Regulatory Analysis

Notice of Intended Action to be published: 193E—subrules 3.4(1) and 3.4(3)
"Broker License"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 543B.18
State or federal law(s) implemented by the rulemaking: Iowa Code chapters 17A and 543B

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

December 9, 2024	6200 Park Avenue
10 to 10:30 a.m.	Des Moines, Iowa

Information on virtual participation will be available on the Department of Inspections, Appeals, and Licensing's website prior to the hearing.

Public Comment

Any interested person may submit written or oral comments concerning this Regulatory Analysis, which must be received by the Department no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

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Purpose and Summary

This proposed rulemaking implements 2024 Iowa Acts, House File 2686. Chapter 3 sets forth continuing education requirements for real estate licensees. The intended benefit of this rulemaking is to ensure that licensees maintain up-to-date practice standards and, as a result, provide high-quality services to Iowans. The Real Estate Commission reviewed the continuing education requirements in the fall of 2023 pursuant to Executive Order 10. Subrules 3.4(1) and 3.4(3) are proposed to be amended to comply with the statutory changes from 2024 Iowa Acts, House File 2686, allowing a licensee to carry over up to 50 percent of excess completed continuing education hours from the previous renewal cycle. This rulemaking would grant real estate licensees the ability to carry over up to 18 hours of continuing education earned in excess of the 36 hours required every three years.

Analysis of Impact

1. **Persons affected by the proposed rulemaking:**

- **Classes of persons that will bear the costs of the proposed rulemaking:**

Licensees are financially responsible for their continuing education. These proposed amendments will not affect anyone financially since licensees will continue to pay for their own courses. Licensees may see a decrease in cost due to not losing excess hours.

Costs to the agency are for the staff time needed to manage licensing activities, which include continuing education. The time needed to manage this provision is generally in the form of responding to questions related to continuing education requirements; continuing education audits; and approving

providers, instructors, and continuing education courses. The Commission utilizes 1.0 full-time equivalent (FTE) position to process continuing education applications, inquiries, and audits and 1.0 FTE position to assist with inquiries. Those staff work for other boards under the Department as well. Staff salaries to support the work of the Real Estate Commission are covered by the Licensing and Regulation Fund established in 2023 Iowa Acts, Senate File 557. Licensing fees go into the fund to cover the costs of the Commission's regulations.

- **Classes of persons that will benefit from the proposed rulemaking:**

Licensees will benefit from this rulemaking since they will be able to carry over excess continuing education hours completed during one license term to the following licensing term, saving the licensees time and money.

2. **Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:**

- **Quantitative description of impact:**

Licensees take continuing education courses through many different avenues, including but not limited to private industries, college, conventions, real estate brokerages, and real estate associations. Licensing staff are not privy to the cost of all courses or activities provided for continuing education credits, so a quantitative description of the cost is not tangible.

- **Qualitative description of impact:**

Licensees will be able to retain excess continuing education credits earned that they may have lost previously. This will allow more flexibility for the licensee to complete courses and potentially save licensees money.

3. **Costs to the State:**

- **Implementation and enforcement costs borne by the agency or any other agency:**

Costs to the agency are for the staff time needed to manage licensing activities, which include continuing education. The time needed to manage this provision is generally in the form of responding to questions related to continuing education requirements; continuing education audits; and approving providers, instructors, and continuing education course applications. The Commission utilizes 1.0 FTE position to process continuing education applications, inquiries, and audits and 1.0 FTE position to assist with inquiries. Those staff work for other boards under the Department as well. Staff salaries to support the work of the Commission are covered by the fund. Licensing fees go into the fund to cover the costs of the Commission's regulations.

- **Anticipated effect on state revenues:**

Costs associated with completing continuing education hours are paid to entities that provide continuing education opportunities, not the State. There is not an anticipated impact on state revenues.

Staff salaries to support the work of the license are covered by the fund.

4. **Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:**

Allowing licensees to carry over up to 50 percent of their excess continuing education hours will allow licensees greater flexibility and potentially cost savings. The impact on the private industry organizations that offer these continuing education programs is unknown.

5. **Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:**

A less costly method would be to decrease the continuing education hour requirements.

6. **Alternative methods considered by the agency:**

- **Description of any alternative methods that were seriously considered by the agency:**

There were not any alternative methods considered since the Commission agrees with the current continuing education requirement of 36 hours.

- **Reasons why alternative methods were rejected in favor of the proposed rulemaking:**

There were not any alternative methods considered since these rules are required by 2024 Iowa Acts, House File 2686.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

The proposed amendments may impact smaller schools or providers since licensees may not need to take as many courses. There should not be any impact on the licensee's business since the licensee will have the flexibly to use excess hours that ultimately would save the licensee time and money.

Text of Proposed Rulemaking

ITEM 1. Amend subrule 3.4(1) as follows:

3.4(1) To renew a license in active status, each broker or broker associate completes a minimum of 36 hours of approved programs, courses or activities. ~~The continuing education is completed during the three calendar years of the license term and cannot be carried over to another license term.~~ Licensees who complete continuing education hours in excess of the requirements for renewal may apply up to 50 percent of the required hours to the following renewal period. Licensees may apply a maximum of 18 hours from the previous renewal period. Licensees cannot carry over any hours toward the mandatory eight-hour law update course or the four-hour ethics course.

ITEM 2. Amend subrule 3.4(3) as follows:

3.4(3) A license may be renewed in inactive status without the completion of continuing education. Prior to reactivating a license ~~which~~ that has been issued inactive due to the licensee's failure to submit evidence of continuing education, the licensee submits an application to reactivate to active status with evidence that all deficient continuing education hours have been completed. ~~The maximum continuing education hours will not exceed the prescribed number of hours of one license renewal period and are completed during the three calendar years preceding activation of the license.~~ Licensees who complete continuing education hours in excess of the requirements for renewal may apply up to 50 percent of the required hours to the following renewal period. Licensees may apply a maximum of 18 hours from the previous renewal period. Licensees cannot carry over any hours toward the mandatory eight-hour law update course or the four-hour ethics course.