission Office, Suite 100 1300 Des Moines St. Des Moines, Iowa	September 20, 2016 9 a.m.
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REAL ESTATE APPRAISER EXAMINING BOARD[193F]

Organization and administration; definitions; supervision by superintendent of banking, amend chs 1, 2; adopt ch 17 IAB 9/14/16 ARC 2710C	Small Conference Room, Third Floor 200 E. Grand Ave. Des Moines, Iowa	October 4, 2016 8:30 a.m.
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REAL ESTATE COMMISSION[193E]

Licensure of brokers, salespersons and nonresident licensees, amendments to chs 3 to 5 IAB 9/14/16 ARC 2712C	Commission Office, Suite 350 200 E. Grand Ave. Des Moines, Iowa	October 4, 2016 12 noon
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TREASURER OF STATE[781]

Unclaimed property, ch 9 IAB 9/14/16 ARC 2716C	Room 116 State Capitol Des Moines, Iowa	October 6, 2016 9 a.m.
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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 2708C

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

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 206.5(7), the Department of Agriculture and Land Stewardship hereby gives Notice of Intended Action to amend Chapter 45, “Pesticides,” Iowa Administrative Code.

The proposed amendment eliminates the requirement for an applicator’s social security number on the certificate of completion form for pesticide applicator continuing instruction courses.

Any interested persons may make written suggestions or comments on the proposed amendment on or before October 4, 2016. Written comments should be addressed to Margaret Thomson, Iowa Department of Agriculture and Land Stewardship, Wallace State Office Building, 502 East Ninth Street, Des Moines, Iowa 50319. Comments may be submitted by fax to (515)281-6236 or by e-mail to Margaret.Thomson@IowaAgriculture.gov.

The proposed amendment is subject to the Department’s general waiver provision.

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

This amendment is intended to implement Iowa Code section 506.5(7).

The following amendment is proposed.

Amend subrule 45.52(4) as follows:

45.52(4) Certificate of completion.

a. The department shall adopt a standard certificate of completion form and provide the form to each registered provider. The form shall include the applicator’s name, ~~social security number~~, name of employer when applicable, course number, date and location of the course, the category or categories the course has been approved for and the signature of the course instructor.

b. Once a course is approved, the provider shall furnish a certificate of completion to each person who satisfactorily completes such a course. The certificate shall be signed by the course instructor. Providers shall also maintain a list of all persons who attend courses offered by ~~them~~ providers for continuing instruction for at least three years from the end of the year in which the courses are offered. The list shall identify each participant by name, address, ~~social security number~~ and employer when applicable.

ARC 2713C

HOMELAND SECURITY AND EMERGENCY
MANAGEMENT DEPARTMENT[605]

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 17A.3, the Department of Homeland Security and Emergency Management hereby gives Notice of Intended Action to amend Chapter 7, “Local Emergency Management,” Iowa Administrative Code.

HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605](cont'd)

This proposed amendment is intended to implement 2016 Iowa Acts, House File 2353, which amends Iowa Code section 29C.16 to allow emergency management employees to run for partisan elective office. The proposed amendment is also intended to align the administrative rule with 2016 Iowa Acts, House File 2353, and with the federal Hatch Act. The Hatch Act allows a governmental employee to run for partisan elective office as long as that employee's salary is not 100 percent federally funded.

Consideration will be given to all written suggestions or comments on the proposed amendment received on or before October 4, 2016. Such written materials should be sent to the Administrative Rules Coordinator, Department of Homeland Security and Emergency Management, 7900 Hickman Road, Suite 500, Windsor Heights, Iowa 50324; or sent by fax to (515)725-3260 or by e-mail to john.benson@iowa.gov.

Also, there will be a public hearing on October 4, 2016, at 11 a.m. in the Department of Homeland Security and Emergency Management's Cyclones Conference Room at 7900 Hickman Road, Suite 500, Windsor Heights, Iowa, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendment.

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

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

This amendment is intended to implement Iowa Code section 29C.16 as amended by 2016 Iowa Acts, House File 2353.

The following amendment is proposed.

Amend subrule 7.4(2) as follows:

7.4(2) Political activity.

a. A member of a commission shall not be appointed as the local emergency management coordinator.

b. An individual serving in a full-time or part-time governmental position incompatible with the position of coordinator shall not be appointed as the emergency management coordinator.

c. Any employee of an organization for emergency management shall not ~~become a candidate for any partisan elective office. However, the employee is not precluded from holding any nonpartisan elective office for which no pay or only token payment is received.~~

(1) During working hours or when performing official duties or when using public equipment or at any time on public property, take part in any way in soliciting any contribution for any political party or any person seeking political office.

(2) Seek or attempt to use any political endorsement in connection with any appointment to a position created under this rule.

(3) Use any official authority or influence for the purpose of interfering with an election or affecting the results of an election.

ARC 2718C

INSURANCE DIVISION[191]

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 523I.207, the Insurance Division (the Division) hereby gives Notice of Intended Action to adopt a new Chapter 101, “Burial Sites and Cemeteries,” and to rescind Chapter 140, “Burial Sites and Cemeteries,” Iowa Administrative Code.

INSURANCE DIVISION[191](cont'd)

The proposed new chapter is intended to implement Iowa Code chapter 523I as amended by 2016 Iowa Acts, House File 2394, sections 12 and 13. Iowa Code chapter 523I regulates the sale of purchase agreements for cemetery merchandise and services, and authorizes the Iowa Insurance Commissioner to adopt rules as are necessary to administer Iowa Code chapter 523I.

New Chapter 101 is proposed so that the rules shall be in accordance with Iowa Code chapter 523I as amended by 2016 Iowa Acts, House File 2394, related to the annual report required to be filed with the Division. The proposed new chapter also clarifies the current requirements for occasions when care fund amounts are distributed using a total return distribution method. Finally, the proposed new chapter includes other clarifications and general updates in accordance with Iowa Code section 17A.7(2).

The Division intends that these amendments shall go into effect December 14, 2016.

Any interested person may make written suggestions or comments on the proposed new chapter on or before October 4, 2016. Such written materials should be directed to Rosanne Mead, Iowa Insurance Division, Securities and Regulated Industries Bureau, Two Ruan Center, 601 Locust Street, Fourth Floor, Des Moines, Iowa 50319; fax (515)281-3059; e-mail rosanne.mead@iid.iowa.gov.

Also, there will be a public hearing regarding the proposed new chapter on October 4, 2016, at 10 a.m. at the offices of the Iowa Insurance Division, Two Ruan Center, 601 Locust Street, Fourth Floor, Des Moines, Iowa, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the new chapter.

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

The Insurance Division's general waiver provisions in 191—Chapter 4 apply to these rules.

These rules will impose no fiscal impact on the State.

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

These amendments are intended to implement Iowa Code chapter 523I as amended by 2016 Iowa Acts, House File 2394, sections 12 and 13.

The following amendments are proposed.

ITEM 1. Adopt the following **new** 191—Chapter 101:

CHAPTER 101
BURIAL SITES AND CEMETERIES

191—101.1(523I) Purpose. This chapter is intended to implement and administer the provisions of Iowa Code chapter 523I as amended by 2016 Iowa Acts, House File 2394, which regulates burial sites and cemeteries.

191—101.2(523I) Definitions. For purposes of this chapter, the definitions of Iowa Code chapter 523I are incorporated by reference. In addition, the following definitions shall apply:

“*Division*” means the Iowa insurance division, supervised by the commissioner pursuant to Iowa Code section 505.8, in the division's performance of the duties of the commissioner under Iowa Code chapters 505 and 523I.

“*Net appreciation*” means the amount by which cumulative capital gains exceed the sum of the capital losses.

191—101.3(523I) Examination expenses assessment. If the division performs an on-site examination of a perpetual care cemetery pursuant to Iowa Code section 523I.213A, the perpetual care cemetery shall pay the division fee of \$150. The fee will not be assessed more than once every five years. In addition, the division reserves the right, in special circumstances, or for investigative examinations for cause, as often as necessary, to assess actual costs of examiners' time, travel, meals and lodging. The fee or costs may be waived by the division, in the division's sole discretion.

INSURANCE DIVISION[191](cont'd)

191—101.4(523I) Sale of insurance. The sale of cemetery merchandise or services for a death in the future, except if it is the sale of a purchase agreement in compliance with Iowa Code chapter 523A and 191—Chapter 100, is the sale of insurance, and cannot be sold unless it is both of the following:

101.4(1) Sold by an insurance producer licensed in Iowa.

101.4(2) Underwritten by an insurance company authorized to sell insurance in Iowa.

191—101.5(523I) Notice of disinterment. The notice filed by a cemetery reporting a disinterment pursuant to Iowa Code section 523I.309(6) shall include a description of the error, the reason the error occurred, the identity of all parties in interest, the date of the initial interment, the identity of the remains being relocated, the location where the disinterment will occur, and the location of the new interment space. The division and parties in interest may waive the notice required by Iowa Code section 523I.309(6) if all parties in interest have otherwise received notice of the action and consented to the disinterment and relocation.

191—101.6(523I) Cemeteries owned or operated by a governmental subdivision.

101.6(1) *Governmental subdivision deemed trustee.* A governmental subdivision holding care fund amounts shall be deemed the trustee of the care fund for purposes of Iowa Code chapter 523I unless a care fund trust agreement provides otherwise.

101.6(2) *Governmental subdivision's adoption of ordinance to create care fund.* For purposes of Iowa Code section 523I.502, if a governmental subdivision adopts an ordinance or resolution as required by Iowa Code section 523I.502 with the language set forth on the division's Web site, www.iid.iowa.gov, or alternate similar language approved in writing by the division, the division shall deem the action as creating a care fund trust agreement for a perpetual care cemetery.

191—101.7(523I) Commingling of care fund accounts.

101.7(1) *Generally, commingling not permitted.* Except as otherwise provided in subrules 101.7(2), 101.7(3) and 101.7(4), the assets of a care fund may not be commingled with the assets of another care fund or with any other fund's assets.

101.7(2) *Master trusts.* The trustee of a master trust may manage the assets of more than one care fund within the master trust if separate title and separate accounting are maintained for each care fund pursuant to Iowa Code section 523I.810(1) "c."

101.7(3) *Other care funds.* The assets of a care fund may be commingled with other cemeteries' care funds for investment purposes if separate title and separate accounting are maintained for each cemetery's care fund.

101.7(4) *Governmental subdivisions.* A governmental subdivision may commingle care funds pursuant to Iowa Code section 523I.506.

191—101.8(523I) Distribution of care fund amounts using a total return distribution method.

101.8(1) *Purpose.* This rule is authorized by Iowa Code section 523I.811(2) and is intended to encourage care fund investments in appreciating assets that will produce higher care fund income levels created by growth in the care fund principal.

101.8(2) *Definition of "total return distribution method."* For purposes of this rule, a "total return distribution method" is a plan for distributing care fund amounts which takes into account both income (interest and dividends) earned by the care fund and capital appreciation (the change in the market value) of the care fund's assets. A total return distribution method takes into account the estimated rate of return over a specified period of time.

101.8(3) *Principal of care fund.* The principal of a care fund required by Iowa Code section 523I.806 shall remain available as a funding source for care of the cemetery. A cemetery shall not reduce the principal of a care fund voluntarily, except for the distribution of income. Pursuant to Iowa Code section 523I.811(2), the commissioner, by this rule, establishes terms and conditions under which a care fund trustee or, in the event of multiple trustees, a majority of the trustees, may, in the trustee's or trustees'

INSURANCE DIVISION[191](cont'd)

sole discretion, adopt a total return distribution method for the distribution of care fund income, subject to the terms and conditions of this rule.

a. In maintaining accounts for the care fund, the trustee or trustees shall maintain separate accountings of principal and of income.

b. The care fund trust's governing instrument must clearly manifest intent to use a total return distribution method. Conversion to an investment policy utilizing the total return distribution method shall not conflict with or affect any provision of the trust agreement, if any, regarding the distribution of principal. If the trust agreement indicates intent that net appreciation shall not be expended, the trust may not use the total return distribution method. The trust shall clearly indicate how loss of trust fund value shall affect the total return distribution method and any system of reserve accounts for capital losses.

c. Distributions permitted under the total return distribution method shall be paid from the following sources in the order listed, and the amounts paid from each source shall be labeled:

- (1) Net income; and
- (2) Other ordinary income as determined for federal income tax purposes.

d. The distributions under the total return distribution method shall be used in any manner determined to be in the best interests of the cemetery if authorized by a resolution, bylaw, or other action or instrument establishing the care fund, including but not limited to the following: the general care of memorials; memorialization; cutting and trimming lawns, shrubs, and trees at reasonable intervals; maintaining drains, water lines, roads, buildings, fences, and other structures; maintaining machinery, tools, and equipment; compensating maintenance employees; paying insurance premiums; making payments to maintenance employees' pension and benefit plans; paying expenses necessary to maintain ownership, transfer, and interment records of the cemetery; capital improvements; and paying overhead expenses incidental to such purposes.

e. The trustee or trustees shall, not less than annually, determine the fair market value of each asset of the care fund that consists primarily of real property or other property that is not traded on a regular basis in an active market, by appraisal or other reasonable method or estimate. That determination, if made reasonably and in good faith, shall be conclusive as to all persons interested in the care fund.

101.8(4) *Trustee to exercise care and prudence.* The trustee or trustees shall exercise ordinary business care and prudence regarding the investment of care fund amounts, by considering the following:

- a.* The Probate Code, Iowa Code chapter 633;
- b.* The Uniform Prudent Investor Act, Iowa Code sections 633A.4301 through 633A.4309;
- c.* Present and anticipated financial requirements of the cemetery, including but not limited to the following: the cemetery's need to fund the current and long-term expenses of care and maintenance; expected total return from income and appreciation of principal; price level trends of equity and fixed income investments; needs for liquidity; regularity of income; preservation or appreciation of capital; general economic conditions; the possible effect of inflation or deflation; and the retention of income and net appreciation to adjust for inflation.

101.8(5) *Adoption and implementation of a total return distribution method.*

a. Prior to implementation of a total return distribution method, the trustee or trustees shall do all of the following:

(1) Adopt a written investment and distribution policy under which future distributions from the care fund will be total return distribution amounts rather than net income distribution amounts.

1. The investment goals and objectives shall be to achieve principal growth through equity investment; current income through income investments; and an appropriate balance between:

- Maintaining purchasing power through principal appreciation; and
- Generating current income to support the cemetery's current requirements for care and maintenance.

2. The trustee or trustees shall treat the net appreciation, realized and unrealized, in the fair value of the assets of a care fund as if it were net income of the care fund for purposes of determining the amount available for distributions, from time to time, from the care fund.

INSURANCE DIVISION[191](cont'd)

(2) Ninety days prior to implementation of the total return distribution method, file with the division a request for the division's approval of the proposed plan for use of the total return distribution method. The request shall include copies of the following:

1. The care fund governing instrument.
2. The written election adopting the total return distribution method.
3. The written investment and distribution policy required by paragraph 101.8(5) "a."
4. Evidence of the existence of any reserve fund required and information explaining how the amount of the reserve fund was calculated.
5. Other information requested by the division.
- b. The division may limit or prohibit adoption of a total return distribution method by a care fund for any of the following reasons:

(1) The trustee or trustees and any investment manager are not able to demonstrate sufficient knowledge and expertise regarding effective implementation of the total return distribution method.

(2) Trust assets cannot be adequately valued at market value.

(3) Terms of the care fund governing instrument are inconsistent.

c. The division shall notify the trustee or trustees of its decision regarding approval of the implementation plan. If the division does not approve of the plan, the total return distribution method may not be implemented.

101.8(6) Amount of distribution payment.

a. Unless another amount is approved by the division upon a showing of good cause, the annual distribution amount shall not exceed the greater of:

(1) The net ordinary income, or

(2) Five percent of the fair market value of the care fund as of the last day of the care fund calendar year immediately preceding the distribution year.

b. When determining the distribution amounts, the trustee or trustees shall take into consideration the cemetery's need to fund both:

(1) The current and future expenses of care; and

(2) The maintenance and preservation of principal.

c. For the purpose of determining the amounts to be paid out annually, the following factors shall be taken into account:

(1) The perpetual duration of the care fund;

(2) Present and anticipated financial requirements;

(3) Expected total return from income and appreciation of principal;

(4) Price level trends of equity and fixed income investments;

(5) Needs for liquidity;

(6) Regularity of income;

(7) Preservation or appreciation of capital;

(8) General economic conditions;

(9) The possible effect of inflation or deflation; and

(10) The retention of income and net appreciation to adjust for inflation.

d. Any excess of income and capital appreciation over allowable cemetery expenses shall be retained in the care fund as undistributed income until needed to fund the cemetery's allowable expenses. This retained income shall be reserved for the purpose of future maintenance unless the division approves in writing of another purpose.

101.8(7) Records maintenance. The care fund trustee or trustees shall document and maintain a record of the net fair market value of the care fund's assets, calculated as of the end of the last care fund accounting period that preceded the date of the distribution.

101.8(8) Reserve fund. A cemetery using the total return distribution method shall create and maintain a reserve fund to replace any care fund principal lost by capital losses incurred from the care fund's investments. The reserve fund shall be created by retaining and setting aside a reasonable percentage of the income and capital appreciation within the care fund. The fair market value of the care fund shall be determined at least annually, using such valuation date or dates or averages of valuation

INSURANCE DIVISION[191](cont'd)

dates as are readily ascertainable. Reasonable and appropriate valuation methods shall be utilized. As appropriate, assets may be excluded from valuation, provided all income received with respect to such assets is distributed to the extent distributable in accordance with the terms of the care fund agreement.

101.8(9) *Division may limit use of total return distribution method.* The division may limit or prohibit ongoing use of a total return distribution method by a care fund under the following circumstances:

a. The trustee or trustees and any investment manager are not able to demonstrate sufficient knowledge and expertise regarding effective implementation of the total return distribution method. In making this determination, the division shall consider the factors for approval of a total return distribution plan as set out in subrule 101.8(5).

b. In situations where investment returns and distribution practices have not resulted in sufficient protection of the care fund's principal from either a middle-term (three to five years) or a long-term (more than five years) analysis, the division may limit or prohibit the distribution of realized capital gains. In making this determination, the division shall consider the presence and stated value of assets that do not have an active market and are not traded on a regular basis, the frequency of appraisals and evaluations, the asset allocation of the care fund, and whether care fund principal, as adjusted for inflation, is less than it was at the time the cemetery converted to the total return distribution method.

101.8(10) *Reversion from total return distribution method.* If a care fund's trustee or trustees make an election pursuant to this rule to use a total return distribution method, that method is irrevocable unless a reversion is approved by the division. The care fund's trustee or trustees shall file a request for approval of a reversion with the division 90 days prior to a proposed reversion from the total return distribution method to the traditional net income distribution method. The division may prohibit a reversion from the total return distribution method to the traditional net income distribution method if the care fund principal, as adjusted for inflation, is less than it was at the time the cemetery converted to the total return distribution method.

101.8(11) *Annual report of total return distribution method information.* As part of the annual report required by Iowa Code section 523I.813 and rule 199—101.9(523I), a perpetual care cemetery using the total return distribution method shall file an addendum to the annual report related to the total return distribution method, detailing the following:

- a.* The asset allocation.
- b.* The annual payout.
- c.* Any changes in investment policy.
- d.* An accounting in regard to whether growth of the care fund's principal has exceeded an amount needed to compensate for inflation.
- e.* The existence and amount in a reserve fund as required by subrule 101.8(8).
- f.* A description of how the total return distribution method meets the requirements of paragraph 101.8(6) "a."
- g.* A statement that the perpetual care cemetery and care fund are in compliance with this chapter.
- h.* The investment portfolio for the perpetual care cemetery and care fund.
- i.* A statement describing how the investment portfolio for the care fund has performed in comparison to the consumer price index.
- j.* Any other pertinent information.

191—101.9(523I) Filing annual reports.

101.9(1) *Annual reports filed by perpetual care cemeteries.*

a. Each year between January 1 and April 30, perpetual care cemeteries shall file a complete and accurate annual report for the prior reporting period, in the form and manner required by the division. For purposes of Iowa Code section 523I.813 as amended by 2016 Iowa Acts, House File 2394, section 13, and of this rule, "reporting period" means a calendar year.

b. This rule shall apply to all perpetual care cemeteries submitting annual reports after January 1, 2017, providing information for the 2016 calendar year reporting period.

INSURANCE DIVISION[191](cont'd)

101.9(2) Forms and instructions. Forms and instructions for perpetual care cemeteries filing the annual report required by Iowa Code section 523I.813 as amended by 2016 Iowa Acts, House File 2394, sections 12 and 13, can be found on the division's Web site, www.iid.iowa.gov.

191—101.10(523I) Independent review. The division may use an independent expert to review whether a care fund or a perpetual care cemetery is in compliance with the withdrawal restriction and expertise requirements for advisors and trustees to the care fund and perpetual care cemetery. Costs of the independent expert review shall be borne by the perpetual care cemetery.

These rules are intended to implement Iowa Code chapter 523I as amended by 2016 Iowa Acts, House File 2394.

ITEM 2. Rescind and reserve **191—Chapter 140.**

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REAL ESTATE APPRAISER EXAMINING BOARD[193F]

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 543D.5, the Iowa Real Estate Appraiser Examining Board hereby gives Notice of Intended Action to amend Chapter 1, “Organization and Administration,” and Chapter 2, “Definitions,” and to adopt new Chapter 17, “Superintendent Supervision Standards and Procedures,” Iowa Administrative Code.

Consistent with 2016 Iowa Acts, House File 2436, the proposed amendments to Chapters 1 and 2 and the adoption of new Chapter 17 move the Board under the Banking Division of the Iowa Department of Commerce, subject the Board to the supervision and authority of the Superintendent of the Banking Division of the Iowa Department of Commerce (Superintendent), and articulate the standards and procedures by which such supervision shall occur.

The proposed amendments to Chapter 1 place the Board under the supervision of the Superintendent pursuant to 2016 Iowa Acts, House File 2436. The proposed amendment to Chapter 2 amends one definition and adopts two new definitions. The proposed adoption of Chapter 17 sets forth the standards and procedures by which the Superintendent shall supervise the Board.

Consideration will be given to all written suggestions or comments received no later than 4:30 p.m. on October 4, 2016. Comments should be addressed to Brandy March, Iowa Real Estate Appraiser Examining Board, 200 E. Grand Avenue, Third Floor, Suite 350, Des Moines, Iowa 50309. E-mail may be sent to brandy.march@iowa.gov.

A public hearing will be held on October 4, 2016, at 8:30 a.m. in the Professional Licensing Small Conference Room, 200 E. Grand Avenue, Third Floor, Des Moines, Iowa, at which time persons may present their views on the proposed amendments either orally or in writing. At the hearing, any person who wishes to speak will be asked to give the person's name and address for the record and to confine remarks to the subject of the proposed amendments.

These amendments do not have any fiscal impact on the state of Iowa.

These amendments are subject to waiver or variance pursuant to 193F—Chapter 11.

After analysis and review of this rule making, no direct impact on jobs exists as these rules implement procedural changes only.

These amendments are intended to implement Iowa Code chapters 17A, 272C, 543D, and 546 and 2016 Iowa Acts, House File 2436.

The following amendments are proposed.

REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

ITEM 1. Adopt the following **new** subrule 1.1(3):

1.1(3) All board action under Iowa Code chapter 543D and 193F—Chapter 17 shall be taken under the supervision of the superintendent, as provided in 2016 Iowa Acts, House File 2436.

ITEM 2. Rescind rule 193F—1.2(543D) and adopt the following **new** rule in lieu thereof:

193F—1.2(543D) Administrative committees.

1.2(1) The superintendent is vested with authority to review, approve, modify, or reject all board action pursuant to Iowa Code chapter 543D and 193F—Chapter 17. The superintendent may exercise all authority conferred upon the board and shall have access to all records and information to which the board has access. In supervising the board, the superintendent shall independently evaluate the substantive merits of recommended or proposed board actions which may be anticompetitive.

1.2(2) In performing its duties and in exercising its authority under Iowa Code chapter 543D and 193F—Chapter 17, the board may take action without preclearance by the superintendent if the action is ministerial or nondiscretionary. As used in this chapter, “ministerial or nondiscretionary” shall include any action expressly required by state or federal law, rule, or regulation; by the AQB; or by the appraisal subcommittee. The board may, for example, grant or deny an application for initial or reciprocal certification as a real estate appraiser, an application for registration as an associate real estate appraiser, or an application for a temporary practice permit by an out-of-state appraiser, on any ground expressly required by state or federal law, rule, or regulation; by the AQB; or by the appraisal subcommittee.

1.2(3) Prior to taking discretionary action under Iowa Code chapter 543D and 193F—Chapter 17, the board shall secure approval of the superintendent if the proposed action is or may be anticompetitive, as provided in 193F—Chapter 17. As used in this chapter, “discretionary” shall include any action that is authorized but not expressly required by state or federal law, rule, or regulation; by the AQB; or by the appraisal subcommittee. Examples of discretionary action include orders in response to petitions for rule making, declaratory orders, or waivers or variances from rules, rule making, disciplinary proceedings against licensees, administrative proceedings against unlicensed persons, or any action commenced in the district court.

1.2(4) Determining whether any particular action is or may be anticompetitive is necessarily a fact-based inquiry dependent on a number of factors, including potential impact on the market or restraint of trade. With respect to disciplinary actions, for instance, a proceeding against a single licensee for violating appraisal standards would not have an impact on the broader market and would accordingly not be an anticompetitive action. Commencement of disciplinary proceedings which affect all or a substantial subset of appraisers may have a significant market impact. When in doubt as to whether a proposed discretionary action is or may be anticompetitive, the board may submit the proposed action through the preclearance procedures outlined in 193F—Chapter 17.

1.2(5) A person aggrieved by any final action of the board taken under Iowa Code chapter 543D or 193F—Chapter 17 may appeal that action to the superintendent within 20 days of the date the board issues the action.

a. The appeal process applies whether the board action at issue was ministerial or nondiscretionary, or discretionary, and whether the proposed action was or was not submitted through a preclearance process before the superintendent.

b. No person aggrieved by a final action of the board may seek judicial review of that action without first appealing the action to the superintendent, as more fully described in 193F—Chapter 17.

c. Final board action which is ministerial or nondiscretionary is immediately effective when issued by the board but is subject to appeal to the superintendent.

d. Final board action which is discretionary shall be effective upon the expiration of 20 days following issuance of the board’s action if not timely reviewed by or appealed to the superintendent or upon final action by the superintendent if timely reviewed or appealed.

REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

ITEM 3. Amend rule 193F—2.1(543D) as follows:

193F—2.1(543D) Applicability. The following definitions shall be applicable to the rules of the real estate appraiser examining board.

“Appraisal Foundation” means the Appraisal Foundation ~~established~~ incorporated as an Illinois not-for-profit corporation on November 30, 1987, ~~as a not-for-profit corporation under the laws of Illinois to develop qualifications and criteria for the appraisal profession.~~

“Appraisal subcommittee” means the appraisal subcommittee of the Federal Financial Institutions Examination Council.

“AQB” means the Appraiser Qualifications Board of the Appraisal Foundation.

“ASB” means the Appraisal Standards Board of the Appraisal Foundation.

“Associate real property appraiser” or *“associate appraiser”* means an individual who has registered with the board as an associate real property appraiser, as defined in Iowa Code section 543D.2(5), and who is training to become a certified residential or certified general real property appraiser.

“Certified appraiser” means an individual who has been certified in one of the following two classifications:

1. The certified residential real property appraiser classification, which is limited to the appraisal of one to four residential units without regard to transaction value.
2. The certified general real property appraiser classification, which applies to the appraisal of all types of real property.

“FIRREA” means the Financial Institutions Reform Recovery and Enforcement Act of 1989.

“Knowingly” means done with awareness and deliberateness.

“Law” means the “Iowa Voluntary Appraisal Standards and Appraiser Certification Law of 1989,” Iowa Code chapter 543D.

“Superintendent” means the superintendent of banking or the superintendent’s designee. The designee shall not be a certified or licensed real estate appraiser, a registered associate real estate appraiser, or a trainee real estate appraiser in any jurisdiction.

“USPAP” means the Uniform Standards of Professional Appraisal Practice published by the Appraisal Foundation.

This rule is intended to implement Iowa Code section 543D.2.

ITEM 4. Adopt the following new 193F—Chapter 17:

CHAPTER 17

SUPERINTENDENT SUPERVISION STANDARDS AND PROCEDURES

193F—17.1(543D) Superintendent supervision standards. The level of the superintendent’s supervisory scrutiny of board actions will vary depending on the nature of the board action, the surrounding circumstances, and whether the action is or may be anticompetitive. In general, the superintendent will independently evaluate both the procedures and the substantive merits of board actions.

17.1(1) Ministerial and nondiscretionary board actions. Board actions which are ministerial or nondiscretionary, as provided in 193F—subrule 1.2(2), shall be monitored to ensure that such actions are consistent with the mandates required by state or federal law, rule, or regulation; by the AQB; or by the appraisal subcommittee.

17.1(2) Discretionary board actions. The superintendent shall independently assess discretionary board actions, as provided in 193F—subrule 1.2(3), to determine whether an action reflects clearly articulated state policy as the inherent, logical, or ordinary result of the exercise of authority delegated to the board by the legislature and is not the result of private interests attempting to restrain trade or otherwise pursue anticompetitive objectives that are contrary to state policy goals. Discretionary board actions which are not anticompetitive shall be monitored by the superintendent but will only be subjected to preclearance procedures if specifically requested by the board or at the superintendent’s election.

REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

Discretionary board actions that are or may be anticompetitive shall require the superintendent's prior written approval.

17.1(3) *Information review and gathering.* When monitoring or evaluating board actions, the superintendent may rely on the information provided by the board in support of the board's actions if the superintendent is satisfied that the information is sufficient for an independent, de novo evaluation of the substantive merits of the board's action. The superintendent may supplement the board's information and gather additional information if deemed necessary or desirable.

17.1(4) *Written decisions.* Following the superintendent's independent evaluation of the substantive merits of board actions, the superintendent shall issue a written decision approving, modifying, or disapproving the recommended action, and explaining the reasons and rationale for such decision. This requirement shall apply when the superintendent is requested to provide preclearance for a board action and when the superintendent evaluates a final board action upon review by or appeal to the superintendent.

193F—17.2(543D) Procedures for superintendent supervision.**17.2(1) *Ministerial or nondiscretionary board actions.***

a. The superintendent's monitoring of ministerial or nondiscretionary board actions shall be flexible and designed to spot check compliance. The board shall provide any information that the superintendent requests to adequately monitor such actions. Final board action which is ministerial or nondiscretionary may be appealed to the superintendent by an aggrieved person within 20 days of the issuance of the board action. The written notice of appeal shall be filed with the superintendent and served upon the board within such 20-day period and shall specify:

- (1) The name of the person initiating the appeal;
- (2) The board action which is being appealed;
- (3) The specific facts or law alleged to be in error in the board action;
- (4) The relief sought; and
- (5) The grounds for such relief.

b. The board may respond to the notice of appeal within 20 days of its receipt of the appeal. The superintendent shall issue a written decision as provided in subrule 17.1(4).

17.2(2) *Preclearance.* When the board seeks preclearance of a proposed board action, the board shall submit a written report which identifies the proposed action, describes the basis and support for the action, outlines the persons or markets which may be affected by the action, and attaches sufficient information from which the superintendent can make an independent, de novo evaluation of the substantive merits of the proposed action. The superintendent shall issue a written decision as provided in subrule 17.1(4).

17.2(3) *Review or appeal of final, discretionary board action.*

a. Final, discretionary board action may be reviewed by or appealed to the superintendent within 20 days of the issuance of the board action. Such decisions shall be provided to the superintendent when issued to affected persons. If the final board action is not a contested case decision, the written notice of appeal shall be filed with the superintendent and served upon the board within such 20-day period, and shall specify:

- (1) The name of the person initiating the appeal;
- (2) The board action which is being appealed;
- (3) The specific facts or law alleged to be in error in the board action;
- (4) The relief sought; and
- (5) The grounds for such relief.

b. A review initiated by the superintendent shall be in writing and shall inform the board and affected persons of the nature of the superintendent's concerns. The board may respond to the superintendent's review or notice of appeal within 20 days of the board's receipt of the appeal. A person notified of a superintendent's review may respond to the superintendent's review within 20 days of the issuance of the review. The superintendent shall issue a written decision as provided in subrule 17.1(4).

17.2(4) *Review or appeal of contested case decision.*

REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

a. All board decisions in a contested case, whether by consent or following hearing, are proposed decisions and shall be provided to the superintendent when issued.

b. Any aggrieved party may appeal the proposed decision to the superintendent within 20 days after issuance of the proposed decision. The superintendent may initiate a review of the proposed decision on the superintendent's own motion at any time within 20 days following issuance of such decision.

c. A notice of appeal must be signed by the appealing party or a representative of that party and contain a certificate of service. The notice shall specify:

- (1) The parties initiating the appeal;
- (2) The proposed decision or order which is being appealed;
- (3) The specific findings or conclusions to which exception is taken and any other exceptions to the decision or order;
- (4) The relief sought; and
- (5) The grounds for such relief.

d. A notice of superintendent's review shall identify the superintendent's concerns with sufficient detail from which the board or a party can respond.

e. A party may request the taking of additional evidence only by establishing that the evidence is material, that good cause existed for the failure to present the evidence at the hearing, and that the party has not waived the right to present the evidence. A written request to present additional evidence must be filed with the notice of appeal or, by a nonappealing party, within 14 days of service of the notice of appeal. The superintendent may preside over the taking of additional evidence or may remand a case to the board for further hearing.

f. The superintendent shall issue a schedule for consideration of the review or appeal.

g. Unless otherwise ordered, within 20 days of the notice of appeal or order for review, the board and each appealing party may file briefs. Within 20 days thereafter, the board or any party may file a responsive brief. Briefs shall cite any applicable legal authority and specify relevant portions of the record in that proceeding. Written requests to present oral argument shall be filed with the briefs. The superintendent may resolve the appeal or review on the briefs or provide an opportunity for oral argument. The superintendent may shorten or extend the briefing period as appropriate.

h. The record on appeal or review shall be the entire record made at hearing.

i. The superintendent shall issue a written decision as provided in subrule 17.1(4).

These rules are intended to implement 2016 Iowa Acts, House File 2436.

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REAL ESTATE COMMISSION[193E]

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 543B.9, the Real Estate Commission hereby gives Notice of Intended Action to amend Chapter 3, “Broker License,” Chapter 4, “Salesperson License,” and Chapter 5, “Licensees of Other Jurisdictions and Reciprocity,” Iowa Administrative Code.

The proposed amendments are a result of the five-year rolling review of administrative rules outlined in Iowa Code section 17A.7(2), along with input and concern from leadership from the professional association of real estate licensees in regard to how real estate salespersons and brokers from other jurisdictions are being licensed by the Real Estate Commission.

REAL ESTATE COMMISSION[193E](cont'd)

The rules in Chapter 3 describe the general requirements for a real estate broker license. The proposed amendments to Chapter 3 will remove old education requirements that have since been updated, update citations to the Iowa Code, and clarify the experience requirements for obtaining a real estate broker license in Iowa. The rules in Chapter 4 describe the general requirements for a salesperson license. The proposed amendments to Chapter 4 will remove old education requirements that have since been updated, provide clarification of the current prelicense education requirements, and update citations to the Iowa Code. The rules in Chapter 5 describe the general requirements for real estate licensees in other jurisdictions who wish to obtain a real estate license in Iowa. The proposed amendments to Chapter 5 will clarify how salespersons and brokers licensed in other jurisdictions can be licensed in Iowa and will update the Commission's Web address.

Consideration will be given to all written suggestions or comments received on or before October 4, 2016. Comments should be directed to Jeffrey Evans, Iowa Real Estate Commission, 200 East Grand Avenue, Suite 350, Des Moines, Iowa 50309. E-mail may be sent to jeff.evans@iowa.gov.

A public hearing will be held on October 4, 2016, at 12 noon in the Commission Office, 200 East Grand, Suite 350, Des Moines, Iowa, at which time persons may present their views on the proposed amendments either orally or in writing. At the hearing, any person who wishes to speak will be asked to give the person's name and address for the record and to confine remarks to the subject of the proposed amendments. Any persons who intend to attend the public hearing and have special requirements, such as those relating to hearing or mobility impairments, should contact the Real Estate Commission and advise of specific needs.

These amendments are subject to waiver or variance pursuant to 193—Chapter 5.

These proposed amendments were approved by the Commission on December 3, 2015.

After analysis and review of this rule making, the Bureau determined that there will be no impact on jobs and no fiscal impact to the state.

These amendments are intended to implement Iowa Code section 543B.9.

The following amendments are proposed.

ITEM 1. Amend rule 193E—3.1(543B) as follows:

193E—3.1(543B) General requirements for broker license. An applicant for a broker license must meet all requirements of Iowa Code section 543B.15.

3.1(1) and 3.1(2) No change.

3.1(3) An applicant for a real estate broker's license who has been convicted of forgery, embezzlement, obtaining money under false pretenses, theft, extortion, conspiracy to defraud, or another similar offense, or of any crime involving moral turpitude, in a court of competent jurisdiction in this state or in any other state, territory, or district of the United States, or in any foreign jurisdiction, may be denied a license by the commission on the grounds of the conviction. "Conviction" is defined in Iowa Code section 543B.15(3) and rule 193E—2.1(543B).

3.1(4) No change.

3.1(5) As required by Iowa Code section ~~543B.15(8)~~ 543B.15(7) and 193E—subrule 16.3(1), an applicant for licensure as a real estate broker shall complete at least 72 classroom hours of commission-approved real estate education within 24 months prior to taking the broker examination. This education shall be in addition to the required salesperson prelicense course. Effective January 1, 2005, and thereafter, all persons applying for a broker license within their first renewal term must complete the 36-hour salesperson postlicense courses, including 12 hours of Developing Professionalism and Ethical Practices, 12 hours of Buying Practices and 12 hours of Listing Practices, before a broker license can be issued.

3.1(6) As required by Iowa Code section ~~543B.15(8)~~ 543B.15(7), an applicant for licensure as a real estate broker must have been ~~a~~ an actively licensed real estate salesperson actively engaged in real estate for a period of at least 24 months preceding the date of application; or shall have had experience as a former broker or salesperson or otherwise substantially equivalent experience to that which a licensed real estate salesperson would ordinarily receive during a period of 24 months.

REAL ESTATE COMMISSION[193E](cont'd)

a. An applicant for a broker license may use active experience as a former Iowa salesperson or active salesperson experience in a another state or jurisdiction ~~which has a current reciprocal licensing agreement or memorandum in place with Iowa~~, or a combination of both, to satisfy the experience requirement for a broker license only if the former Iowa salesperson or reciprocal applicant from another state or jurisdiction ~~salesperson~~ was actively licensed for not less than 24 months and if the license on which the experience is based has not been expired for more than three years prior to the date the completed broker application with fee is filed with the commission.

b. For waiver of commission rules or substitution of experience, see Iowa Code section 543B.15 and the uniform rules for the professional licensing and regulation ~~division~~ bureau at 193—Chapter 5.

ITEM 2. Amend rule 193E—3.2(543B) as follows:

193E—3.2(543B) License examination. Examinations for licensure as a real estate broker shall be conducted by the commission or its authorized representative.

3.2(1) No change.

3.2(2) Requests for ~~substitution~~, waiver, or variance. An examinee must meet the requirements set out in Iowa Code section 543B.15. Requests for ~~substitution~~, waiver, or variance of commission rules or of the qualifications for licensure as permitted by Iowa Code section 543B.15 shall be submitted in writing and as provided by the commission's rules regarding waivers and variances, which can be found in the uniform rules for the professional licensing and regulation ~~division~~ bureau at 193—Chapter 5. The commission will consider each case on an individual basis. ~~‡~~ The commission may require additional supporting information. If the applicant's experience or prelicense education is found to be less than equivalent to the statutory requirement, the commission may suggest methods of satisfying the deficiency. If a waiver is granted, the applicable examination must be passed before the end of the sixth month following the date of the waiver.

3.2(3) Evidence of completion of prelicense education required. An examinee shall be required to show evidence at the examination site that required prelicense education has been completed. If the commission has granted ~~substitution~~, waiver, or variance of prelicense education, the letter granting ~~substitution~~, the waiver, or variance will serve as evidence of completion. Persons planning to qualify under rule 193E—5.3(543B) must obtain written authorization from the commission to show at the examination site.

3.2(4) and **3.2(5)** No change.

ITEM 3. Amend rule 193E—3.3(543B), introductory paragraph, as follows:

193E—3.3(543B) Application for broker license. An applicant who passes a qualifying broker examination will receive a passing score report and an application form for licensure from the testing service. An applicant who passes a qualifying examination and applies for a license must file with the commission a completed application, license fee, proof of required education, and score report not later than the last working day of the sixth calendar month following the qualifying real estate examination. As required by Iowa Code section 543B.15(9), the completed application must be received within 210 calendar days of the completion of the criminal history check.

ITEM 4. Amend subrule 3.5(1) as follows:

3.5(1) Application forms. Application forms for renewal of a broker's license may be obtained from the commission office or may be available found on the commission's Web site. Brokers may renew electronically or by submitting a written application. While the commission generally mails renewal application forms or reminders to brokers in the November preceding license expiration, the failure of the commission to mail an application form or reminder or the failure of a broker to receive an application form or reminder shall not excuse the broker from the requirement to timely renew.

REAL ESTATE COMMISSION[193E](cont'd)

ITEM 5. Rescind subrule **3.6(4)**.

ITEM 6. Renumber subrule **3.6(5)** as **3.6(4)**.

ITEM 7. Amend subrule 4.1(9) as follows:

4.1(9) Salesperson prelicense education requirements. As required by Iowa Code section 543B.15(8) and 193E—Chapter 16, the required course of study for the salesperson licensing examination shall consist of 60 classroom or computer-based hours of real estate principles and practices. To be eligible to take the examination, the applicant must complete the ~~salesperson prelicense education~~ 60 classroom or computer-based hours of real estate principles and practices during the 12 months prior to taking the examination. The applicant must also provide evidence of successful completion of the following courses: 12 hours of Developing Professionalism and Ethical Practices, 12 hours of Buying Practices and 12 hours of Listing Practices. The applicant must complete all the required prelicense education during the 12 months prior to the date of application.

ITEM 8. Rescind subrules **4.1(10)** and **4.1(11)**.

ITEM 9. Amend rule 193E—4.2(543B) as follows:

193E—4.2(543B) License examination. Examinations for licensure as a real estate salesperson shall be conducted by the commission or its authorized representative.

4.2(1) No change.

4.2(2) *Requests for ~~substitution~~, waiver or variance.* An examinee must meet the requirements set out in Iowa Code section 543B.15. Requests for ~~substitution~~, waiver, or variance of the qualifications for license required by Iowa Code section 543B.15 shall be submitted in writing and as provided by the commission's rules regarding waivers and variances, found in the uniform rules for the professional licensing and regulation ~~division~~ bureau at 193—Chapter 5. The commission will consider each case on an individual basis. ~~‡~~ The commission may require additional supporting information. If the applicant's prelicense education is found to be less than equivalent to the statutory requirement, the commission may suggest methods of satisfying the deficiency. If a ~~substitution~~, waiver or variance is granted, the applicable examination must be passed before the end of the sixth month following the date of the waiver.

4.2(3) *Evidence of completion of prelicense education required.* An examinee shall be required to show evidence at the examination site that ~~required prelicense education has~~ 60 classroom or computer-based hours of real estate principles and practices have been completed. If the commission has granted a ~~substitution~~, waiver, or variance of prelicense education, the letter granting the ~~substitution~~, waiver, or variance will serve as evidence of completion. Persons planning to qualify under rule 193E—5.3(543B) must obtain written authorization from the commission to show at the examination site.

4.2(4) No change.

ITEM 10. Amend rule 193E—4.3(543B), introductory paragraph, as follows:

193E—4.3(543B) Application for salesperson license. An applicant who passes a qualifying salesperson examination will receive a passing score report and an application form for licensure from the testing service. An applicant who passes a qualifying examination and applies for a license must file with the commission a completed application with license fee, proof of required education, and score report not later than the last working day of the sixth calendar month following the qualifying real estate examination. As required by Iowa Code section 543B.15(9), the completed application must be received within 210 calendar days of the completion of the criminal history check.

ITEM 11. Amend subrule 4.4(2) as follows:

4.4(2) ~~All first-time salespersons renewing licenses to maintain active status shall complete 36 commission-approved classroom hours by December 31 of the third year of licensure. The following courses satisfy the first license renewal continuing education requirement: Salespersons renewing licenses shall complete approved courses in the following subjects to renew to active status, except in accordance with 193E—Chapter 16.~~

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Developing Professionalism and Ethical Practices.....	12 hours
Buying Practices.....	12 hours
Listing Practices.....	12 hours
Law Update.....	8 hours
Ethics.....	4 hours
Electives.....	24 hours

ITEM 12. Amend subrule 4.5(1) as follows:

4.5(1) Application forms. Application forms for renewal of a salesperson license may be obtained from the commission office or may be available found on the commission’s Web site. Salespersons may renew electronically or by submitting a written application. While the commission generally mails renewal application forms or reminders to salespersons in the November preceding license expiration, the failure of the commission to mail an application form or reminder or the failure of a salesperson to receive an application form or reminder shall not excuse the salesperson from the requirement to timely renew.

ITEM 13. Rescind subrule 4.6(4).

ITEM 14. Renumber subrule 4.6(5) as 4.6(4).

ITEM 15. Amend rule 193E—5.1(543B) as follows:

193E—5.1(543B) Licensees of other jurisdictions. As provided in Iowa Code section 543B.21, a nonresident of this state may be licensed as a real estate broker or a real estate salesperson upon complying with all requirements of Iowa law and with all the provisions and conditions of Iowa Code chapter 543B and commission rules relative to resident brokers or salespersons.

5.1(1) A person licensed as a salesperson in another state or jurisdiction making application in Iowa by reciprocity or as provided in rule 193E—5.3(543B) shall may qualify only for a salesperson license in Iowa.

5.1(2) A person licensed as a broker or broker associate in another state or jurisdiction making application in Iowa by reciprocity or as provided in rule 193E—5.3(543B) shall may qualify only for the same type of broker or broker associate license in Iowa. The person must have met all requirements for an Iowa broker’s license as provided in rule 193E—3.1(543B). If the person does not meet the requirements, the person shall meet, at a minimum, the requirements for an Iowa salesperson license as provided in 193E—Chapter 4 and shall only qualify for a salesperson license.

5.1(3) No change.

ITEM 16. Amend rule 193E—5.3(543B) as follows:

193E—5.3(543B) License by Iowa-specific examination. A nonresident applicant licensed as a real estate salesperson or broker in a state or jurisdiction which does not have a reciprocal licensing agreement or memorandum with Iowa, or an applicant who does not qualify for reciprocal licensing, may be issued a comparable Iowa license by passing the Iowa portion of the real estate examination under the following circumstances:

5.3(1) Broker. The person has been actively licensed as a broker or broker associate, the person meets all requirements for an Iowa broker’s license as provided in rule 193E—3.1(543B), and the license has not been inactive or expired for more than six months immediately preceding the date of passage of the national portion and Iowa portion of the broker real estate examination.

5.3(2) Salesperson. The person has been actively licensed as a salesperson and the license has not been inactive or expired for more than six months immediately preceding the date of passage of the Iowa portion of the salesperson real estate examination.

5.3(3) and 5.3(4) No change.

ITEM 17. Amend subrule 5.4(7) as follows:

5.4(7) An Iowa licensee wishing to obtain a license in any other state or jurisdiction should contact that state’s or jurisdiction’s licensing board for information and applications. Contact information and

REAL ESTATE COMMISSION[193E](cont'd)

a list of states and jurisdictions that have entered into reciprocal licensing agreements or memorandums with Iowa, including addresses and telephone numbers, are available on the commission's Web site located at <http://www.state.ia.us/iree> <https://plb.iowa.gov/>.

ITEM 18. Amend rule 193E—5.6(543B), introductory paragraph, as follows:

193E—5.6(543B) Reinstatement of a license issued by reciprocity. All reinstatement requirements for a real estate broker or salesperson license issued by examination shall apply to a license issued by reciprocity, ~~except that the reinstatement fee is \$25 with an original reciprocal license application.~~

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TREASURER OF STATE[781]

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 556.26, the Treasurer of State hereby gives Notice of Intended Action to rescind Chapter 9, “Unclaimed Property,” Iowa Administrative Code, and to adopt a new Chapter 9 with the same title.

Existing Chapter 9 is being rescinded and a new chapter is being proposed primarily for the purpose of addressing changes that will be implemented in providing an online claims process for Great Iowa Treasure Hunt claimants. The Treasurer of State is also taking this opportunity to review the entire chapter in order to provide revisions, updates, and clarifications to existing unclaimed property rules administered by the Treasurer of State.

Any interested person may make written suggestions or comments on this proposed chapter on or before October 6, 2016. Such written materials should be directed to Adam Phillips, Treasurer of State's Office, State Capitol, 1007 E. Grand Avenue, Room 114, Des Moines, Iowa 50319; e-mail adam.phillips@iowa.gov.

Also, there will be a public hearing on October 6, 2016, at 9 a.m. in the State Capitol, Room 116, 1007 E. Grand Avenue, Des Moines, Iowa, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed chapter.

This chapter will impose no fiscal impact on the State.

The general waiver provisions of the Treasurer of State in 781—Chapter 19 apply to these rules.

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

These rules are intended to implement Iowa Code chapter 556.

The following amendment is proposed.

Rescind 781—Chapter 9 and adopt the following new chapter in lieu thereof:

CHAPTER 9 UNCLAIMED PROPERTY

781—9.1(556) Purpose. Iowa Code chapter 556 authorizes the treasurer of state to establish administrative rules that are necessary for the purpose of carrying out the provisions of Iowa Code chapter 556, the uniform disposition of unclaimed property Act.

This rule is intended to implement Iowa Code chapter 556.

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781—9.2(556) Substantive interpretation. Where there is an ambiguity or conflict under Iowa Code chapter 556 as to the proper classification of any type of property or applicable period giving rise to a presumption of abandonment, the nature of the underlying obligation, regardless of the form of payment or account, shall take precedence and dictate the proper classification of the property and corresponding period of dormancy.

This rule is intended to implement Iowa Code chapter 556.

781—9.3(556) Forms. The following approved forms will be used by the unclaimed property division:

9.3(1) Claim Form, together with, as applicable, the Affidavit of Lost Certificate and Affidavit of Administration, as well as other applicable affidavits, is the form required by the division for a claimant to file and support a claim relative to unclaimed property held in custody by the division.

9.3(2) Safe Deposit Box Inventory Form is the form that may be used by holders in the inventorying and reporting of contents of safe deposit boxes reportable under the Act.

9.3(3) Holder Report Forms UP1 (also referred to as Holder Verification Form or Holder Report Cover Sheet) and UP2 are the forms holders are required to use to report unclaimed property.

9.3(4) Holder Reimbursement Form (or a form by another name that the treasurer's office distributes to reimburse an owner or holder) is the form holders are required to use to request that the state pay an owner directly or to seek reimbursement from the state in cases when the holder has paid the claim of a reappearing owner, pursuant to Iowa Code section 556.14(5) or as otherwise permitted by law.

This rule is intended to implement Iowa Code chapter 556.

781—9.4(556) Definitions. In addition to the terms defined in Iowa Code section 556.1, the following words or terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

“Act” means the uniform disposition of unclaimed property Act, Iowa Code chapter 556.

“Aggregate property” means individual items of intangible property with a value of less than \$50 each which have been aggregated by a holder and reported and delivered to the division in a lump sum.

“Book shares” means debt or equity securities which are maintained in book entry form only and for which no physical certificate was or is issued.

“Claimant” means a person or legal entity entitled to reclaim abandoned property in the possession of the division. A claimant may be an original owner, legal representative (other than a finder), or successor in interest.

“Contract auditor” means any person or entity engaged or hired by the treasurer or the division to provide unclaimed property examination services. “Contract auditor” includes agents, employees and any subcontractor engaged by a contract auditor or engaged by its subcontractors.

“Credits, advance payments, overpayments, refunds, or credit memoranda,” for purposes of Iowa Code section 556.1(12), means current accounts receivable of a business association that have not been reduced to a check or other form of payment. “Credits, advance payments, overpayments, refunds, or credit memoranda,” for purposes of Iowa Code section 556.1(12), shall not include uncashed checks or other unclaimed payments due and owing to a business association for its provision of goods or services, with respect to any other type of obligation.

“Custodial property” means property transferred to a custodian for a minor under the provisions of (1) the Iowa UTMA, (2) the Uniform Transfers to Minors Act, (3) the Uniform Gifts to Minors Act, or (4) a substantially similar Act of another state if, at the time of the transfer, the transferor, the minor, or the custodian is a resident of the designated state or the custodial property is located in the designated state.

“Division” means the unclaimed property division within the Iowa treasurer of state's office that has the responsibility of administering the Act.

“Dormancy fee” means a service charge, dormancy charge, inactive account fee, escheat fee, minimum balance fee, maintenance fee, unclaimed property fee, or any other charge that results in the reduction of an account balance or property value and is not directly related to a transaction initiated by an owner.

TREASURER OF STATE[781](cont'd)

“Dormancy period” means the statutorily specified span of time after which an owner’s failure to indicate an interest in property will result in the property’s being presumed abandoned and subject to reporting and delivery to the division.

“Due diligence” means the efforts required to be undertaken by a holder of unclaimed property to find the rightful owner of such property before the property is delivered to the division.

“Finder” means a person hired or engaged to assist owners, heirs or other persons in the recovery of unclaimed property reported under the Act.

“Finder agreement” means an agreement to pay a fee, commission, or other compensation to a finder to identify, locate, deliver, recover, or assist in the recovery of unclaimed property reported under the Act.

“Funds for liquidation” means unclaimed funds which are held by a holder on behalf of an owner of debt or equity securities and which are owing as a result of the liquidation of the securities issuer.

“Gift certificate” means a merchandise certificate or electronic gift card conspicuously designated as a gift certificate or electronic gift card and generally purchased by a buyer for use by a person other than the buyer.

“Indication of interest” means an action by an owner with respect to the owner’s property which indicates that the owner is aware of the existence of the property and intends for the property not to be presumed abandoned. Examples of an owner’s indication of interest include, but are not limited to, the following: an owner-initiated deposit or withdrawal from an account; notification to a holder of a change of address specific to the account; an account balance or similar owner-initiated inquiry, including an account inquiry made electronically in which the owner has contemporaneously authenticated the owner’s identity; and any communication, such as written or electronic correspondence, telephone call or person-to-person conversation between an owner and a holder (or the agent of a holder), which can be documented and which reflects an owner’s awareness of the existence of the property. “Indication of interest” does not include recurring Automated Clearing House (ACH) transfers, automated postings to accounts, computer system conversions, the non-return of mail, and other actions that are not owner-initiated or do not require a direct owner response.

“Intangible property” means such property as described in Iowa Code section 556.1(12) as well as any other fixed and certain interest or right in an intangible that is held by, issued to, or owing to a holder except as otherwise expressly exempted by law.

“Iowa uniform transfers to minors Act” or *“Iowa UTMA”* means Iowa Code chapter 565B.

“Last activity date” means the last verifiable date of owner-initiated activity or contact with the holder with respect to unclaimed property.

“Matured bond principal” means unclaimed funds which are held by a holder for a bond holder pending the bond holder’s redemption of debt securities.

“Retained asset account” means any mechanism whereby the settlement of proceeds payable under a life insurance policy is accomplished by deposit by the insurer, or an entity acting on behalf of the insurer, depositing the proceeds into an account with check- or draft-writing privileges, where those proceeds are retained by the insurer pursuant to a supplementary contract not involving annuity benefits.

“Tangible property” means the physical contents of a safe deposit box or other safekeeping repository, or physical items held as collateral by a banking organization, financial organization, or business association, that are reportable and deliverable to the division.

“Treasurer” means the treasurer of the state of Iowa.

“Undelivered shares” means unclaimed physically issued debt or equity securities which were returned to the issuer by the post office as undeliverable or which were otherwise never delivered into the possession of the owner.

“Underlying shares” means unclaimed physically issued debt or equity securities which are presumably in the possession of an owner.

“Unexchanged shares” means unclaimed debt or equity securities which are held by a holder on behalf of an owner, pending the owner’s surrender of obsolete debt or equity securities in conjunction with an acquisition, merger, recapitalization, or similar mandatory corporate action.

This rule is intended to implement Iowa Code section 556.1.

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781—9.5(556) Dormancy fees and related charges.

9.5(1) Iowa Code chapter 556 authorizes the following dormancy fees:

a. Lawful charges withheld from abandoned demand, savings, or matured time deposits held by a financial organization.

b. Charges on unpresented traveler's checks and money orders, when a valid and enforceable contract to assess the charges exists, and the issuer regularly imposes such charges and does not regularly reverse or otherwise cancel such charges for the benefit of the owner.

c. Charges on unpresented checks, drafts, or similar instruments on which a financial organization is directly liable, when a valid and enforceable written contract to assess the charges exists, and the holder regularly imposes such charges and does not regularly reverse or otherwise cancel such charges for the benefit of the owner.

d. Deductions from the face value of a gift certificate or gift card resulting from untimely presentment or usage, when a valid and enforceable written contract was provided in conjunction with the issuance of the gift certificate or gift card, and the issuer of the gift certificate or gift card regularly imposes and does not regularly reverse or otherwise cancel the deduction for the benefit of the owner.

9.5(2) Dormancy fees not authorized by Iowa Code chapter 556, including but not limited to an escheat fee or other fee sought for the holder's performance of the requirements of Iowa Code chapter 556, are prohibited.

9.5(3) All dormancy fees assessed against an unclaimed account must be disclosed in the report of unclaimed property filed with the division even if the assessment of the dormancy fee reduces the owner's reportable unclaimed balance to less than \$50.

This rule is intended to implement Iowa Code chapter 556.

781—9.6(556) Reporting and delivery of safe deposit box contents.

9.6(1) Safe deposit boxes or other safekeeping depositories that have been abandoned shall be opened and inventoried in the presence of at least two employees of the holder.

9.6(2) The holder shall list the contents of each box inventoried and provide that list to the division. The Safe Deposit Box Inventory Form, or other form approved by the division, or any financial institution's internal inventory form shall be used and provided to the division.

9.6(3) The property and a copy of the inventory shall then be sealed and maintained in safekeeping until delivered to the owner or to the division when required by the Act. The holder may not convert the property to cash or reduce cash property to check; all property is to be delivered in its original form and "as is" to the owner or, if required, to the division.

9.6(4) Property transferred to the division shall be packaged in a reasonably protective manner to prepare for transportation to the division. Property should be delivered to the division via certified mail or insured courier. The holder assumes all risk of loss pending receipt of the property by the division. In the case of hazardous materials or weapons, including handguns, holders shall contact the division and follow any special instructions for handling such items.

This rule is intended to implement Iowa Code section 556.2.

781—9.7(556) Reporting of stocks—non-freely transferable securities. A holder is not required to report or deliver to the division a security identified by the holder as a non-freely transferable security. Not later than ten days after the division or the holder determines that the security is no longer a non-freely transferable security, the holder must deliver the security to the division. The holder shall make a determination annually whether a security that has not been reported or delivered to the division on the basis that it is non-freely transferable is no longer non-freely transferable.

This rule is intended to implement Iowa Code section 556.5.

781—9.8(556) Reporting of individual retirement accounts (IRAs) and other retirement accounts.

9.8(1) The reporting and delivery of property in an individual retirement account, defined contribution plan, defined benefit plan, retiree benefit plan, or other account or plan that is qualified for

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tax deferral under the income tax laws of the United States shall be extended until three years after the earliest of the following has occurred:

- a. The date of unsuccessful distribution, with no subsequent indication of interest by the owner;
- b. The date of the required distribution, as stated in agreements governing the account;
- c. The date specified in the income tax laws of the United States by which a distribution must occur in order for the owner to avoid a tax penalty; or
- d. The owner's reaching the age of 70½ years.

9.8(2) In reporting property covered in rule 781—9.8(556), holders shall include the name, address, and social security number of the account beneficiary, to the extent such information is known.

This rule is intended to implement Iowa Code section 556.7.

781—9.9(556) Reporting of certificates of deposit and other time deposits. If an automatically renewable time deposit or nonrenewable time deposit is deemed abandoned prior to its initial maturity, the time for the reporting and delivery of the time deposit to the division will be extended to the date of maturity or three years from the date on which the abandonment period commenced, whichever is later.

This rule is intended to implement Iowa Code section 556.7.

781—9.10(556) Indication of interest by an owner in a certificate of deposit or other time deposit.

9.10(1) The following acts by the owner of a time deposit shall rebut a presumption of abandonment of the time deposit:

a. Consent in writing to a renewal of the time deposit at or about the time of renewal and signed by the owner, given by delivery of the original or a signed copy in a format reasonably acceptable to the division, or demonstrated by the existence of a memorandum or other record on file with the holder made at the time of renewal; or

b. The owner, within three years after the earlier of the maturity date or the date of the owner's last indication of interest in the deposit, has:

(1) Increased or decreased the amount or presented the passbook or other similar evidence of the deposit for the crediting of interest due;

(2) Communicated in writing with the financial organization concerning the time deposit, including requesting that the time deposit be redeemed;

(3) Otherwise demonstrated an indication of interest in the deposit as evidenced by a memorandum or other record on file prepared by an employee of the financial organization;

(4) Owned other property to which subparagraphs 9.10(1) "b"(1), (2), and (3) above apply and the financial organization communicates with the owner about the deposit that would otherwise be presumed abandoned under this subrule in writing at the address to which communications regarding the other property regularly are sent; or

(5) Had another relationship other than time or demand deposits, such as, but not limited to, a safe deposit box, mortgage, stocks, bonds, or other investments, with the financial organization concerning which the owner has:

1. Communicated in writing with the banking or financial organization; or

2. Demonstrated an indication of interest as evidenced by a memorandum or other record on file prepared by an employee of the financial organization.

9.10(2) Consent to renewal of a time deposit shall be presumed and the owner will be deemed to have demonstrated an indication of interest in a time deposit when the financial organization sends the owner notice of the renewal via first-class mail, address correction requested, and the notice is not returned to the financial organization by the post office for reason of nondelivery; provided, however, the financial organization must maintain a system for tracking and documenting return mail.

9.10(3) The date on which the owner has last demonstrated an indication of interest in and awareness of the owner's time deposit, as defined in paragraph 9.10(1) "a" above, or the date of maturity if no conduct evidencing such interest is made, whichever is earlier, shall begin the three-year abandonment period. However, when a written communication mailed to an owner is returned marked "undeliverable" or "unclaimed," the date of receipt by the financial organization of the returned mailing shall be deemed

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to begin the abandonment period. When periodic interest checks are issued on a time deposit, the abandonment period will commence on the date of an uncashed interest check, and the time deposit will be considered abandoned if all subsequent interest checks continue to remain uncashed through the entire statutory abandonment period, unless there is other conduct by the owner demonstrating an indication of interest in the time deposit as specified elsewhere in rule 781—9.10(556) and applicable statutory law.

This rule is intended to implement Iowa Code section 556.7.

781—9.11(556) Reporting of retained asset accounts. Funds held in a retained asset account maintained by a life insurance company on behalf of a beneficiary shall be reported and delivered to the division if the beneficiary has failed to take such actions demonstrating an indication of interest in the account for a period of three years.

This rule is intended to implement Iowa Code section 556.9.

781—9.12(556) Reporting of tax-advantaged college savings accounts. Property held in a plan described in Section 529A of the Internal Revenue Code or held in an account or plan that qualifies for tax deferral under the income tax laws of the United States is presumed abandoned if it is unclaimed by the owner three years from the later of:

9.12(1) The date a second item sent to the owner by first-class mail was returned as undeliverable by the United States Postal Service (USPS), unless a later mailing by first-class mail to the apparent owner was not returned as undeliverable or, for an apparent owner not receiving communications from the holder by first-class mail, the date of the last indication to the holder by the apparent owner of interest in the property; or

9.12(2) Thirty years have elapsed after the date the account was opened.

This rule is intended to implement Iowa Code section 556.7.

781—9.13(556) Reporting of unused gift certificate balances.

9.13(1) Except as provided in subrules 9.13(2) and 9.13(3), an unused balance on a gift certificate is reportable five years from date of issuance of the gift certificate or last usage, whichever is later.

9.13(2) An unused balance on a gift certificate that is not redeemable for cash, which was issued prior to July 2, 2014, is reportable five years from the date of issuance of the gift certificate or last usage, whichever is later.

9.13(3) An unused balance on a gift certificate that is not redeemable for cash, which was issued after July 1, 2014, and is not subject to expiration or service fees, is not subject to reporting and delivery under Iowa Code chapter 556.

This rule is intended to implement Iowa Code section 556.9.

781—9.14(556) Reporting of property owed to beneficiaries.

9.14(1) Where a holder has made a determination that the owner of property presumed abandoned is deceased and account documents governing the property provide for a designated beneficiary or beneficiaries, the holder shall, after first attempting to contact the beneficiary or beneficiaries, and after such beneficiary or beneficiaries have failed to make an indication of interest through the applicable dormancy period as measured from the last indication of interest by the decedent, report the property to the division with the beneficiary or beneficiaries listed as the owner or owners.

9.14(2) The report of property presumed abandoned and owing to a designated beneficiary or beneficiaries shall include the name of the deceased owner as well as, if known by the holder, the relationship between the beneficiary or beneficiaries and the owner.

9.14(3) Where there is more than one designated beneficiary for a deceased owner, the holder shall indicate the percentage of the property presumed abandoned due each respective beneficiary. Where the holder has previously paid one or more beneficiaries but one or more beneficiaries' entitlements remain unclaimed, the holder shall report the name of each beneficiary previously paid as well as the amount of property received by each beneficiary from the holder.

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This rule is intended to implement Iowa Code sections 556.3 and 556.7.

781—9.15(556) Reporting of life insurance policies deemed matured by the insured's reaching the limiting age.

9.15(1) A life insurer reporting policy proceeds deemed matured by reason of the insured's reaching the applicable limiting age under the policy shall report the owner of the policy as the owner of the policy proceeds.

9.15(2) A report of policy proceeds deemed abandoned by reason of the insured's reaching the limiting age shall include the name of any beneficiary or beneficiaries designated by the insured.

This rule is intended to implement Iowa Code section 556.3.

781—9.16(556) Reporting of life insurance policies deemed matured by use of the death master file.

In accordance with Iowa Code section 507B.4C(7), if an insurer identifies a person as deceased through a death master file match, validates such information through a secondary information source, and is unable to locate a beneficiary following reasonable efforts as described in that statute, the insurer may report and remit the proceeds of the policy, annuity, or retained asset account due to the state prior to the dates that would otherwise be required for such reporting and remittance under Iowa Code chapter 556. An insurer acting pursuant to Iowa Code section 507B.4C(7) shall provide with the insurer's report to the division documentation sufficient to show that all the requirements of that section have been met, including but not limited to details of any death master file match.

This rule is intended to implement Iowa Code sections 556.2, 556.3, 556.7, and 556.9.

781—9.17(556) Calculation and payment of owner entitlements to interest.

9.17(1) The presumption of abandonment of property shall not relieve a holder of its obligation to continue to pay interest on interest-bearing property, until such time as the property is transferred to the custody of the division.

9.17(2) A holder shall calculate and report the actual amount of interest owed to an owner. The holder may estimate its interest obligation for the period immediately preceding the delivery of the report and remittance to the division, provided that the period for which interest is estimated does not exceed 30 days.

This rule is intended to implement Iowa Code sections 556.2, 556.3, 556.7, and 556.9.

781—9.18(556) Information required to be included in report.

9.18(1) Every Holder Report Form submitted to the division must include, to the extent such information is available to the holder, the following information:

- a. The owner's (and as applicable/available, the beneficiary's) name;
- b. The owner's (and as applicable/available, the beneficiary's) last-known address;
- c. The owner's (and as applicable/available, the beneficiary's) social security number or Federal Tax Identification Number;
- d. Account number, policy number, or other similar account relationship identifier;
- e. Check number, certificate number, or other similar property identifier;
- f. Date of owner's last indication of interest;
- g. Date the property became payable or distributable;
- h. In the case of joint owners, the relationship of the owners (joint owners, sole owner, etc.); and
- i. As applicable and as known to the holder, an indication that the owner is deceased, as well as the date of death of the owner and the source of decedent information.

9.18(2) The division may determine that the information included in the Holder Report Form is nonconforming and may require that a holder revise its report in circumstances where the Holder Report Form:

- a. Does not include complete information;
- b. Does not reconcile to the property remittance;
- c. Is not verified;

TREASURER OF STATE[781](cont'd)

- d.* Is not verified by the appropriate individual as required by statute;
- e.* Reflects unauthorized service or other owner charges assessed by the holder;
- f.* Includes property which is not subject to Iowa Code chapter 556; or
- g.* Was not filed electronically or has been filed electronically and cannot be read or converted by the division.

This rule is intended to implement Iowa Code section 556.11.

781—9.19(556) Early reporting of unclaimed property.

9.19(1) A holder may request permission to report and deliver property to the division before it is presumed abandoned by sending a written request to the division.

9.19(2) The request must identify the property to be reported and delivered and the reasons for requesting permission to report and deliver the property prior to the date it is presumed abandoned.

9.19(3) The division may, at its sole discretion, consent to early reporting and delivery according to terms and conditions prescribed by the division.

This rule is intended to implement Iowa Code section 556.11.

781—9.20(556) Owner notification and holder due diligence. Holders shall exercise reasonable and necessary due diligence consistent with good business practice in attempting to reactivate dormant accounts and to locate owners of unclaimed property. If a holder fails to undertake due diligence as required by Iowa Code section 556.11, the holder will not have met the good-faith reporting standard of Iowa Code section 556.14 and the division will not be obligated to defend the holder against any claim of liability.

This rule is intended to implement Iowa Code section 556.11.

781—9.21(556) Reporting aggregate amounts to the division. Holders may report in aggregate to the division items of property with a value of under \$50. Holders are encouraged not to aggregate unclaimed dividend checks, oil royalties, and other payments of a recurring nature, regardless of the item value.

This rule is intended to implement Iowa Code section 556.11.

781—9.22(556) Property held by a third party. A holder may contract with a third party to hold property, provide payment services and report unclaimed property; however, such arrangements shall not relieve the holder from complying with all requirements of this chapter and Iowa Code chapter 556. The holder remains at all times responsible for the complete, accurate and timely reporting and delivery of property presumed abandoned and other duties as provided for under this chapter and Iowa Code chapter 556.

This rule is intended to implement Iowa Code chapter 556.

781—9.23(556) Regulation of finders.

9.23(1) Pursuant to Iowa Code section 556.11(10), agreements or contracts between finders and owners to pay compensation to recover or assist in the recovery of abandoned property are unenforceable if made within 24 months of the date the property was received by the division. Additionally, if a holder is in possession of property that has been deemed abandoned but has not yet been timely reported and delivered to the division, an agreement to pay compensation to recover or assist in the recovery of such property is unenforceable. In no case shall the finder fees or compensation exceed 15 percent of the amount of the property subject to claim.

9.23(2) A claim form signed by a finder shall not be reviewed by the division. The apparent owner or owner's legal representative shall make direct contact with the division and sign the claim form. All communication regarding the claim will be sent to the claimant. A signed, dated and notarized copy of any original agreement or contract between a finder and an owner shall be included with the filing of any claim. Handwritten agreements or contracts will not be accepted. To be valid, the agreement must disclose the nature and value of the property and the name and address of the person in possession.

9.23(3) Owner information shall be reproduced at least annually in a format to be determined by the treasurer and shall be provided to anyone requesting the information for a fee of \$20 per copy. The fee

TREASURER OF STATE[781](cont'd)

shall be paid in the form of an official check or money order and made payable to the State of Iowa. All fees for owner information shall be received by the division before the owner information is made available.

This rule is intended to implement Iowa Code section 556.11.

781—9.24(556) Disposition of safe deposit box contents.

9.24(1) Except as stated in subrules 9.24(2) and 9.24(3), the contents of safe deposit boxes and other tangible property received by the division shall be held by the division for not less than one year, after which time the property may be sold, held, or destroyed.

a. No employee, person related to an employee of the Iowa treasurer of state living in the same household, or contractor that provided appraisal services may directly or indirectly bid on safe deposit box contents or other tangible property offered for sale by the division.

b. For purposes of this subrule, “related to an employee” shall mean the employee’s spouse, child, stepchild, grandchild, parent, stepparent, sibling, stepsibling, or spouse of any of the foregoing persons.

9.24(2) Medals awarded for military service in the armed forces of the United States shall not be auctioned.

9.24(3) If the treasurer determines, after investigation and after an attempt to dispose of the unclaimed property in accordance with the Act, that the probable cost of sale exceeds the value of the property, the treasurer may destroy or otherwise dispose of the property at any time.

This rule is intended to implement Iowa Code section 556.17.

781—9.25(556) Filing of owner claims.

9.25(1) All claims for abandoned property shall be filed with the division on the division’s claim form or through such other means or process as the division finds acceptable.

9.25(2) The claim form shall be completed in its entirety and must include the following information:

a. Social security number or Federal Tax Identification Number, or both, of every claimant;

b. Name, complete mailing address, telephone number and e-mail address, if applicable, of every claimant;

c. Signature of claimant(s). If the claim includes stock(s) or safe deposit box contents, the signature must be notarized. The treasurer may set through policy a cash claim limit which requires a signature to be notarized.

9.25(3) The treasurer shall consider any claim filed under the Act.

This rule is intended to implement Iowa Code section 556.19.

781—9.26(556) Documentation of claims by individuals. A claimant may be required to provide the following supporting documentation with claims, as applicable, if the claim is being made by the person that is set forth as the apparent owner of the unclaimed property in the report filed with the division:

9.26(1) A copy of the claimant’s driver’s license or other government-issued identification.

9.26(2) A copy of a document verifying the claimant’s social security number. Examples include a social security card and a federal Form W-2.

9.26(3) A document showing the claimant’s address as it was reported to the division may be required if the holder did not report the social security number to the division. Examples of relevant documentation include a federal Form W-2, pay stub, bank statement, expired driver’s license, stock certificate, college transcript, report card, marriage certificate, divorce decree, birth certificate, or an original (not a copy) of a postmarked envelope addressed to the claimant.

9.26(4) If the claimant’s name has changed, copies of supporting documentation showing the name change.

9.26(5) If the property subject to claim is a joint account, each surviving claimant may be required to provide:

a. The information in subrules 9.26(1) to 9.26(4) for each joint owner, or such alternative documentation as the division may at its sole discretion deem acceptable; or

TREASURER OF STATE[781](cont'd)

b. Where one or more joint owners are deceased, an official copy of the deceased joint owner's death certificate.

9.26(6) If the property subject to claim is being claimed in the capacity of a guardian or conservator or under a power of attorney, the claimant may be required to provide:

- a.* A copy of the letter of appointment;
- b.* Documentation identifying the guardian/custodian and the owner; and
- c.* If the owner is a minor, an official copy of the owner's birth certificate and a document verifying the owner's social security number. No power of attorney filed by a finder will be recognized by the division for the purpose of making a claim.

9.26(7) If the property subject to claim is a security, in addition to the documentation required by this rule, the claimant may be required to provide the original stock certificate(s), a surety bond that is acceptable to the division, or an affidavit of lost certificate.

9.26(8) If the owner of the property subject to claim is deceased, an Affidavit of Administration must be completed by the claimant.

a. If the property subject to claim is being claimed in the capacity of an executor or administrator, the claimant may be required to submit evidence as outlined in the Affidavit of Administration as provided by the treasurer of state. In this situation, the payment will be made to the estate of the rightful owner.

b. If the property subject to claim is being claimed by an heir (either under a valid will or under Iowa probate law), the claimant(s) may be required to submit evidence outlined in the Affidavit of Administration as provided by the division. Each heir will be paid separately. At the discretion of the division, one heir can accept payment for all heirs.

This rule is intended to implement Iowa Code section 556.19.

781—9.27(556) Documentation of claims by business entities.

9.27(1) A business may be required to provide the following supporting documentation with its claims, as applicable:

- a.* Proof, as deemed suitable by the division, that the person signing the claim form is an officer of the business and has the authority to conduct business on behalf of the entity, such as corporate resolution or other documentation deemed suitable by the treasurer.
- b.* Documentation setting forth the claimant's federal Employer Identification Number (EIN).
- c.* A copy of the claimant's biennial report as filed with the office of the secretary of state or a copy of a current corporate tax return.

9.27(2) Claimants filing on behalf of businesses that are no longer in existence must additionally provide documentation that the claimant is the bona fide successor in interest to the rights of the discontinued business entity with respect to the property being claimed.

This rule is intended to implement Iowa Code section 556.19.

781—9.28(556) Claims for which the apparent owner of property is an unincorporated association that has been dissolved. A claim to property for which the apparent owner is an unincorporated nonprofit association that has been dissolved may be made by a person authorized to claim the property in accordance with the dissolved association's bylaws or governing principles or as proven by other documentation as deemed suitable by the division.

This rule is intended to implement Iowa Code section 556.20.

781—9.29(556) Certification of entitlement by claimant. The claimant shall affirmatively certify that the claimant is the true owner of the unclaimed property and agree to hold harmless and indemnify the division, its employees, and the state in the event of a superior claim to such property by another claimant or person.

This rule is intended to implement Iowa Code section 556.19.

TREASURER OF STATE[781](cont'd)

781—9.30(556) Claims by holders for owner reimbursements. A holder may request payment from the division under the circumstances set forth below. Regardless of whether the holder is represented by a bona fide third party, the claim must be signed by an officer of the holder. A third party may not act on behalf of the holder to request payment from the division unless such third party provides evidence satisfactory to the division in its sole discretion that such third party is acting as the holder's bona fide representative through general power of attorney, court designation, or similar legal authority.

9.30(1) The holder has made payment to the apparent owner and filed proof of payment with the division for such a reclaimed asset. As a condition precedent to receiving reimbursement from the division, the holder shall assume liability for the reclaimed assets and indemnify and hold harmless the division from all future claims related to the reclaimed assets.

9.30(2) The holder directs the division to make payment directly to the rightful owner. The holder shall assume liability for the claimed asset and indemnify and hold harmless the division from all future claims related to the claimed asset.

9.30(3) The holder reported the asset in error. As a condition for receiving reimbursement from the division, the holder shall assume liability for the reclaimed asset and indemnify and hold harmless the division from all future claims related to the reclaimed asset.

This rule is intended to implement Iowa Code section 556.19.

781—9.31(556) Claims to custodial property under the Iowa UTMA or similar Acts.

9.31(1) A claim to custodial property may be made by the custodian of the property, or the legal representative thereof, provided that the minor has not yet reached the age of 21 years.

9.31(2) Upon reaching the age of 21 years, a minor may file a claim to custodial property.

This rule is intended to implement Iowa Code section 556.19.

781—9.32(556) Claim of another state to property in the custody of the treasurer of state.

9.32(1) If property is received by the division and the division is aware that the property is subject to a superior claim of another state, the division may:

- a. Report and deliver the property to the other state; or
- b. Return the property to the holder so that the property may be paid or delivered to the other state.

9.32(2) Except for an agreement to indemnify the state of Iowa, no formal agreement shall be required of the division to undertake such transfer to the correct state.

This rule is intended to implement Iowa Code section 556.20.

781—9.33(556) Claimant interest in unclaimed property.

9.33(1) The division shall have the exclusive authority to determine a claimant's interest in unclaimed property.

9.33(2) Absent an order of a court of competent jurisdiction or by operation of the Iowa probate code or other applicable law, an owner's interest in unclaimed property held by the division may not be transferred to a third party except in the following circumstances:

- a. As a remnant asset in bankruptcy;
- b. Under an agreement that assigns the apparent owner's interest in the unclaimed property where the agreement is otherwise valid and meets the following criteria:

(1) The agreement is made at least 24 months after the date payment or delivery is made under Iowa Code section 556.13;

(2) The agreement is in writing and signed by the apparent owner; and

(3) The agreement discloses the nature and value of the property and the name and address of the person in possession of the property.

9.33(3) For the purposes of the Act, a money judgment against an apparent owner does not create an interest in the specific property held by the division on behalf of the apparent owner.

This rule is intended to implement Iowa Code section 556.19.

TREASURER OF STATE[781](cont'd)

781—9.34(556) Approval of claims. Each claim submitted to the division is subject to the approval process outlined below. Claims over a cash value of \$5,000 must be authenticated either electronically or through such other or additional approval process as may be determined by the division. The treasurer may enter into a contract with a suitable third party that provides identity authentication. Claims over a cash value of \$5,000 must receive an additional level of approval from a division manager.

9.34(1) Cash claims that pass electronic authentication will be considered approved. The treasurer may implement a dollar threshold which would require a review by a division staff person.

9.34(2) Cash claims not subject to the dollar limit threshold that do not pass electronic authentication will be subject to one level of approval by division staff authorized to approve claims at this level. If the claimant does not provide adequate documentation, division staff will communicate with the claimant explaining what documentation is missing. Level One approval shall then be applied only if all required documentation is subsequently submitted by the claimant.

9.34(3) Cash claims subject to the dollar limit threshold, claims involving the transfer of stock or mutual fund share, or claims involving the delivery of safe deposit box contents will be subject to two levels of approval by division staff authorized to approve claims. If the claimant does not provide adequate documentation, division staff will communicate with the claimant explaining what documentation is missing. Level One approval shall then be applied only if all required documentation is subsequently submitted by the claimant. Level Two approval shall be obtained from the division staff person(s) designated to approve claims at this level.

This rule is intended to implement Iowa Code section 556.19.

781—9.35(556) Process for payment of claims.

9.35(1) Claims shall be paid as follows:

a. In the case of cash claims, final approval shall cause the claim to become part of the settlement process. The settlement file will be submitted to the department of administrative services for payment. State warrants will be mailed or may be obtained from the treasurer's office. At the treasurer's discretion, the division may electronically deliver funds to a claimant's financial institution account.

b. In the case of a claim requiring the transfer of securities, final approval shall result in the division's sending a letter to a third-party agent responsible for the transfer of ownership of the stocks/mutual funds, instructing the agent to have ownership of the appropriate number of shares of the property reregistered in the name of the claimant.

9.35(2) In the case of safe deposit box contents that have not been liquidated, the claimant may assume physical custody of the contents from the division. The claimant may also request that the contents be mailed to the claimant. Any contents mailed to claimants will be sent via the United States Postal Service (USPS) or other suitable delivery service. The division is not responsible for items lost, damaged, or not delivered by the delivery service.

9.35(3) Payment for all claims made to an owner who has been assisted by a finder shall be made only to the owner and in no instance to the finder.

This rule is intended to implement Iowa Code section 556.19.

781—9.36(556) Surety bonds. If the property subject to claim is a security and the original stock certificate is not available, in addition to the documentation required by rules 781—9.25(556) and 781—9.26(556), the claimant may be required to complete the Affidavit of Lost Certificate. The treasurer of state may require the claimant to furnish the treasurer with a surety bond containing terms and provisions acceptable to the treasurer and issued by a corporate surety. The claimant shall be responsible for all premiums, costs, fees or other expenses associated with any such surety bond.

This rule is intended to implement Iowa Code section 556.20.

781—9.37(556) Examination of holders. The division may conduct an examination of a holder if the division has reason to believe a holder has failed to report or has filed an incomplete report of unclaimed property pursuant to the Act.

TREASURER OF STATE[781](cont'd)

9.37(1) Examination and review. The treasurer may authorize employees of the treasurer or contract auditors to conduct examinations and review records in the course of an examination.

9.37(2) Examination entrance letter. The division shall send an examination entrance letter to holders selected for examination.

9.37(3) Examination records request. Holders subject to examination are required to comply with any and all requests for records that are made by the division or any contract auditor conducting an examination.

9.37(4) Examination entrance conference. The division, at its option, may conduct an examination entrance conference with a holder in conjunction with the commencement of an examination, at which the division shall identify the examination period and describe the general examination methods that will be used including, but not limited to, any estimation techniques that may be utilized.

9.37(5) Estimation. The division may use estimation techniques where no holder records exist, the records are insufficient to determine the holder's unreported obligations, or the holder fails to provide the division with records necessary to perform an examination.

This rule is intended to implement Iowa Code section 556.23.

781—9.38(556) Report of examination findings.

9.38(1) Report of the examination findings. Upon completion of an examination, the division shall provide a written report reflecting the total unclaimed property reporting liability and, pursuant to the Act, any interest due on amounts due and owing for failure to report and deliver property due and payable for prior years. The division has the discretion to hold a conference with the holder to provide the written report.

9.38(2) Delivery of examination findings by the holder. Unless the holder timely appeals the findings set forth in the division's report of examination, the holder shall deliver to the division within 30 calendar days any unclaimed property and interest due to the division based upon the examination findings.

9.38(3) Examination closure letter. Upon receipt of the examination report and delivery of unclaimed property resulting from the examination, the division shall issue an examination closure letter informing the holder that the examination is closed.

This rule is intended to implement Iowa Code section 556.23.

781—9.39(556) Appeal of examination findings. A holder may appeal the examination findings of the division.

9.39(1) The holder may utilize the appeals process after the holder receives the examination report from the division.

9.39(2) Failure of a holder to submit an appeal request within 30 calendar days of the holder's receipt of the examination report shall constitute the holder's acceptance of the division's findings and the obligation to report and deliver such findings.

9.39(3) The holder shall submit to the division a written request for an appeal along with all supporting documentation.

9.39(4) The division shall contact the holder and schedule an appeal meeting within 20 calendar days of receipt of the holder's appeal request.

9.39(5) An appeal review shall be conducted, at which time the holder shall present evidence supporting the holder's basis for the appeal.

9.39(6) Based on the evidence and additional information presented during the appeal, the division will render a final decision. Such final decision will be in writing and sent to the holder within 30 calendar days of the appeal meeting.

9.39(7) Within 30 calendar days of the date of issuance of the division's final decision, the holder shall file a report with the division and deliver unclaimed property to the division reflecting the unclaimed property reporting liability and interest due on amounts due and owing as determined by the division.

This rule is intended to implement Iowa Code section 556.23.

TREASURER OF STATE[781](cont'd)

781—9.40(556) Entering into contracts with contract auditors. The treasurer may enter into contracts with persons, pursuant to procedures prescribed by the treasurer, for the sole purpose of examining the records of holders to determine compliance with the Act. The treasurer may consider any relevant factors when entering into a contract for services requested in the performance of an unclaimed property examination.

This rule is intended to implement Iowa Code chapter 556.

781—9.41(556) Contract auditor guidelines. Contract auditors shall adhere to the following guidelines.

9.41(1) Contract auditors shall not participate in examinations in which such participation could be construed or perceived as a conflict of interest. Should the contract auditor believe that the contract auditor could not conduct an assigned examination due to a conflict of interest or for any other reason, the contract auditor shall notify the division. The division shall then determine whether recusal of the contract auditor from the assignment is appropriate or necessary. If the contract auditor is recused from conducting the examination of a holder, another contract auditor may be assigned.

9.41(2) Contract auditors shall maintain strict confidentiality of any nonpublic records or documents gathered during the course of an examination in accordance with the auditors' contract. Upon the request of a holder under audit by a contract auditor, the contract auditor will provide the holder with information concerning the contract auditor's data security protocols to the extent reasonably necessary to demonstrate that the holder's records will be secure in the possession of the contract auditor.

9.41(3) Contract auditors shall properly document their review and make their working papers gathered during examinations available on demand for review by the treasurer and the attorney general's office.

9.41(4) Upon request, contract auditors shall provide the holder with relevant copies of working papers supporting any calculation made of unclaimed property reportable and deliverable to the treasurer.

9.41(5) Contract auditors shall maintain working papers for a minimum of seven years following the completion of the examination assignment, the delivery of unclaimed property, the resolution of any appeal, or the finality of judgment in any litigation, whichever is later.

9.41(6) Contract auditors shall conduct examinations consistent with the Act and other applicable law, policies of the treasurer, generally accepted accounting principles, generally accepted auditing standards, and any relevant examination rules promulgated pursuant to the Act as they relate to the reporting and delivery of unclaimed property from holders or persons.

This rule is intended to implement Iowa Code chapter 556.

781—9.42(556) Holder voluntary disclosure of unreported property.

9.42(1) The division may offer a holder Voluntary Compliance Self-Audit (VCSA) program in order to facilitate compliance by holders that have never reported unclaimed property or have substantially underreported unclaimed property.

9.42(2) The operation of the VCSA program process will be conducted as follows. The division will promulgate terms, conditions and forms for the VCSA program. A holder shall provide all required information in the format determined by the division in order to participate in the VCSA program. The division will have the discretion to approve or reject a VCSA submission. An incomplete VCSA submission will result in disapproval of the submission.

9.42(3) The division will not impose any interest or penalties for property reported under an approved VCSA submission.

This rule is intended to implement Iowa Code chapter 556.

781—9.43(556) Holder amnesty program. The division may offer a holder amnesty program in order to facilitate compliance by holders that have never reported unclaimed property or have not reported in the last three years. The treasurer may provide notification of an amnesty program via the treasurer's Web site. The treasurer may waive interest and penalties for the amnesty program.

TREASURER OF STATE[781](cont'd)

This rule is intended to implement Iowa Code chapter 556.

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:

September 1, 2015 — September 30, 2015	4.25%
October 1, 2015 — October 31, 2015	4.25%
November 1, 2015 — November 30, 2015	4.25%
December 1, 2015 — December 31, 2015	4.00%
January 1, 2016 — January 31, 2016	4.25%
February 1, 2016 — February 29, 2016	4.25%
March 1, 2016 — March 31, 2016	4.00%
April 1, 2016 — April 30, 2016	3.75%
May 1, 2016 — May 31, 2016	4.00%
June 1, 2016 — June 30, 2016	3.75%
July 1, 2016 — July 31, 2016	3.75%
August 1, 2016 — August 31, 2016	3.75%
September 1, 2016 — September 30, 2016	3.50%

ARC 2714C

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 section 476.2, the Utilities Board (Board) gives notice that on August 23, 2016, the Board issued an order in Docket No. RMU-2016-0010, In Re: Review of Tax Reform Revenue Adjustment Rules [199 IAC Chapter 30], “Order Commencing Rule Making,” proposing to rescind the Board’s rules regarding the Tax Reform Act of 1986. The rules were adopted to implement Iowa Code section 476.8A, which in turn was enacted in connection with the Tax Reform Act of 1986. Iowa Code section 476.8A was repealed in 1990, and it appears Chapter 30 of the Board’s rules can be rescinded in its entirety.

The Tax Reform Act of 1986 lowered the federal income tax rate for utilities from 46 percent to 34 percent, significantly reducing each utility’s cost of providing service to its customers. Iowa Code section 476.8A was enacted to expressly allow the Board to require rate-regulated utilities to file revised rates reflecting the change in the utilities’ federal tax expense without requiring a general rate review proceeding. (Utilities had the option to file a general rate case instead if they thought the decrease in tax expense was offset by increases in other expenses.) The Board then adopted the rules in Chapter 30 to specify the manner in which rates were to be revised. The Board is proposing to rescind the chapter since the provisions are no longer required by statute. Moreover, all of the rate-regulated utilities have been through multiple general rate cases since 1986, so there is no further need for this chapter of rules.

UTILITIES DIVISION[199](cont'd)

Because of the noncontroversial nature of this proposal, the Board did not seek early input from stakeholders. The order approving this Notice of Intended Action and commencing this rule making can be found on the Board's Electronic Filing System (EFS) Web site, <http://efs.iowa.gov>, in Docket No. RMU-2016-0010.

Pursuant to Iowa Code sections 17A.4(1)"a" and "b," any interested person may file a written statement of position pertaining to the proposed amendment. The statement must be filed on or before October 4, 2016. The statement should be filed electronically through the Board's EFS Web site. Instructions for making an electronic filing can be found on the EFS Web site at <http://efs.iowa.gov>. Electronic 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 Docket No. RMU-2016-0010.

The Board is not scheduling an opportunity for interested persons to present oral comments on the proposed amendment at this time. Pursuant to Iowa Code section 17A.4(1)"a," an oral comment proceeding will be scheduled if the Board receives a timely written request for one.

After analysis and review, the Board tentatively concludes that the proposed rescission, if adopted, will not have a detrimental effect on jobs in Iowa.

This amendment is intended to implement Iowa Code section 476.2.

The following amendment is proposed.

Rescind and reserve **199—Chapter 30**.

ARC 2709C

LANDSCAPE ARCHITECTURAL EXAMINING BOARD[193D]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 544B.10 and 546.10(8), the Landscape Architectural Examining Board hereby amends Chapter 2, "Examinations and Licensing," Iowa Administrative Code.

The amendment to rule 193D—2.6(544B,17A), which pertains to exemptions from the written examination, adds a third alternative to provide licensure for landscape architects who were licensed in another jurisdiction prior to the requirement of passing a state or national examination, which is referred to as "grandparenting," if they meet the requirements listed in new subrule 2.6(3).

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 2475C** on March 30, 2016. A public hearing was held on April 19, 2016. No one attended the public hearing, and no comments were received during the comment period. The adopted amendment is identical to that published under Notice.

This amendment is subject to waiver or variance pursuant to 193—Chapter 5.

This amendment was approved by the Board on June 21, 2016.

After analysis and review of this rule making, the Professional Licensing and Regulation Bureau determined that there will be no impact on jobs and no fiscal impact to the state. While the Bureau does not anticipate an impact, if there is one, the impact would lean in favor of increased employment because the amendment provides a licensure avenue that is not currently provided.

This amendment is intended to implement Iowa Code section 544B.10.

This amendment will become effective October 19, 2016.

The following amendment is adopted.

Amend rule 193D—2.6(544B,17A) as follows:

193D—2.6(544B,17A) Exemption from written examination. The board may exempt from written examination an applicant who meets one of the following criteria:

1. **2.6(1)** The applicant holds a current CLARB certificate; ~~or~~
2. **2.6(2)** The applicant holds a license to practice landscape architecture issued upon written examination by another jurisdiction, and has submitted a certificate from the jurisdiction of original licensure verifying that the applicant passed the examination in that jurisdiction; ~~or~~

2.6(3) The applicant:

a. Holds an active license to practice landscape architecture issued by another jurisdiction whose current licensure requirements, including the examination requirements, are substantially equivalent to or exceed those required for licensure as a landscape architect in Iowa, and during the time period in which the applicant was issued an initial license in the other jurisdiction, that jurisdiction did not require a written examination for initial applicants, but did require board review and approval of education and experience designed to demonstrate competence to practice;

b. Was grandparented in under the laws of the other jurisdiction, before written examinations for initial licensure were mandated by the other jurisdiction; and

c. Submits a certificate from the jurisdiction of original licensure verifying that the applicant was licensed during the period in which there was no written examination and submits proof of license in good standing.

[Filed 8/18/16, effective 10/19/16]

[Published 9/14/16]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/14/16.

ARC 2705C**MEDICINE BOARD[653]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 147.76, the Board of Medicine hereby amends Chapter 13, “Standards of Practice and Principles of Medical Ethics,” Iowa Administrative Code.

The purpose of Chapter 13 is to establish standards of practice and principles of medical ethics for administrative medicine physicians, medical physicians and surgeons, and osteopathic physicians and surgeons. These amendments update the Board’s recommended resources for physicians who treat chronic pain.

The Board initiated this rule making on April 8, 2016. Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 2535C** on May 11, 2016. A public hearing was held on May 31, 2016. No comments were received. These amendments are identical to those published under Notice.

The Board adopted these amendments on July 29, 2016.

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

These amendments are intended to implement Iowa Code chapters 147, 148 and 272C.

These amendments will become effective October 19, 2016.

The following amendments are adopted.

ITEM 1. Amend paragraph **13.2(8)“e”** as follows:

e. ~~Interagency Guideline on Opioid Dosing for Chronic Non-cancer Pain Prescribing Opioids for Pain. In March 2007, the Washington State Agency Medical Directors’ Group published an educational pilot to improve care and safety of patients with chronic, noncancer pain who are treated with opioids. The guidelines include opioid dosing recommendations. Developed by the Washington State Agency Medical Directors’ Group in collaboration with an expert advisory panel, actively practicing providers and public stakeholders, the guideline focuses on evidence-based treatment for chronic-pain patients. The guideline was published in 2007 and updated in 2015.~~

ITEM 2. Adopt the following **new** paragraph **13.2(8)“h”**:

h. CDC Guideline for Prescribing Opioids for Chronic Pain. On March 15, 2016, the U.S. Centers for Disease Control and Prevention (CDC) issued a guideline to provide recommendations for the prescribing of opioid pain medication for patients 18 years of age and older in primary care settings. Recommendations focus on the use of opioids in treating chronic pain (pain lasting longer than three months or past the time of normal tissue healing) outside of active cancer treatment, palliative care, and end-of-life care.

[Filed 8/15/16, effective 10/19/16]

[Published 9/14/16]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 9/14/16.

ARC 2706C**MEDICINE BOARD[653]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 147.76, the Board of Medicine hereby amends Chapter 25, “Contested Case Proceedings,” Iowa Administrative Code.

The purpose of Chapter 25 is to establish procedures for contested case hearings before the Board. The amendment updates a subrule to be consistent with Iowa Code section 148.7(4) regarding the composition of a Board panel that hears a contested case proceeding. The law was amended in 2014.

The Board initiated this rule making on June 2, 2016. Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 2610C** on July 6, 2016.

MEDICINE BOARD[653](cont'd)

At the public hearing that was held on July 26, 2016, the Board received one comment, which was from David Brown of the Hansen, McClintock and Riley law firm in Des Moines, Iowa. Mr. Brown expressed concern about the appointment of alternate members who are former members of the Board of Medicine. Iowa Code section 148.2A(2)“b” allows former Board members to be appointed and serve as alternate members. Therefore, no changes have been made from the Notice.

The Board adopted this amendment on August 11, 2016.

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

This amendment is intended to implement Iowa Code chapters 147, 148 and 272C.

This amendment will become effective October 19, 2016.

The following amendment is adopted.

Amend subrule 25.18(1) as follows:

25.18(1) Hearings are conducted before a quorum of the board. When a sufficient number of board members is are unavailable to hear a contested case, the executive director, or the executive director's designee, may request alternate members, as defined in rule 653—1.1(17A,147) and Iowa Code sections 148.2A and 148.7(4), to serve on the hearing panel. A hearing panel ~~containing alternate members~~ must include at least six ~~people, members, at least half of whom a majority~~ must be current board members, ~~a majority and at least half of whom must be members~~ licensed to practice medicine under Iowa Code chapter 148, ~~and no more than three may be public members.~~

[Filed 8/15/16, effective 10/19/16]

[Published 9/14/16]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/14/16.

ARC 2717C

PROFESSIONAL LICENSURE DIVISION[645]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 148G.5 and 152B.6, the Board of Respiratory Care and Polysomnography hereby amends Chapter 5, “Fees,” Iowa Administrative Code.

Iowa Code section 147.80 requires each licensing board to set its fees at a level which will be sufficient to cover its ongoing expenditures. Annual board expenditures include items such as administrative staff time, licensing staff time, board member per diem and travel expenses; board regulatory activities including investigations, administrative hearings and legal counsel; and items of general support including IT equipment and software, office supplies and office rent and utilities. The Board of Respiratory Care and Polysomnography is not currently meeting the statutory requirement to bring in sufficient revenue to cover ongoing expenses. The Board is setting fees for the new polysomnographic technologist license, fees for the new dual respiratory care and polysomnography practitioner license and changing the initial license and renewal fees for the respiratory care license. These fees are necessary for the licensure of polysomnographic technologists and respiratory care and polysomnography practitioners, which starts on January 1, 2017.

The fees are as follows: Initial and renewal for Respiratory Care Practitioner, \$75; Initial and renewal for Respiratory Care and Polysomnography Practitioner, \$90; Initial and renewal for Polysomnographic Technologist, \$330; Reactivation fee for Respiratory Care Practitioner, \$135; Reactivation fee for Respiratory Care and Polysomnography Practitioner, \$150; and Reactivation fee for Polysomnographic Technologist, \$390.

Chapter 5 is shared by all of the Boards in the Division of Professional Licensure. However, this rule making only changes the fees affecting the Board of Respiratory Care and Polysomnography.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 2596C** on June 22, 2016. A public hearing was held on July 12, 2016. The Board received two public comments in support of the rule making. One nonsubstantive change has been made from the Notice of Intended Action in order to correct the title of polysomnographic technologist in paragraph 5.17(4)“b.”

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

Waiver provisions pertaining to these administrative rules are contained in 645—Chapter 18.

The Board of Respiratory Care and Polysomnography adopted this amendment on August 16, 2016.

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

This amendment is intended to implement Iowa Code sections 147.80, 148G.5, 148G.6(1), 148G.6(5), and 152B.6.

This amendment will become effective October 19, 2016.

The following amendment is adopted.

Amend subrules 5.17(1), 5.17(2) and 5.17(4) as follows:

~~5.17(1) Initial or endorsement license fee to practice respiratory care is \$120, plus the cost for evaluation of the fingerprint packet and the criminal history background checks by the Iowa division of criminal investigation (DCI) and the Federal Bureau of Investigation (FBI).~~

a. The initial license fee for a respiratory care practitioner license is \$75, plus the cost for evaluation of the fingerprint packet and the criminal history background checks by the Iowa division of criminal investigation (DCI) and the Federal Bureau of Investigation (FBI).

b. The initial license fee for a polysomnographic technologist license is \$330, plus the cost for evaluation of the fingerprint packet and the criminal history background checks by the Iowa division of criminal investigation (DCI) and the Federal Bureau of Investigation (FBI).

c. The initial license fee for a respiratory care and polysomnography practitioner license is \$90, plus the cost for evaluation of the fingerprint packet and the criminal history background checks by the Iowa division of criminal investigation (DCI) and the Federal Bureau of Investigation (FBI).

~~5.17(2) Biennial license renewal fee for each biennium is \$60.~~

a. The biennial license renewal fee for each biennium for a respiratory care practitioner license is \$75.

b. The biennial license renewal fee for each biennium for a polysomnographic technologist license is \$330.

c. The biennial license renewal fee for each biennium for a respiratory care and polysomnography practitioner license is \$90.

~~5.17(4) Reactivation fee is \$120, plus the cost for evaluation of the fingerprint packet and the criminal history background checks by the Iowa division of criminal investigation (DCI) and the Federal Bureau of Investigation (FBI) if the license has been on inactive status for two or more years.~~

a. The reactivation fee to practice respiratory care is \$135, plus the cost for evaluation of the fingerprint packet and the criminal history background checks by the Iowa division of criminal investigation (DCI) and the Federal Bureau of Investigation (FBI) if the license has been on inactive status for two or more years.

b. The reactivation fee to practice as a polysomnographic technologist is \$390, plus the cost for evaluation of the fingerprint packet and the criminal history background checks by the Iowa division of criminal investigation (DCI) and the Federal Bureau of Investigation (FBI) if the license has been on inactive status for two or more years.

c. The reactivation fee to practice respiratory care and polysomnography is \$150, plus the cost for evaluation of the fingerprint packet and the criminal history background checks by the Iowa division of criminal investigation (DCI) and the Federal Bureau of Investigation (FBI) if the license has been on inactive status for two or more years.

[Filed 8/24/16, effective 10/19/16]

[Published 9/14/16]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/14/16.

ARC 2707C

REVENUE DEPARTMENT[701]

Adopted and Filed

Pursuant to the authority of Iowa Code section 421.14, the Department of Revenue hereby amends Chapter 71, "Assessment Practices and Equalization," Iowa Administrative Code.

These amendments update the dates for filing protests of appeal with the local board of review for property tax assessments. These amendments also add a reference to the Iowa Code, which requires that the auditor notify taxpayers individually if the taxpayer's assessment increases due to an equalization order and allows assessors and taxpayers to agree upon an assessed value prior to the protest period. These changes were enacted as part of 2015 Iowa Acts, chapter 116.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 2520C** on April 27, 2016. No public comments were received. No changes have been made from the Notice of Intended Action.

After analysis and review of this rule making, the Department anticipates a small fiscal impact to local governments due to the additional notice requirements for auditors.

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 of Revenue adopted these amendments on August 16, 2016.

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

These amendments are intended to implement Iowa Code sections 441.35 and 441.37.

These amendments will become effective October 19, 2016.

The following amendments are adopted.

ITEM 1. Amend paragraph **71.20(3)"c"** as follows:

c. Notice to taxpayers. If the value of any property is increased by a board of review or a board of review assesses property not previously assessed by the assessor, the person to whom the property is assessed shall be notified by regular mail of the board's action. The notification shall state that the taxpayer may protest the action by filing a written protest with the board of review within five days of the date of the notice. After at least five days have passed since notifying the taxpayer, the board of review shall meet to take final action on the matter, including the consideration of any protest filed. However, if the valuations of all properties within a class of property are raised or lowered by a uniform percentage in a nonreassessment year, notice to taxpayers ~~need shall~~ be provided ~~only~~ by newspaper publication as described in Iowa Code section 441.35 and in the manner specified in Iowa Code section 441.36.

ITEM 2. Amend paragraph **71.20(4)"a"** as follows:

a. A board of review may act only upon written protests which have been filed with the board of review between April 16 2 and ~~May 5~~ April 30, inclusive. In the event ~~May 5~~ April 30 falls on a Saturday or Sunday, protests filed the following Monday shall be considered to have been timely filed. Protests postmarked by ~~May 5~~ April 30 or the following Monday if ~~May 5~~ April 30 falls on a Saturday or Sunday shall also be considered to have been timely filed. All protests must be in writing and signed by the taxpayer or the taxpayer's authorized agent. A written request for an oral hearing must be made at the time of filing the protest and may be made by checking the appropriate box on the form prescribed by the department of revenue. Protests may be filed for previous years if the taxpayer discovers that a mathematical or clerical error was made in the assessment, provided the taxes have not been fully paid or otherwise legally discharged. The protester may combine on one form assessment protests on parcels separately assessed if the same grounds are relied upon as the basis for protesting each separate assessment. If an oral hearing is requested on more than one of the protests, the person making the combined protests may request that the oral hearings be held consecutively. A board of review may

REVENUE DEPARTMENT[701](cont'd)

allow protests to be filed in electronic format. Protests transmitted electronically are subject to the same deadlines as written protests.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/14/16.

ARC 2711C

UTILITIES DIVISION[199]

Adopted and Filed

Pursuant to Iowa Code sections 17A.4, 476.1, 476.1A, 476.1B, 476.2, 476.8, 476A.12, 478.19, 478.20, 479.4, and 479.17, the Utilities Board (Board) gives notice that on August 22, 2016, the Board issued an order in Docket No. RMU-2016-0001, In re: Updates and Corrections of Rules Establishing Natural Gas and Electric Safety Standards [199 IAC Chapters 10, 11, 19, 20, and 25]; "Order Adopting Amendments to Natural Gas and Electric Safety Standards," adopting updates to the Board's safety standards for utilities providing natural gas and electric service and making certain corrections to the Board's safety standards rules.

The safety standards in 199 IAC Chapters 10, 19, 20, and 25 are designed to ensure that facilities that provide service to the public under the Board's jurisdiction comply with federal statutes and regulations and other national standards addressing the safety of these facilities. Board Safety and Engineering Section staff periodically review the electric and gas technical standards that are incorporated by reference in the Board's rules and that the Section uses when it inspects the operations and facilities of public utilities. Since the standards change periodically, updates and corrections to the standards in the Board's rules are necessary from time to time. In most instances, the Board has adopted the most recent standards to the natural gas and electric safety standards in its rules based upon changes to national standards and federal regulations that have occurred since the last amendments were adopted.

The Board decided not to adopt the most recent standards in the following instances: it did not adopt the updated version of the American Society of Mechanical Engineers (ASME) standard in ASME B31.8, "Gas Transmission and Distribution Piping Systems," or the updated version of National Fire Protection Association (NFPA) 59. The federal listing of standards, which PHMSA incorporates by reference in its regulations, adopts the 2007 edition of ASME B31.8 and reverts to the 2004 version of NFPA 59. The Board considers it important for its safety standards to be consistent with the standards adopted in the federal regulations.

The changes adopted in this rule making are primarily updates of technical standards incorporated by reference. Of particular importance is the renewal of the adoption date of the federal pipeline safety standards. Timely adoption of amendments to the federal standards is a factor in the U.S. Department of Transportation Pipeline and Hazardous Materials Safety Administration (PHMSA) performance score upon which the agency's pipeline safety grant is based. The Board may be unable to enforce current federal standards that it has not yet adopted. For adoption of federal regulations, the proposed amendments provided for insertion of the latest possible date by which the amendments can become effective, which in this case is October 19, 2016. This practice ensures the Board adopts the most current amendments to federal standards and is consistent with prior rule makings concerning the updating of standards.

In addition, through this rule making the Board corrected its provision adopting the American National Standards Institute (ANSI) A300 (Part 1) standard on tree pruning. The change specifies the version year of Part 1 only, which is the only section of the three larger standards that the Board has adopted. Finally, the Board deleted references to federal statutory provisions and regulations concerning outdoor gas lighting which have been repealed or rescinded.

UTILITIES DIVISION[199](cont'd)

Notice of Intended Action was published in the April 13, 2016, Iowa Administrative Bulletin as **ARC 2499C**. These amendments are identical to those published under Notice, except for the insertion of the October 19, 2016, effective date.

The order approving this Adopted and Filed rule making can be found on the Board's Electronic Filing System (EFS) Web site, <http://efs.iowa.gov>, in Docket No. RMU-2016-0001.

After analysis and review of this rule making, the Board tentatively concludes that the amendments will have a beneficial effect on the safety and reliability of natural gas and electric service in Iowa. Safe and reliable natural gas and electric services are a necessity for economic development, so the amendments will have a beneficial effect on jobs in Iowa, although that effect cannot be quantified.

These amendments are intended to implement Iowa Code sections 17A.4, 476.1, 476.1A, 476.1B, 476.2, 476.8, 476A.12, 478.19, 478.20, 479.4, and 479.17.

These amendments will become effective October 19, 2016.

The following amendments are adopted.

ITEM 1. Amend subrule 10.12(1) as follows:

10.12(1) All pipelines, underground storage facilities, and equipment used in connection therewith shall be designed, constructed, operated, and maintained in accordance with the following standards:

a. 49 CFR Part 191, "Transportation of Natural and Other Gas by Pipeline; Annual Reports, Incident Reports, and Safety-Related Condition Reports," as amended through ~~April 9, 2014~~ October 19, 2016.

b. 49 CFR Part 192, "Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards," as amended through ~~April 9, 2014~~ October 19, 2016.

c. 49 CFR Part 199, "Drug and Alcohol Testing," as amended through ~~April 9, 2014~~ October 19, 2016.

d. to f. No change.

Conflicts between the standards established in paragraphs 10.12(1)"a" through "f" or between the requirements of rule 199—10.12(479) and other requirements which are shown to exist by appropriate written documentation filed with the board shall be resolved by the board.

ITEM 2. Amend subrule 19.2(5) as follows:

19.2(5) *Annual, periodic and other reports to be filed with the board.*

a. to f. No change.

g. *Reports to federal agencies.* Copies of reports submitted to the U.S. Department of Transportation pursuant to 49 CFR Part 191, Part 192, or Part 199, as amended through ~~April 9, 2014~~ October 19, 2016, shall be filed with the board. Utilities operating in other states shall provide to the board data for Iowa only.

h. to k. No change.

ITEM 3. Amend rule **199—19.3(476)**, implementation sentence, as follows:

This rule is intended to implement ~~42 U.S.C.A. §8372, 10 CFR 516.30, and~~ Iowa Code section 476.8.

ITEM 4. Amend subrule 19.5(2) as follows:

19.5(2) *Standards incorporated by reference.*

a. The design, construction, operation, and maintenance of gas systems and liquefied natural gas facilities shall be in accordance with the following standards where applicable:

(1) 49 CFR Part 191, "Transportation of Natural and Other Gas by Pipeline; Annual Reports, Incident Reports, and Safety-Related Condition Reports," as amended through ~~April 9, 2014~~ October 19, 2016.

(2) 49 CFR Part 192, "Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards," as amended through ~~April 9, 2014~~ October 19, 2016.

(3) 49 CFR Part 193, "Liquefied Natural Gas Facilities: Federal Safety Standards," as amended through ~~April 9, 2014~~ October 19, 2016.

(4) 49 CFR Part 199, "Drug and Alcohol Testing," as amended through ~~April 9, 2014~~ October 19, 2016.

UTILITIES DIVISION[199](cont'd)

(5) ASME B31.8 - 2007, "Gas Transmission and Distribution Piping Systems."

(6) NFPA 59-~~2008~~ 2004, "Utility LP-Gas Plant Code."

(7) At railroad crossings, 199—42.7(476), "Engineering standards for pipelines."

b. The following publications are adopted as standards of accepted good practice for gas utilities:

(1) ANSI Z223.1/NFPA 54-~~2012~~ 2015, "National Fuel Gas Code."

(2) NFPA 501A-2013, "Standard for Fire Safety Criteria for Manufactured Home Installations, Sites, and Communities."

ITEM 5. Amend subrule 19.8(3) as follows:

19.8(3) *Turning on gas.* Each utility upon the installation of a meter and turning on gas or the act of turning on gas alone shall take the necessary steps to assure itself that there exists no flow of gas through the meter which is a warning that the customer's piping or appliances are not safe for gas turn on (Ref: Sec. 8.2.3 and Annex D, ANSI Z223.1/NFPA 54-~~2009~~ 2015).

ITEM 6. Amend **199—Chapter 19**, implementation sentence, as follows:

These rules are intended to implement 42 U.S.C.A. 8372, 10 CFR, ~~516.30~~, and Iowa Code sections 476.1, 476.2, 476.6, 476.8, 476.20, 476.54, 476.66, 476.86, 476.87 and 546.7.

ITEM 7. Amend subrule 20.5(2) as follows:

20.5(2) *Standards incorporated by reference.* The utility shall use the applicable provisions in the publications listed below as standards of accepted good practice unless otherwise ordered by the board.

a. Iowa Electrical Safety Code, as defined in 199—Chapter 25.

b. National Electrical Code, ANSI/NFPA 70-~~2011~~ 2014.

c. American National Standard Requirements for Instrument Transformers, ANSI/IEEE C57.13.1-2006; and C57.13.3-2005.

d. American National Standard for Electric Power Systems and Equipment Voltage Ratings (60 Hertz), ANSI C84.1-2011.

e. Grounding of Industrial and Commercial Power Systems, IEEE 142-2007.

f. IEEE Standard 1159-2009, IEEE Recommended Practice for Monitoring Electric Power Quality or any successor standard.

g. IEEE Standard 519-~~1992~~ 2014, IEEE Recommended Practices and Requirements for Harmonic Control in Electrical Power Systems or its successor standard.

h. At railroad crossings, 199—42.6(476), "Engineering standards for electric and communications lines."

ITEM 8. Amend subrule 25.2(5) as follows:

25.2(5) *Other references adopted.*

a. The "National Electrical Code," ANSI/NFPA 70-~~2011~~ 2014, is adopted as a standard of accepted good practice for customer-owned electrical facilities beyond the utility point of delivery, except for installations subject to the provisions of the state fire marshal standards in 661—504.1(103).

b. No change.

ITEM 9. Amend subrule 25.3(5) as follows:

25.3(5) *Guidelines.* Applicable portions of Rural Utilities Service (RUS) Bulletins 1730-1, 1730B-121, and 1724E-300 and "The Lineman's and Cableman's Handbook" are suggested as guidelines for the development and implementation of an inspection plan. ANSI A300 (Part 1)-~~2013~~ 2008 (R2014), "Pruning," and Section 35 of "The Lineman's and Cableman's Handbook" are suggested as guides for tree trimming practices.

[Filed 8/22/16, effective 10/19/16]

[Published 9/14/16]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/14/16.

ARC 2715C

VOLUNTEER SERVICE, IOWA COMMISSION ON[817]

Adopted and Filed

Pursuant to the authority of 2016 Iowa Acts, House File 2460, section 91(1b), Iowa Code chapter 15H and section 17A.3, the Iowa Commission on Volunteer Service hereby adopts new Chapter 12, "RefugeeRISE AmeriCorps," Iowa Administrative Code.

Chapter 12 establishes a Refugee Rebuild, Integrate, Serve, Empower (RefugeeRISE) AmeriCorps program to increase community integration and engagement for diverse refugee communities in rural and urban areas across the state. The chapter will support AmeriCorps program member recruitment and training to improve the economic well-being and health of economically disadvantaged refugees in local communities across Iowa.

Notice of Intended Action was published in the July 6, 2016, Iowa Administrative Bulletin as **ARC 2613C**. No public comment was received on these rules. The only change to the rules as published under Notice of Intended Action was an Iowa Code reference correction in rules 817—12.1(15H) and 817—12.7(15H).

These rules were adopted by the Commission on August 16, 2016.

These rules are not subject to waiver.

After analysis and review, the fiscal impact of these rules is \$300,000 of state funding appropriated to the Department of Human Services and transferred to the Economic Development Authority for the Iowa Commission on Volunteer Service.

The analysis of impact on jobs indicates that these rules will create approximately 22 positions.

These rules are intended to implement 2016 Iowa Acts, House File 2460, sections 90 and 91.

These rules shall become effective on October 19, 2016.

The following amendment is adopted.

Adopt the following **new** 817—Chapter 12:

CHAPTER 12
REFUGEERISE AMERICORPS

817—12.1(15H) Purpose and description of the program. The purpose of the RefugeeRISE AmeriCorps program is to provide RefugeeRISE AmeriCorps members with training and support to increase community integration and engagement for diverse refugee communities. Awarded on a competitive basis, RefugeeRISE grants will give support to AmeriCorps programs in Iowa utilizing AmeriCorps funds awarded by the commission, other funds received in the community programs account established pursuant to Iowa Code section 15H.5, or both.

817—12.2(15H) Applications. Appropriate forms and applications for grants and eligibility preapproval are available from the commission at www.volunteeriowa.org.

817—12.3(15H) Program eligibility criteria. The commission and department of human services will establish criteria consistent with state-level needs and federal program requirements. Any program deemed eligible for inclusion as a RefugeeRISE AmeriCorps program must meet the standards outlined by the commission and the department in the application instructions. Refugee-focused AmeriCorps programs that applied for AmeriCorps funding for program year 2016-2017 will be considered conditionally eligible for fiscal year 2017 in order to provide adequate time for criteria to be established. In subsequent years, all applicants that wish to be considered as RefugeeRISE AmeriCorps programs shall be considered as part of the AmeriCorps grant process.

817—12.4(15H) Grant criteria. Beginning with the 2017-2018 program year applications, the commission will establish grant criteria and funding priorities consistent with federal regulations and with commission and department of human services goals. Applicants will be considered either

VOLUNTEER SERVICE, IOWA COMMISSION ON[817](cont'd)

in conjunction with the AmeriCorps grant process or, in certain cases, through special competitions outlined and announced by the commission. At a minimum, grant criteria will include the following:

1. Goals and objectives of the project;
2. Qualifications of the applicant to manage funds;
3. For new and re-competing applicants, letters of local support verifying coordination and community cooperation;
4. Total project budget;
5. For previous grantees, evidence of ability to submit timely and accurate reports;
6. Description and time line of planned activities;
7. Description of the applicant organization, including staffing pattern;
8. Documentation of the applicant's ability to provide the required local match; and
9. Program performance and evaluation results and outcomes.

817—12.5(15H) Application process for new grants.

12.5(1) Request for applications. The commission shall issue a request for applications containing program criteria and application forms for the applicable fiscal year.

12.5(2) Application time frame. The applicant shall submit the completed application to the commission according to the time line identified in the request for applications.

12.5(3) Application review process. Applications submitted will be reviewed by a grant review committee, which is composed of members of the commission, individuals with expertise in youth programming, and citizens of Iowa. Using the criteria in rule 817—12.4(15H), the committee will review the applications to determine the appropriateness and the merit of the project.

12.5(4) Notification. Applicants whose projects have been selected for funding shall be notified by the commission.

817—12.6(15H) Administration of grants.

12.6(1) Contracts. The commission shall prepare contractual agreements for the grants.

a. The contract shall be executed by the executive director of the commission and the duly authorized official of the project.

b. The contract shall include due dates and the process for the submission of progress reports and financial reports.

12.6(2) Reporting. All grant recipients shall submit progress reports and financial reports to the commission.

12.6(3) Availability of funds. A separate request for applications will only be issued when there are available funds for this program. To the extent allowable by federal regulations, RefugeeRISE AmeriCorps will always be an acceptable program model for annual AmeriCorps grants and will be listed in the annual AmeriCorps program request for applications.

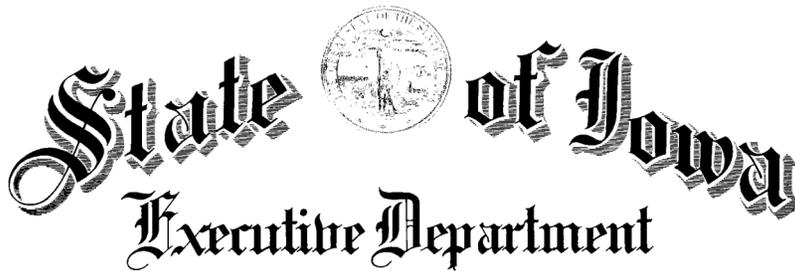
817—12.7(15H) Reversion of funds. Grant funds not expended by the project closeout date shall revert to the commission and the community programs account established pursuant to Iowa Code section 15H.5.

These rules are intended to implement 2016 Iowa Acts, House File 2460, sections 90 and 91.

[Filed 8/24/16, effective 10/19/16]

[Published 9/14/16]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/14/16.



IN THE NAME AND BY THE AUTHORITY OF THE STATE OF IOWA
EXECUTIVE ORDER NUMBER EIGHTY-EIGHT

WHEREAS, closing the skills gap will secure a more prosperous future for all Iowans; and

WHEREAS, the economic vitality of our state depends on more skilled workers; and

WHEREAS, many students need more support to meet the expectations of world-class schools and complete 12th grade adequately prepared for college or career training; and

WHEREAS, such support should focus on reducing the socioeconomic, ethnic and racial achievement gaps in elementary and secondary schools and increasing equity in the attainment of a postsecondary degree or other workforce credential; and

WHEREAS, many adults would benefit from additional education or training, including workers with some college credit who want to complete their college degree or another workforce credential; and

WHEREAS, increasing the education and employment of parents or guardians of children living in or near poverty would improve opportunities for their children; and

WHEREAS, many employers throughout Iowa have difficulty hiring enough skilled workers, and Iowa would benefit from better alignment of education, workforce and economic development systems to develop more robust career pathways; and

WHEREAS, it is essential postsecondary institutions produce the credentials employers need and put more Iowans on a path to the middle class and beyond.

NOW, THEREFORE, I, Terry E. Branstad, Governor of the State of Iowa, declare Iowa will be well-served by establishing the goal of 70 percent of our workforce having education or training beyond high school by the year 2025. This is called the Future Ready Iowa Initiative. To develop and recommend the strategic plan to accomplish this goal, I hereby order the creation of the Governor's Future Ready Iowa Alliance.

1. **Purpose:** The Future Ready Iowa Alliance will develop and recommend a strategic plan to accomplish the Future Ready Iowa goal of 70 percent of Iowa's workforce having education or training beyond high school by the year 2025, including postsecondary degrees, certificates and other high-quality credentials. The plan shall be submitted to the Office of the Governor by October 31, 2017.
2. **Organization:** The Alliance shall be comprised of members appointed by the Governor. Each member will serve at the pleasure of the Governor without compensation and in an advisory capacity.
 - i. **Members:** The Governor may appoint any of the following individuals to the Alliance:
 1. Representatives committed to strengthening Iowa's workforce to enhance opportunities for students, adults, employers and communities, including but not limited to the following: business and industry; labor; preK-12 and higher education, including the State Board of Education, career-technical education and school counselors; students; apprenticeship programs; vocational rehabilitation programs; veterans programs; student financial aid

- agencies; human resources professionals; human services agencies; human rights agencies; public health agencies; economic development organizations; chamber organizations; community leaders; technology associations; workforce boards; nonprofit organizations; and state and local governments.
2. Two members of the Iowa Senate to serve as non-voting, ex-officio members, one majority party member and one minority party member.
 3. Two members of the Iowa House of Representatives to serve as non-voting, ex-officio members, one majority party member and one minority party member.
 4. Any other individuals that the Governor may appoint.
- ii. **Co-chairs:** The Alliance shall be co-chaired by the Lt. Governor of Iowa and another member of the Alliance selected by the Governor. The co-chairs may direct the Alliance to form subcommittees to address particular issues within the mission of the Alliance. The makeup and nature of each subcommittee shall be determined by the co-chairs.
 - iii. The Department of Iowa Workforce Development, in coordination with the Iowa Economic Development Authority and the Iowa Department of Education, shall provide staff support to the Alliance, as needed, to enable the Alliance to fulfill its responsibilities. All agencies, departments and boards of the State of Iowa shall cooperate fully with the Alliance. The Alliance may seek the expertise and services of individuals and entities outside its membership for research, advice and other needs, as required to accomplish its mission.
3. **Executive Committee:** The Alliance shall be led by an Executive Committee appointed by the Governor. The Executive Committee may include the following members appointed by the Governor, or their designees:
 - i. Lt. Governor of the State of Iowa;
 - ii. Director of the Iowa Economic Development Authority;
 - iii. Director of the Iowa Department of Education;
 - iv. Director of the Iowa Department of Workforce Development;
 - v. Six representatives of employers, including at least one with an apprenticeship program;
 - vi. Labor union representative with an apprenticeship program;
 - vii. President of one of the Regent institutions;
 - viii. President of a community college;
 - ix. President of an independent college;
 - x. Representative of prekindergarten through 12th grade education;
 - xi. Executive Director of the Iowa Board of Regents;
 - xii. Executive Director of the Governor's STEM Advisory Council; and
 - xiii. Any other individuals the Governor may appoint.
 4. **Goals and duties:** The Future Ready Alliance shall have the following goals and duties:
 - i. Hold regular meetings to develop and recommend a strategic plan by October 31, 2017, to accomplish the goal of 70 percent of Iowa's workforce having education or training beyond high school by the year 2025; and
 - ii. Determine metrics and benchmarks on a time line to demonstrate progress toward the 70 percent goal. Those key measurements shall include, but not be limited to:
 1. Progress toward reducing the socioeconomic, ethnic and racial achievement gaps in kindergarten through 12th grade and increasing equity in postsecondary enrollment;
 2. Progress toward increasing the percent of traditional-age students and adult learners who earn postsecondary degrees, certificates, or other credentials; and

3. How well post-secondary degrees, certificates and other credentials awarded by Iowa postsecondary institutions align with high-demand job needs, and job-placement rates.
 - iii. Reach other goals and objectives as requested by the Office of the Governor.
5. This Order shall apply prospectively as of the date of the signing of this Order. This Order shall be interpreted in accordance with all applicable laws. It is not intended to supersede any law or collective bargaining agreement.
6. If any provision of this Order, or the application of such provision to any person or circumstance, is held to be invalid, the remaining provisions, as applied to any person or circumstance, shall not be affected thereby.
7. This Order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity, by any party against the State of Iowa, its Departments, Agencies, or Political Subdivisions, or its officers, employees, or agents, or any other person.



IN TESTIMONY WHEREOF, I have hereunto subscribed my name and caused the Great Seal of Iowa to be affixed. Done at Des Moines this 29th day of August, in the year of our Lord two thousand sixteen.


TERRY E. BRANSTAD
GOVERNOR

ATTEST:


PAUL D. PATE
SECRETARY OF STATE