

CHAPTER 5

REGULATION OF PERSONS AND ENTITIES BY BANKING DIVISION

S.F. 181

AN ACT relating to matters under the purview of the banking division of the department of commerce.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 12C.7, subsection 1, Code 2013, is amended to read as follows:

1. A depository ~~shall not directly or indirectly~~ may pay interest to a public officer on a ~~demand deposit~~ deposits of public funds, and a public officer ~~shall not~~ may take or receive interest on ~~demand deposits of public funds. This provision does not apply to interest on time certificates of deposit or savings accounts for public funds.~~

Sec. 2. Section 524.904, subsection 5, paragraph b, subparagraph (1), Code 2013, is amended by striking the subparagraph.

Sec. 3. Section 533A.2, Code 2013, is amended by adding the following new subsections:

NEW SUBSECTION. 7. The superintendent may authorize applicants and licensees to be licensed through a nationwide licensing system and to pay the corresponding system processing fees. The superintendent may establish by rule or order new requirements as necessary, including but not limited to requirements that applicants, including officers and directors and those who have control of the applicant, submit to fingerprinting and criminal history checks.

NEW SUBSECTION. 8. For the purposes of this section and in order to reduce the points of contact which the federal bureau of investigation may be required to maintain for purposes of subsection 7, the superintendent may use the nationwide licensing system as a channeling agent for requesting information from and distributing information to the United States department of justice or other governmental agency, or to or from any other source so directed by the superintendent.

Sec. 4. Section 533A.4, Code 2013, is amended to read as follows:

533A.4 Expiration date.

The license issued under this chapter shall expire on ~~July 1 next~~ December 31 following its issuance unless sooner surrendered, revoked, or suspended, but may be renewed as provided in this chapter.

Sec. 5. Section 533A.5, subsection 1, Code 2013, is amended to read as follows:

1. To continue in the business of debt management, each licensee shall annually apply on or before ~~June~~ December 1 to the superintendent for renewal of its license. The superintendent may assess a late fee of ten dollars per day for applications submitted and accepted for processing after ~~June~~ December 1.

Sec. 6. Section 533A.10, Code 2013, is amended by adding the following new subsection:

NEW SUBSECTION. 4. The superintendent may receive documents, materials, or other information, including otherwise confidential and privileged documents, materials, or other information, through a nationwide licensing system and from other local, state, federal, or international regulatory agencies, the conference of state bank supervisors and its affiliates and subsidiaries, the national association of consumer credit administrators and its affiliates and subsidiaries, and any other regulator association, and shall maintain as confidential and privileged any such document, material, or other information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material, or other information.

Sec. 7. Section 533C.202, subsection 4, Code 2013, is amended to read as follows:

4. A nonrefundable application fee of one thousand dollars and a license fee must accompany an application for a license under this article. The license fee must be refunded

if the application is denied. The license fee shall be the sum of five hundred dollars plus an additional ten dollars for each location in this state at which business is conducted through authorized delegates or employees of the licensee, but shall not exceed five thousand dollars. Fees for locations added after the initial application shall be submitted with the quarterly reports pursuant to section 533C.503, subsection 2. If the licensee has no locations in this state at which business is conducted through authorized delegates or employees of the licensee, the license fee shall be set by the superintendent, but shall not exceed five thousand dollars. A license under this article expires on the next ~~September 30~~ December 31 after its issuance. The initial license fee is considered an annual fee and the superintendent shall prorate the license fee, refunding any amount due to a partial license year. However, no refund of a license fee shall be made when a license is suspended, revoked, or surrendered.

Sec. 8. Section 533C.202, Code 2013, is amended by adding the following new subsections:

NEW SUBSECTION. 6. The superintendent may authorize applicants and licensees to be licensed through a nationwide licensing system and to pay the corresponding system processing fees. The superintendent may establish by rule or order new licensing requirements as necessary, including but not limited to requirements that applicants, including officers and directors and those who have control of the applicant, submit to fingerprinting and criminal history checks.

NEW SUBSECTION. 7. For the purposes of this section and in order to reduce the points of contact which the federal bureau of investigation may be required to maintain for purposes of subsection 6, the superintendent may use the nationwide licensing system as a channeling agent for requesting information from and distributing information to the United States department of justice or other governmental agency, or to or from any other source so directed by the superintendent.

Sec. 9. Section 533C.205, subsections 1 and 3, Code 2013, are amended to read as follows:

1. A licensee under this article shall pay an annual renewal fee as determined below by no later than ~~September~~ December 1 of the year of expiration. The renewal fee shall be five hundred dollars plus an additional ten dollars for each location in this state at which business is conducted through authorized delegates or employees of the licensee, but shall not exceed five thousand dollars. Fees for locations added after submission of the renewal application shall be submitted with the quarterly reports pursuant to section 533C.503, subsection 2. If the licensee has no locations in this state at which business is conducted through authorized delegates or employees of the licensee, the license fee shall be set by the superintendent, but shall not exceed five thousand dollars. ~~Licenses issued under chapter 533B, Code 2003, will be initially renewed as provided in section 533C.904.~~

3. If a licensee does not file a renewal report or pay its renewal fee by ~~September~~ December 1, or any extension of time granted by the superintendent, the superintendent may assess a late fee of one hundred dollars per day.

Sec. 10. Section 533C.302, subsection 2, Code 2013, is amended to read as follows:

2. A nonrefundable application fee of one thousand dollars and the license fee must accompany an application for a license under this article. The license fee shall be the sum of five hundred dollars plus an additional one hundred dollars for each location at which business is conducted, but not to exceed two thousand dollars. Fees for locations added after the initial application shall be submitted with the quarterly reports pursuant to section 533C.503, subsection 2. The license fee must be refunded if the application is denied. A license under this article expires on the next ~~September 30~~ December 31 of an odd-ending year after its issuance. The initial license fee is considered a biennial fee and the superintendent shall prorate the license fee, refunding any amount due to a partial license period. However, no refund of a license fee shall be made when a license is suspended, revoked, or surrendered.

Sec. 11. Section 533C.302, Code 2013, is amended by adding the following new subsections:

NEW SUBSECTION. 3. The superintendent may authorize applicants and licensees to be licensed through a nationwide licensing system and to pay the corresponding system processing fees. The superintendent may establish by rule or order new requirements as necessary, including but not limited to requirements that applicants, including officers and directors and those who have control of the applicant, submit to fingerprinting and criminal history checks.

NEW SUBSECTION. 4. For the purposes of this section and in order to reduce the points of contact which the federal bureau of investigation may be required to maintain for purposes of subsection 3, the superintendent may use the nationwide licensing system as a channeling agent for requesting information from and distributing information to the United States department of justice or other governmental agency, or to or from any other source so directed by the superintendent.

Sec. 12. Section 533C.304, subsections 1 and 3, Code 2013, are amended to read as follows:

1. A licensee under this article shall pay a biennial renewal fee no later than September December 1 of an odd-ending year. The biennial renewal fee shall be the sum of five hundred dollars plus an additional one hundred dollars for each location at which business is conducted, but shall not exceed two thousand dollars. Fees for locations added after the initial application shall be submitted with the quarterly reports pursuant to section 533C.503, subsection 2.

3. If a licensee does not file a renewal report and pay its renewal fee by September December 1 of an odd-ending year, or any extension of time granted by the superintendent, the superintendent may assess a late fee of one hundred dollars per day.

Sec. 13. Section 533C.507, Code 2013, is amended by adding the following new subsection:

NEW SUBSECTION. 7. The superintendent may receive documents, materials, or other information, including otherwise confidential and privileged documents, materials, or other information, through a nationwide licensing system and from other local, state, federal, or international regulatory agencies, the conference of state bank supervisors and its affiliates and subsidiaries, the national association of consumer credit administrators and its affiliates and subsidiaries, the money transmitter regulators association, and any other regulator associations, and shall maintain as confidential and privileged any such document, material, or other information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material, or other information.

Sec. 14. Section 533C.904, Code 2013, is amended by striking the section and inserting in lieu thereof the following:

533C.904 Applicability.

This chapter applies to the provision of money services on or after October 1, 2003.

Sec. 15. Section 533D.3, subsection 3, unnumbered paragraph 1, Code 2013, is amended to read as follows:

The application required by this section shall be submitted with ~~both of~~ the following:

Sec. 16. Section 533D.3, subsection 6, Code 2013, is amended to read as follows:

6. a. A license issued pursuant to this chapter shall be conspicuously posted at the licensee's place of business. A license shall remain in effect until the next succeeding May January 1, unless earlier suspended or revoked by the superintendent.

b. A license shall be renewed annually by filing with the superintendent on or before April December 1 an application for renewal containing such information as the superintendent may require to indicate any material change in the information contained in the original application or succeeding renewal applications and a renewal fee of two hundred fifty dollars.

c. The superintendent may assess a late fee of ten dollars per day for applications submitted and accepted for processing after ~~April~~ December 1.

Sec. 17. Section 533D.3, Code 2013, is amended by adding the following new subsections:

NEW SUBSECTION. 7. The superintendent may authorize applicants and licensees to be licensed through a nationwide licensing system and to pay the corresponding system processing fees. The superintendent may establish by rule or order new requirements as necessary, including but not limited to requirements that applicants, including officers and directors and those who have control of the applicant, submit to fingerprinting and criminal history checks.

NEW SUBSECTION. 8. For the purposes of this section and in order to reduce the points of contact which the federal bureau of investigation may be required to maintain for purposes of subsection 7, the superintendent may use the nationwide licensing system as a channeling agent for requesting information from and distributing information to the United States department of justice or other governmental agency, or to or from any other source so directed by the superintendent.

Sec. 18. Section 533D.11, Code 2013, is amended by adding the following new subsection:

NEW SUBSECTION. 6. The superintendent may receive documents, materials, or other information, including otherwise confidential and privileged documents, materials, or other information, through a nationwide licensing system and from other local, state, federal, or international regulatory agencies, the conference of state bank supervisors and its affiliates and subsidiaries, the national association of consumer credit administrators and its affiliates and subsidiaries, and any other regulator association, and shall maintain as confidential and privileged any such document, material, or other information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material, or other information.

Sec. 19. Section 535D.15, subsection 1, Code 2013, is amended to read as follows:

1. Except as otherwise provided by this chapter, all papers, documents, examination reports, and other writings relating to the supervision of licensees are not public records and are not subject to disclosure under chapter 22. Except as otherwise provided in section 1512 of the federal Housing and Economic Recovery Act of 2008, Pub. L. No. 110-289, the requirements under any federal law or chapter 22 or 692 regarding the privacy or confidentiality of any information or material provided to the nationwide mortgage licensing system and registry, and any privilege arising under federal or state law, including the rules of any federal or state court, with respect to such information or material, shall continue to apply to such information or material after the information or material has been disclosed to the nationwide mortgage licensing system and registry. Such information and material may be shared with any state or federal regulatory official with mortgage industry oversight authority without the loss of privilege or the loss of confidentiality protections provided by federal law or chapter 22 or 692.

Sec. 20. Section 542B.14, subsection 1, paragraph a, subparagraphs (2) and (4), Code 2013, are amended to read as follows:

(2) ~~Successfully passing a written, oral, or written and oral an~~ an examination in fundamental engineering subjects which is designed to show the knowledge of general engineering principles. A person passing the examination in fundamental engineering subjects is entitled to a certificate as an engineer intern.

(4) ~~Successfully passing a written, oral, or written and oral an~~ an examination designed to determine the proficiency and qualifications to engage in the practice of engineering. No applicant shall be entitled to take this examination until the applicant shows the necessary practical experience in engineering work.

Sec. 21. Section 542B.14, subsection 1, paragraph b, subparagraphs (2) and (4), Code 2013, are amended to read as follows:

(2) Successfully passing a ~~written, oral, or written and oral~~ written examination in fundamental land surveying subjects which is designed to show the knowledge of general land surveying principles.

(4) Successfully passing a ~~written, oral, or written and oral~~ written examination designed to determine the proficiency and qualifications to engage in the practice of land surveying. No applicant shall be entitled to take this examination until the applicant shows the necessary practical experience in land surveying work.

Sec. 22. Section 542B.15, Code 2013, is amended to read as follows:

542B.15 Examinations — report required.

Examinations for licensure shall be given as often as deemed necessary by the board, but no less than one time per year. The scope of the examinations and the methods of procedure shall be prescribed by the board. Any ~~written~~ examination may be given by representatives of the board. ~~All examinations in theory shall be in writing and the~~ The identity of the person taking the examination shall be concealed until after the examination ~~papers have~~ has been graded. ~~For examinations in practice, the identity of the person taking the examination shall also be concealed as far as possible.~~ As soon as practicable after the close of each examination, a report shall be filed in the office of the secretary of the board by the board. The report shall show the action of the board upon each application and the secretary of the board shall notify each applicant of the result of the applicant's examination. Applicants who fail the examination once shall be allowed to take the examination at the next scheduled time. Thereafter, the applicant shall be allowed to take the examination at the discretion of the board. An applicant who has failed the examination may request in writing information from the board concerning the applicant's examination grade and subject areas or questions which the applicant failed to answer correctly, except that if the board administers a uniform, standardized examination, the board shall only be required to provide the examination grade and such other information concerning the applicant's examination results which are available to the board.

Sec. 23. Section 543B.20, Code 2013, is amended to read as follows:

543B.20 ~~Written examination~~ Examination.

Examinations for registration shall be given as often as deemed necessary by the real estate commission, but no less than one time per year. Each applicant for a license must pass a ~~written~~ written examination authorized by the commission and administered by the commission or persons designated by the commission. The examination shall be of scope and wording sufficient in the judgment of the commission to establish the competency of the applicant to act as a real estate broker or salesperson in a manner to protect the interests of the public. An examination for a real estate broker shall be of a more exacting nature than that for a real estate salesperson and require higher standards of knowledge of real estate. ~~All examinations in real estate theory shall be in writing and the~~ The identity of the persons taking the examinations shall be concealed until after the examination ~~papers have~~ has been graded. ~~For examinations in practice, the identity of the persons taking the examinations shall also be concealed as far as possible.~~ A person who fails to pass either ~~written~~ examination once may immediately apply to take the next available examination. Thereafter, the applicant may take the examination at the discretion of the commission. An applicant who has failed either examination may request in writing information from the commission concerning the applicant's examination grade and subject areas or questions which the applicant failed to answer correctly, except that if the commission administers a uniform, standardized examination, the commission is only required to provide the examination grade and other information concerning the applicant's examination results which is available to the commission.

Sec. 24. Section 543D.4, Code 2013, is amended to read as follows:

543D.4 Iowa real estate appraiser board.

A real estate appraiser examining board is established within the professional licensing

and regulation bureau of the banking division of the department of commerce. The board consists of seven members, two of whom shall be public members and five of whom shall be certified real estate appraisers.

1. The governor shall appoint the members of the board who are subject to confirmation by the senate. The governor may remove a member for cause.

~~2. Appointees shall possess or maintain at least those standards of ethics, education, and experience required by federal regulations.~~

~~3. 2. Each real estate appraiser member of the board appointed after January 1, 1992, must be a certified real estate appraiser. A certified real estate appraiser member of the board shall be actively engaged in practice as a certified real estate appraiser and shall have been so engaged for five years preceding appointment, the last two of which shall have been in this state.~~ The governor shall attempt to represent each class of certified appraisers in making the appointments.

~~4. 3. The term of each member is three years; except that, of the members first appointed, two shall be appointed for two years and two shall be appointed for one year. Vacancies occurring during a term shall be filled by appointment by the governor for the unexpired term.~~

~~5. 4. Upon expiration of their terms, members of the board shall continue to hold office until the appointment and qualification of their successors. A person shall not serve as a member of the board for more than two consecutive three terms, but appointment to fill an unexpired term shall not be considered a complete term for this purpose.~~

~~6. 5. The public members of the board shall not engage in the practice of real estate appraising.~~

~~7. 6. The board shall meet at least once each calendar quarter to conduct its business.~~

~~8. 7. The members of the board shall elect a chairperson from among the members to preside at board meetings.~~

~~9. 8. A quorum of the board is four members. At least three of the four members shall be appraiser members.~~

~~9. Members of the board are entitled to receive a per diem as specified in section 7E.6 for each day spent in performance of duties as members and shall be reimbursed for all actual and necessary expenses incurred in the performance of duties as members.~~

Sec. 25. Section 543D.5, Code 2013, is amended to read as follows:

543D.5 Powers of the board.

1. The board shall adopt rules establishing uniform appraisal standards and appraiser certification requirements and other rules necessary to administer and enforce this chapter and its responsibilities under chapter 272C. The board shall consider and may incorporate any standards required or recommended by the appraisal foundation, or by a professional appraisal organization, or by a public authority or organization responsible to review appraisals or for the oversight of appraisers federal agency with regulatory authority over appraisal standards or the certification of appraisers for federally related transactions.

2. The uniform appraisal standards shall meet all of the following requirements:

a. Require compliance with federal law and appraisal standards adopted by federal authorities as they apply to federally ~~covered~~ related transactions. This paragraph does not require that an appraiser invoke a jurisdictional exception to the uniform standards of professional appraisal practice in order to comply with federal law and appraisal standards adopted by federal authorities as they apply to federally ~~covered~~ related transactions, unless federal law requires that the exception be invoked.

b. Develop standards for the scope of practice for certified real estate appraisers.

c. Required compliance with the uniform standards of professional appraisal practice in all appraisal assignments.

3. Appraiser certification requirements shall require a demonstration that the applicant has a working knowledge of current appraisal theories, practices, and techniques which will provide a high degree of service and protection to members of the public dealt with in a professional relationship under authority of the certification. The board shall establish the examination specifications for each category of certified real estate appraiser, provide or

procure appropriate examinations, establish procedures for grading examinations, receive and approve or disapprove applications for certification, and issue certificates.

4. The board shall maintain a registry of the names and ~~addresses~~ certificate numbers of appraisers certified under this chapter and ~~retain records and application materials submitted to the board~~ and the names and registration numbers of associate appraisers registered under this chapter.

Sec. 26. Section 543D.8, unnumbered paragraph 1, Code 2013, is amended to read as follows:

An original certification as a certified real estate appraiser shall not be issued to a person who has not demonstrated through a ~~written~~ an examination that the person possesses the following knowledge and understanding:

Sec. 27. Section 543D.16, subsection 2, Code 2013, is amended to read as follows:

2. The basic continuing education requirement for renewal of certification shall be the completion, before June 30 of the year in which the appraiser's certificate expires, of the number of hours of instruction required by the board in courses or seminars which have received the preapproval of the board. ~~Instructional hours by correspondence and home study courses claimed by an appraiser shall not exceed fifty percent of the required hours of instruction necessary for renewal.~~

Sec. 28. **NEW SECTION. 543D.22 Criminal background checks.**

1. The board may require a national criminal history check through the federal bureau of investigation for applicants for certification or registration, or for persons certified or registered, under this chapter if needed to comply with federal law or regulation, or the policies of the appraisal qualification board of the appraisal foundation.

2. The board may require applicants, certificate holders, or registrants to provide a full set of fingerprints, in a form and manner prescribed by the board. Such fingerprints, if required, shall be submitted to the federal bureau of investigation through the state criminal history repository for purposes of the national criminal history check.

3. The board may also request and obtain, notwithstanding section 692.2, subsection 5, criminal history data for applicants, certificate holders, and registrants. A request for criminal history data shall be submitted to the department of public safety, division of criminal investigation, pursuant to section 692.2, subsection 1.

4. The board shall inform the applicant, certificate holder, or registrant of the requirement of a national criminal history check or request for criminal history data and obtain a signed waiver from the applicant, certificate holder, or registrant prior to requesting the check or data.

5. The board may, in addition to any other fees, charge and collect such amounts as may be incurred by the board, the department of public safety, or federal bureau of investigation in obtaining criminal history information. Amounts collected shall be considered repayment receipts as defined in section 8.2, subsection 8.

6. Criminal history data and other criminal history information relating to an applicant, certificate holder, or registrant obtained by the board pursuant to this section is confidential. Such information may, however, be used by the board in a certificate or registration denial or disciplinary proceeding.

Sec. 29. Section 544A.21, Code 2013, is amended by striking the section and inserting in lieu thereof the following:

544A.21 Practice by business entities.

The board shall adopt rules to govern the practice of architecture through business entities to protect the public from misleading and deceptive advertising and to guard against the unlicensed practice of architecture.¹

¹ See chapter 140, §155 – 157 herein

Sec. 30. LICENSE EXPIRATION DATES — TRANSITION PROVISIONS. A license which would otherwise expire on or before the effective date of this Act pursuant to Code sections 533A.4 and 533D.3 shall remain in full force and effect until December 31, 2013, or January 1, 2014, as applicable.

Approved March 28, 2013