

REAL ESTATE APPRAISER EXAMINING BOARD[193F]

CHAPTER 1

ORGANIZATION AND ADMINISTRATION

- 1.1(543D) Description
- 1.2(543D) Administrative committees
- 1.3(543D) Annual meeting
- 1.4(543D) Other meetings
- 1.5(543D) Executive officer's duties
- 1.6(543D) Records, filings, and requests for public information
- 1.7(543D) Adoption, amendment or repeal of administrative rules
- 1.8(22) Public records and fair information practices
- 1.9(68B) Sales of goods and services
- 1.10(17A) Petitions for rule making
- 1.11(17A) Declaratory orders
- 1.12(252J,261) Denial of issuance or renewal of license for nonpayment of child support or student loan
- 1.13(17A) Waivers and variances
- 1.14(543D,17A,272C) Investigations and investigatory subpoenas
- 1.15(543D,17A,272C) Contested case procedures
- 1.16(272C) Impaired licensees
- 1.17(543D) Types of appraiser classifications
- 1.18(543D) Qualified state appraiser certifying agency
- 1.19(543D) January 1, 2015, criteria
- 1.20(543D) Application and work product deadlines
- 1.21(543D) National criminal history check
- 1.22(272C,543D) Process for board review of eligibility

CHAPTER 2

DEFINITIONS

- 2.1(543D) Applicability

CHAPTER 3

GENERAL PROVISIONS FOR EXAMINATIONS

- 3.1 Reserved
- 3.2(543D) Examinations
- 3.3(543D) Conduct of applicant
- 3.4(543D) Application for certification

CHAPTER 4

ASSOCIATE REAL PROPERTY APPRAISER

- 4.1(543D) Qualifications to register as an associate appraiser
- 4.2(543D) Supervision of associate appraisers
- 4.3(543D) Renewal of associate appraiser registration
- 4.4(543D) Progress toward certification as a certified residential appraiser or certified general appraiser
- 4.5(543D) Applying for certification as a certified residential appraiser or certified general appraiser
- 4.6(272C,543D) Reinstating or reactivating an associate registration

CHAPTER 5

CERTIFIED RESIDENTIAL REAL PROPERTY APPRAISER

- 5.1(543D) General
- 5.2(543D) Education
- 5.3(543D) Examination
- 5.4(543D) Supervised experience required for initial certification
- 5.5(543D) Demonstration of experience
- 5.6(543D) Work product review
- 5.7(543D) Upgrade to a certified general real property appraiser

CHAPTER 6

CERTIFIED GENERAL REAL PROPERTY APPRAISER

- 6.1(543D) General
- 6.2(543D) Education
- 6.3(543D) Examination
- 6.4(543D) Supervised experience required for initial certification
- 6.5(543D) Demonstration of experience
- 6.6(543D) Work product review
- 6.7(543D) Background check

CHAPTER 7

DISCIPLINARY ACTIONS AGAINST CERTIFIED AND
ASSOCIATE APPRAISERS

- 7.1(17A,272C,543D) Disciplinary authority
- 7.2(543D) Standards of practice
- 7.3(17A,272C,543D) Grounds for discipline

CHAPTER 8

INVESTIGATIONS AND DISCIPLINARY PROCEDURES

- 8.1(272C,543D) Disciplinary action
- 8.2(17A,272C,543D) Initiation of disciplinary investigations
- 8.3(272C,543D) Sources of information
- 8.4(17A,272C,543D) Conflict of interest
- 8.5(272C,543D) Complaints
- 8.6(272C,543D) Case numbers
- 8.7(272C,543D,546) Confidentiality of complaint and investigative information
- 8.8(17A,272C,543D) Investigation procedures
- 8.9(17A,272C,543D) Informal discussion
- 8.10(272C,543D) Peer review committee (PRC)
- 8.11(17A,272C,543D) Closing complaint files
- 8.12(17A,272C,543D) Initiation of disciplinary proceedings
- 8.13(17A,272C,543D) Disciplinary contested case procedures
- 8.14(543D) Decisions
- 8.15(272C,543D) Mitigating and aggravating factors
- 8.16(272C,543D) Voluntary surrender
- 8.17(272C,543D) Reinstatement

CHAPTER 9

RENEWAL, EXPIRATION AND REINSTATEMENT OF
CERTIFICATES AND REGISTRATIONS, AND INACTIVE STATUS

- 9.1(272C,543D) Biennial renewal
- 9.2(272C,543D) Notices
- 9.3(272C,543D) Renewal procedures

- 9.4(272C,543D) Failure to renew
- 9.5(272C,543D) Inactive status
- 9.6(272C,543D) Property of the board

CHAPTER 10
RECIPROCITY

- 10.1(543D) Nonresident certification by reciprocity
- 10.2(543D) Nonresident temporary practice

CHAPTER 11
CONTINUING EDUCATION

- 11.1(272C,543D) Definitions
- 11.2(272C,543D) Continuing education requirements
- 11.3 Reserved
- 11.4(272C,543D) Minimum program qualifications
- 11.5(272C,543D) Standards for provider and program approval
- 11.6(272C,543D) Acceptable distance education courses
- 11.7(272C,543D) Applications for approval of programs
- 11.8(272C,543D) Waiver of application fees
- 11.9(272C,543D) Authority to approve education
- 11.10(272C,543D) Appraiser request for preapproval of continuing education programs
- 11.11(272C,543D) Appraiser request for postapproval of continuing education program
- 11.12(272C,543D) Review of provider or program
- 11.13(272C,543D) Hearings

CHAPTER 12
FEES

- 12.1(543D) Required fees
- 12.2(543D) Prorating of registration fees
- 12.3(543D) Federal registry fee

CHAPTERS 13 and 14
Reserved

CHAPTER 15
SUPERVISOR RESPONSIBILITIES

- 15.1(543D) Description
- 15.2(543D) Supervisory appraiser responsibilities
- 15.3(543D) Requirements for a supervisory appraiser
- 15.4(543D) Restrictions

CHAPTER 16
ENFORCEMENT PROCEEDINGS AGAINST NONLICENSEES

- 16.1(543D) Civil penalties against nonlicensees
- 16.2(543D) Grounds for imposing civil penalties
- 16.3(543D) Investigations
- 16.4(543D) Notice of intent to impose civil penalties
- 16.5(543D) Request for hearing
- 16.6(543D) Factors to consider
- 16.7(543D) Enforcement options

CHAPTER 17

SUPERINTENDENT SUPERVISION STANDARDS AND PROCEDURES

- 17.1(543D) Superintendent supervision standards
- 17.2(543D) Procedures for superintendent supervision

CHAPTER 1
ORGANIZATION AND ADMINISTRATION

[Prior to 2/20/02, see 193F—Chapters 2, 9 and 11]

193F—1.1(543D) Description.

1.1(1) The purpose of the real estate appraiser examining board is to administer and enforce the provisions of Iowa Code chapter 543D (Iowa Voluntary Appraisal Standards and Appraiser Certification Law of 1989) with regard to the appraisal of real property in the state of Iowa, including the examination of candidates and issuance of certificates and registrations; investigation of alleged violations and infractions of the appraisal standards and appraiser certification law; and the disciplining of appraisers. The importance of the role of the appraiser places ethical and professional standards on those who serve in this capacity. To this end, the board has promulgated these rules and has adopted the Uniform Standards of Professional Appraisal Practice (USPAP) to clarify the board's intent and procedures and to promote and maintain a high level of public trust in professional appraisal practice.

1.1(2) All official communications, including submissions and requests, should be addressed to the board at its official address, 200 E. Grand Avenue, Suite 350, Des Moines, Iowa 50309.

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.
[ARC 1467C, IAB 5/28/14, effective 7/2/14; ARC 2808C, IAB 11/9/16, effective 1/1/17]

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.

[ARC 1467C, IAB 5/28/14, effective 7/2/14; ARC 2808C, IAB 11/9/16, effective 1/1/17]

193F—1.3(543D) Annual meeting. The annual meeting of the board shall be the first meeting scheduled after April 30. At this time, the chairperson and vice chairperson shall be elected to serve until their successors are elected.

[ARC 1467C, IAB 5/28/14, effective 7/2/14]

193F—1.4(543D) Other meetings. In addition to the annual meeting, and in addition to other meetings, the time and place of which may be fixed by resolution of the board, any meeting may be called by the chairperson of the board or by joint call of a majority of its members.

[ARC 1467C, IAB 5/28/14, effective 7/2/14]

193F—1.5(543D) Executive officer's duties.

1.5(1) The executive officer shall cause complete records to be kept of applications for examination and registration, certificates and permits granted, and all necessary information in regard thereto.

1.5(2) The executive officer shall determine when the legal requirements for certification and registration have been satisfied with regard to issuance of certificates or registrations, and the executive officer shall submit to the board any questionable application.

1.5(3) The executive officer shall keep accurate minutes of the meetings of the board. The executive officer shall keep a list of the names of persons issued certificates as certified general real property appraisers, certified residential real property appraisers and associate real property appraisers.

193F—1.6(543D) Records, filings, and requests for public information. Unless otherwise specified by the rules of the department of commerce or the professional licensing and regulation division, the board is the principal custodian of its own agency orders, statements of law or policy issued by the board, legal documents, and other public documents on file with the board.

1.6(1) Any person may examine public records promulgated or maintained by the board at its office during regular business hours as provided in 193—Chapter 13.

1.6(2) Records, documents and other information may be gathered, stored, and available in electronic format. Information, various forms, documents, and the law and rules may be reviewed or obtained anytime by the public from the board's Internet Web site located at <http://www.state.ia.us/iapp>.

1.6(3) Deadlines. Unless the context requires otherwise, any deadline for filing a document shall be extended to the next working day when the deadline falls on a Saturday, Sunday, or official state holiday.

[ARC 1467C, IAB 5/28/14, effective 7/2/14]

193F—1.7(543D) Adoption, amendment or repeal of administrative rules.

1.7(1) The board shall adopt, amend or repeal its administrative rules in accordance with the provisions of Iowa Code section 17A.4. Prior to the adoption, amendment or repeal of any rule of the board, any interested person, as described in Iowa Code section 17A.4(1)“b,” may submit any data, views, or arguments in writing concerning such rule or may request to make an oral presentation concerning such rule. Such written comments or requests to make oral presentations shall be filed with the board at its official address and shall clearly state:

a. The name, address, and telephone number of the person or agency authoring the comment or request;

b. The number and title of the proposed rule, which is the subject of the comment or request as given in the Notice of Intended Action;

c. The general content of the oral presentation. A separate comment or request to make an oral presentation shall be made for each proposed rule to which remarks are to be asserted.

1.7(2) The receipt and acceptance for consideration of written comments and requests to make oral presentations shall be acknowledged by the board.

1.7(3) Written comments received after the deadline set forth in the Notice of Intended Action may be accepted by the board although their consideration is not assured. Requests to make an oral presentation received after the deadline shall not be accepted and shall be returned to the requester.

193F—1.8(22) Public records and fair information practices. Board rules on public records and fair information practices may be found in the uniform rules for the division of professional licensing and regulation at 193 IAC 13.

193F—1.9(68B) Sales of goods and services. Board rules on the sale of goods and services by board members may be found in the uniform rules for the division of professional licensing and regulation at 193 IAC 11.

193F—1.10(17A) Petitions for rule making. Persons wishing to file a petition for rule making should consult the uniform rules for the division of professional licensing and regulation at 193 IAC 9.

193F—1.11(17A) Declaratory orders. Persons wishing to seek a declaratory order from the board should consult the uniform rules for the division of professional licensing and regulation at 193 IAC 10.

193F—1.12(252J,261) Denial of issuance or renewal of license for nonpayment of child support or student loan. Board rules on the denial of the issuance or renewal of a license based on nonpayment of child support or student loan obligations may be found in the uniform rules for the division of professional licensing and regulation at 193 IAC 8.

193F—1.13(17A) Waivers and variances.

1.13(1) Persons who wish to seek waivers or variances from board rules should consult the uniform rules for the division of professional licensing and regulation at 193 IAC 5.

1.13(2) In addition to the provisions of 193 IAC 5, the following shall apply for interim rulings:

a. The board chairperson, or vice chairperson if the chairperson is not available, may rule on a petition for waiver or variance when it would not be timely to wait for the next regularly scheduled board meeting for a ruling from the board.

b. The executive officer shall, upon receipt of a petition that meets all applicable criteria established in 193 IAC 5, present the request to the board chairperson or vice chairperson along with all pertinent information regarding established precedent for granting or denying such requests.

c. The chairperson or vice chairperson shall reserve the right to hold an electronic meeting of the board when prior board precedent does not clearly resolve the request, input of the board is deemed required and the practical result of waiting until the next regularly scheduled meeting would be a denial of the request due to timing issues.

d. A waiver report shall be placed on the agenda of the next regularly scheduled board meeting and recorded in the minutes of the meeting.

e. This subrule on interim rulings does not apply if the waiver or variance was filed in a contested case.

193F—1.14(543D,17A,272C) Investigations and investigatory subpoenas. Board rules regarding investigations and investigatory subpoenas may be found at 193F IAC 8 and in the uniform rules for the division of professional licensing and regulation at 193 IAC 6.

193F—1.15(543D,17A,272C) Contested case procedures. Board rules on contested case procedures may be found at 193F IAC 8 and in the uniform rules for the division of professional licensing and regulation at 193 IAC 7.

193F—1.16(272C) Impaired licensees. Board rules governing impaired licensee committees may be found in the uniform rules for the division of professional licensing and regulation at 193 IAC 13.

193F—1.17(543D) Types of appraiser classifications. There are three types of appraiser classifications:

1. Associate real property appraiser. This classification consists of those persons who meet the requirements of 193F—Chapter 4.
2. Certified residential real property appraiser. This classification consists of those persons who meet the requirements of 193F—Chapter 5.
3. Certified general real property appraiser. This classification consists of those persons who meet the requirements of 193F—Chapter 6.

[ARC 7774B, IAB 5/20/09, effective 6/24/09]

193F—1.18(543D) Qualified state appraiser certifying agency.

1.18(1) The real estate appraiser examining board is a state appraiser certifying agency in compliance with Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA). As a result, persons who are issued certificates by the board to practice as certified real estate appraisers are authorized under federal law to perform appraisal services for federally related transactions and are identified as such in the National Registry maintained by the Appraisal Subcommittee (ASC).

1.18(2) The board must adhere to the criteria established by the Appraiser Qualifications Board (AQB) of the Appraisal Foundation when registering associate appraisers or certifying certified appraisers under Iowa Code chapter 543D.

[ARC 1467C, IAB 5/28/14, effective 7/2/14]

193F—1.19(543D) January 1, 2015, criteria.

1.19(1) Effective on and after January 1, 2015, the AQB has changed the criteria for eligibility for registration as an associate appraiser and certification as a certified appraiser. No person may be registered as an associate appraiser or certified as a certified appraiser on or after January 1, 2015, unless the person is eligible under the revised criteria.

1.19(2) The January 1, 2015, criteria were adopted by the AQB in 2011 and have been widely disseminated, including on the board's Web site at: <http://www.state.ia.us/government/com/prof/appraiser/home.html>.

a. For associate appraisers, the revised criteria place a five-year restriction on the time period in which qualifying education must be completed prior to the submission of an application for associate appraiser registration and require completion of supervisory appraiser/associate coursework by both the supervisory appraiser and the associate appraiser applicant.

b. For certified appraisers, the revised criteria modify the conditions under which applicants for certification are eligible to take the required examinations and require a bachelor's degree for all certified appraisers, including residential appraisers.

[ARC 1467C, IAB 5/28/14, effective 7/2/14]

193F—1.20(543D) Application and work product deadlines.

1.20(1) *December 31, 2014, application deadline.* In order to be considered for registration as an associate appraiser or certification as a certified appraiser under the criteria in effect prior to January 1, 2015, an applicant must submit an original, fully completed application to the board office for the board's actual receipt no later than December 31, 2014, at 4:30 p.m.

1.20(2) *Deadline for associate appraiser applicants.* The associate appraiser and supervisory appraiser provisions are more fully set out in 193F—Chapters 4 and 15, respectively. Before submitting an application for registration with the board, a person seeking registration as an associate appraiser

must complete 75 hours of appraisal education and secure a qualified supervisory appraiser. An associate appraiser applicant who submits an application to the board office after December 31, 2014, at 4:30 p.m. shall be subject to the January 1, 2015, criteria and will accordingly be subject to the five-year restriction on qualifying education and the supervisory appraiser/associate coursework.

1.20(3) Summary of certification requirements before January 1, 2015. As more fully set out in 193F—Chapters 3, 5, and 6, a person who is in the process of completing the education, experience, and examination required for certification as a certified appraiser may not submit an application for certification to the board until all prerequisites have been satisfactorily completed. The prerequisites include the following: qualifying college and core criteria appraiser education, qualifying examination, 2,500 hours of qualifying experience in a minimum of 24 months for residential appraisers or 3,000 hours of qualifying experience in a minimum of 30 months for general appraisers, and work product review. Work product review requires numerous steps, as provided in 193F—5.6(543D) and 193F—6.6(543D). The work product review process includes the applicant's submission of a work product experience log to the board; the board's selection of three appraisals to review; communication of the selected appraisals to the applicant; the applicant's submission of the three appraisals and associated work files to the board in electronic and paper formats; review of the appraisals and work files by a reviewer retained by the board; the reviewer's submission of review reports to the board; a meeting between the applicant and the board's work product review committee; a formal board vote at a board meeting; and communication of approval, denial, or deferral to the applicant. All of these steps must be completed before an applicant with approved work product can submit an application for certification to the board office.

1.20(4) October 1, 2014, deadline for submission of appraisals and work files.

a. As a result of the minimum periods of time needed to accomplish all work product review steps summarized in 1.20(3), an applicant for certification as a certified appraiser must fully submit to the board office the three appraisals and associated work files for work product review, as provided in 193F—5.6(543D) and 193F—6.6(543D), no later than October 1, 2014.

b. To allow sufficient time for board selection of three appraisals from the work product review experience log, board communication of the selected appraisals to the applicant, and applicant submission of the appraisals and work files to the board office by October 1, 2014, applicants for residential certification should submit their work product experience log to the board by September 1, 2014, and applicants for general certification should submit their work product experience log to the board by August 1, 2014.

c. Applicants for certification as residential or general certified appraisers who submit appraisals and work files for work product review on or after October 2, 2014, shall be considered for certification under the January 1, 2015, criteria. If an applicant submitting appraisals and work files for work product review on or after October 2, 2014, has previously passed the required examination, the examination results will remain valid for the 24-month period of validity, as described in 193F—Chapter 3.

[ARC 1467C, IAB 5/28/14, effective 7/2/14]

193F—1.21(543D) National criminal history check. Effective January 1, 2017, all applicants for any of the classifications listed in 193F—1.17(543D) must satisfactorily complete a national criminal history check as provided in Iowa Code section 543D.22 as a condition of registration as an associate real property appraiser or certification as a residential or general real property appraiser.

[ARC 1467C, IAB 5/28/14, effective 7/2/14]

193F—1.22(272C,543D) Process for board review of eligibility.

1.22(1) Before applying for registration as an associate appraiser or certification as a certified appraiser, a person with a criminal history or other background matters that may impair registration or certification may request that the board evaluate the prospective applicant's criminal history or other background matters by submitting a written request to the board. Upon receiving such a request, the board may request additional supporting materials.

1.22(2) Requests will be processed under the same standards as applications for registration or certification in order to inform the prospective applicant whether any of the disclosed information is or may be a bar to future registration or certification. In responding to a request, the board shall address

only the offenses or matters listed in the request. The board's response will be based upon the laws, rules, and guidelines in effect at the time of the board's response, including the guidelines and policies promulgated by the AQB or ASC.

1.22(3) If the information supplied is not accurate or is incomplete, or if applicable laws, rules, or guidelines change or are impacted by intervening board orders or case law, the board's response shall not be binding on a future board.

[ARC 1467C, IAB 5/28/14, effective 7/2/14]

These rules are intended to implement Iowa Code sections 543D.4, 543D.5, 543D.7, 543D.17, 543D.20 and 543D.22 and chapter 272C.

[Filed 8/1/91, Notice 5/29/91—published 8/21/91, effective 9/25/91]

[Filed emergency 4/9/93—published 4/28/93, effective 4/9/93]

[Filed 12/12/95, Notice 10/25/95—published 1/3/96, effective 2/7/96]

[Filed 2/28/96, Notice 1/3/96—published 3/27/96, effective 5/1/96]

[Filed 4/30/99, Notice 3/24/99—published 5/19/99, effective 6/23/99]

[Filed 2/1/02, Notice 11/28/01—published 2/20/02, effective 3/27/02]

[Filed 9/26/02, Notice 8/21/02—published 10/16/02, effective 11/20/02]

[Filed 2/22/07, Notice 1/17/07—published 3/14/07, effective 4/18/07]

[Filed ARC 7774B (Notice ARC 7595B, IAB 2/25/09), IAB 5/20/09, effective 6/24/09]

[Filed ARC 1467C (Notice ARC 1410C, IAB 4/2/14), IAB 5/28/14, effective 7/2/14]

[Filed ARC 2808C (Notice ARC 2710C, IAB 9/14/16), IAB 11/9/16, effective 1/1/17]

CHAPTER 2
DEFINITIONS

[Prior to 2/20/02, see 193F—Chapter 1]

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 incorporated as an Illinois not-for-profit corporation on November 30, 1987.

“*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.

[ARC 9865B, IAB 11/30/11, effective 1/4/12; ARC 2808C, IAB 11/9/16, effective 1/1/17]

[Filed 8/1/91, Notice 5/29/91—published 8/21/91, effective 9/25/91]

[Filed 12/12/95, Notice 10/25/95—published 1/3/96, effective 2/7/96]

[Filed 4/30/99, Notice 3/24/99—published 5/19/99, effective 6/23/99]

[Filed 2/1/02, Notice 11/28/01—published 2/20/02, effective 3/27/02]

[Filed 11/2/07, Notice 8/29/07—published 11/21/07, effective 12/26/07]

[Filed ARC 9865B (Notice ARC 9716B, IAB 9/7/11), IAB 11/30/11, effective 1/4/12]

[Filed ARC 2808C (Notice ARC 2710C, IAB 9/14/16), IAB 11/9/16, effective 1/1/17]

CHAPTER 3
GENERAL PROVISIONS FOR EXAMINATIONS

193F—3.1(543D) Types of appraiser certificates. Rescinded IAB 5/20/09, effective 6/24/09.

193F—3.2(543D) Examinations. Examinations for certified residential real property appraisers and certified general real property appraisers shall be AQB-endorsed and administered by the board or its authorized representative as often as the board deems necessary, but not less than one time per year.

3.2(1) Disclosure of confidential information. Members of the board shall not disclose a final examination score to any person other than the person who took the examination. Persons who take the examination may consent to the publication of their names on a list of passing candidates.

Other information relating to the examination results, including the specific grades by subject matter, shall be given only to the person who took the examination, except that the board may:

a. Disclose the specific grades by subject matter to the regulatory authority of any other state or foreign country in connection with the candidate's application for a reciprocal certificate or license from the other state or foreign country, but only if requested by the candidate.

b. Disclose the specific grades by subject matter to educational institutions, professional organizations, or others who have a legitimate interest in the information provided in conjunction with the scores.

3.2(2) The board shall enter into a contractual relationship with a qualified testing service to develop and administer AQB-approved examinations and shall maintain control over the examination process.

3.2(3) and 3.2(4) Rescinded IAB 5/20/09, effective 6/24/09.

3.2(5) If an applicant who has passed an examination does not obtain the related appraiser credential within 24 months of passing the examination, that examination result loses its validity to support the issuance of an appraiser credential. To regain eligibility for the credential, the applicant must retake and pass the examination. This requirement applies to individuals obtaining an initial certified credential or upgrading to the certified general classification.

[ARC 7774B, IAB 5/20/09, effective 6/24/09; ARC 1731C, IAB 11/12/14, effective 12/17/14]

193F—3.3(543D) Conduct of applicant.

3.3(1) Any individual who subverts or attempts to subvert the examination process may, at the discretion of the board, have the individual's examination scores declared invalid for the purpose of certification in Iowa, be barred from the appraisal certification examinations in Iowa, or be subject to the imposition of other sanctions that the board deems appropriate.

3.3(2) Conduct that subverts or attempts to subvert the examination process includes, but is not limited to:

a. Conduct that violates the security of the examination materials, such as removing from the examination room any of the examination materials; reproducing or reconstructing any portion of the examination; aiding by any means in the reproduction or reconstruction of any portion of the examination; selling, distributing, buying, receiving, or having unauthorized possession of any portion of a future, current, or previously administered examination.

b. Conduct that violates the standard of test administration, such as communicating with any other examination candidate during the administration of the examination; copying answers from another candidate or permitting one's answers to be copied by another candidate during the examination; referencing any books, notes, written or printed materials or data of any kind, other than the examination materials distributed.

c. Conduct that violates the examination process, such as falsifying or misrepresenting educational credentials or other information required for admission to the examination; impersonating an examination candidate or having an impersonator take the examination on one's behalf.

3.3(3) Any examination candidate who challenges a decision of the board under this rule may request a contested case hearing pursuant to 193—7.39(546,272C). The request for hearing shall be in writing,

shall briefly describe the basis for the challenge, and shall be filed in the board's office within 30 days of the date of the board decision that is being challenged.

193F—3.4(543D) Application for certification. Applicants for certification must successfully complete the appropriate examination.

3.4(1) All initial applications for certification or associate registration shall be made on forms provided by the board. The board may deny an application as described in Iowa Code sections 543D.12 and 543D.17. Specific examples of grounds for denial include knowingly making a false statement, submitting false information, refusing to provide complete information in response to a question in an application for certification, or participating in any form of fraud or misrepresentation; the revocation of another professional license; or a conviction, including a conviction based upon a plea of guilty or nolo contendere, of a crime which is substantially related to the qualifications, functions and duties of a person developing real estate appraisals and communicating real estate appraisals to others. The board may also deny an application based on disciplinary action taken against an associate appraiser registration.

3.4(2) A certificate or associate registration shall contain the applicant's name, appraiser classification, Iowa certificate number and the signature of the board chairperson.

3.4(3) An initial certificate shall not be issued until the applicant has demonstrated compliance with all required appraiser qualifications for certification, which include examination, education, a bachelor's degree, and real property appraiser experience pursuant to Iowa Code section 543D.9 and 193F—Chapter 5 or 6.

[ARC 7774B, IAB 5/20/09, effective 6/24/09; ARC 1731C, IAB 11/12/14, effective 12/17/14]

193F—3.5(543D) Work product review. Rescinded IAB 5/20/09, effective 6/24/09.

These rules are intended to implement Iowa Code section 543D.8.

[Filed 8/1/91, Notice 5/29/91—published 8/21/91, effective 9/25/91]

[Filed 12/12/95, Notice 10/25/95—published 1/3/96, effective 2/7/96]

[Filed 12/22/97, Notice 11/5/97—published 1/14/98, effective 2/18/98]

[Filed 2/1/02, Notice 11/28/01—published 2/20/02, effective 3/27/02]

[Filed 6/6/03, Notice 4/30/03—published 6/25/03, effective 7/30/03]

[Filed 4/22/05, Notice 3/16/05—published 5/11/05, effective 6/15/05]

[Filed 10/3/07, Notice 8/1/07—published 10/24/07, effective 11/28/07]

[Filed ARC 7774B (Notice ARC 7595B, IAB 2/25/09), IAB 5/20/09, effective 6/24/09]

[Filed ARC 1731C (Notice ARC 1631C, IAB 9/17/14), IAB 11/12/14, effective 12/17/14]

CHAPTER 4
ASSOCIATE REAL PROPERTY APPRAISER
[Prior to 2/20/02, see rule 193F—3.6(543D)]

193F—4.1(543D) Qualifications to register as an associate appraiser.

4.1(1) Education.

a. A person applying for registration as an associate appraiser shall, at a minimum, satisfactorily complete the following AQB-approved, qualifying education modules required under the educational standards applicable for certification as a certified residential appraiser or certified general appraiser:

- (1) The 30-hour module on basic appraisal principles;
- (2) The 30-hour module on basic appraisal procedures; and
- (3) The 15-hour national USPAP course or its equivalent.

b. Beginning January 1, 2015, the initial qualifying education must be completed no more than five years prior to the date of application.

4.1(2) Training. Effective January 1, 2015, prior to registration as an associate, a person must complete a course that complies with the specifications for course content established by the AQB specifically oriented to the requirements and responsibilities of supervisory appraisers and associate appraisers. The course must be completed before the person can obtain an associate credential. This course cannot be applied toward the required hours of qualifying or continuing education.

4.1(3) Background check. Effective January 1, 2017, a national criminal history check as provided in Iowa Code section 543D.22 shall be performed on any new associate appraiser.

4.1(4) Application form. After completing the education outlined in subrules 4.1(1) and 4.1(2), a person applying for registration as an associate appraiser shall apply for registration on the form provided by the board. The form and the appropriate application fee shall be submitted to the board.

4.1(5) Registration denial. The board may deny an application for registration as an associate appraiser on any ground upon which the board may impose discipline against an associate appraiser, as provided in 193F—Chapter 7.

[ARC 1731C, IAB 11/12/14, effective 12/17/14]

193F—4.2(543D) Supervision of associate appraisers.

4.2(1) Direct supervision. An associate appraiser is subject to the direct supervision of a certified real property appraiser. Qualifications for a supervisory appraiser are outlined in 193F—Chapter 15. An associate appraiser may be supervised by more than one supervisory appraiser.

4.2(2) Scope of practice. The scope of practice of an associate appraiser is the same as the scope of practice of the supervisory appraiser. An associate appraiser supervised by a certified residential appraiser shall accordingly be restricted to the scope of practice of a certified residential appraiser, while an associate appraiser supervised by a certified general appraiser shall be subject to the same scope of practice as a certified general appraiser.

4.2(3) Logs. An associate appraiser shall maintain an appraisal experience log that includes all information required by the AQB as a precondition for certification and shall maintain the log contemporaneously with the performance of supervised real property appraisal services. Every log page shall have the signatures of the associate appraiser and supervisory appraiser, the state certification number of the supervisory appraiser, and the date of signature. Required log entries shall, at a minimum, include the following for each appraisal:

- a. Type of property;
- b. Date of report;
- c. Address of appraised property;
- d. Description of work performed by the associate appraiser and scope of review and supervision of the supervisory appraiser; and
- e. Number of actual work hours by the associate on the assignment.

4.2(4) Monitoring of logs. The associate appraiser shall have the appraisal log reviewed and signed by the supervisory appraiser at least monthly. Upon written request by the board, the associate appraiser and the supervisory appraiser shall submit a copy of the associate appraiser's log by letter or e-mail

within ten calendar days. The failure of an associate appraiser or supervisory appraiser to submit the requested log is a ground for disciplinary action. A separate appraisal log shall be maintained for each supervisory appraiser.

[ARC 1731C, IAB 11/12/14, effective 12/17/14]

193F—4.3(543D) Renewal of associate appraiser registration. An associate appraiser registration must be renewed on a biennial basis as more fully described in 193F—Chapter 9. An associate appraiser is subject to the same continuing education requirements as are applicable to a certified appraiser as a precondition for renewal. Continuing education requirements are outlined in 193F—Chapter 11.

193F—4.4(543D) Progress toward certification as a certified residential appraiser or certified general appraiser.

4.4(1) Associate classification. The associate appraiser classification is intended for those persons training to become certified appraisers and is not intended as a long-term method of performing appraisal services under the supervision of a certified appraiser in the absence of progress toward certification. As a result, the board may impose deadlines for achieving certification, or for satisfying certain prerequisites toward certification, for those persons who apply to renew an associate appraiser registration more than two times. Deadlines, if any, would be imposed as a condition for the third or subsequent renewal.

4.4(2) Factors to consider.

a. The board may consider the following noninclusive list of factors when deciding whether to impose a deadline for achieving certification:

- (1) An associate appraiser's access to the educational courses required for certification;
- (2) Whether the associate appraiser had completed the college requirement for certification in advance of registering as an associate appraiser or whether college coursework is in progress;
- (3) The associate appraiser's access to supervisory appraisers, the volume of the supervisory appraiser's practice, and the type of certification the associate is training to achieve; and
- (4) Such additional factors as may be relevant to the board's determination as to whether the associate appraiser is making good-faith progress toward certification.

b. While the board's policy is to work with associate appraisers and their supervisors in a cooperative manner, an associate appraiser who does not demonstrate good-faith progress toward certification shall be subject to the imposition of deadlines as described in subrule 4.4(1).

4.4(3) Progress reports. In order to assess an associate appraiser's progress toward certification, the board may request periodic progress reports from the associate appraiser and from the associate appraiser's supervisory appraiser or appraisers. Progress reports on the steps an associate appraiser has taken toward certification and the associate appraiser's plans for completing certification prerequisites shall be submitted to the board within ten calendar days of the board's written request. The failure of an associate appraiser or supervisory appraiser to submit the requested progress report is a ground for disciplinary action.

[ARC 1731C, IAB 11/12/14, effective 12/17/14]

193F—4.5(543D) Applying for certification as a certified residential appraiser or certified general appraiser. An associate appraiser may apply for certification as a certified residential real property appraiser by satisfying the requirements of 193F—Chapter 5, or as a certified general real property appraiser by satisfying the requirements of 193F—Chapter 6. The requirements for each type of certification include education, examination, and experience, which includes work product review.

[ARC 7774B, IAB 5/20/09, effective 6/24/09]

193F—4.6(272C,543D) Reinstating or reactivating an associate registration. In order to reinstate or reactivate an associate registration that has lapsed or been placed in inactive status for longer than 12 months, the applicant must complete all continuing education required for reinstatement pursuant to 193F—subrule 11.2(5). For purposes of this rule, in addition to the most recent edition of a seven-hour USPAP course, the board shall allow for continuing education only those courses that have been AQB-approved as qualifying education required for certification, as outlined in rules 193F—5.2(543D)

and 193F—6.2(543D). The purpose of this requirement is to ensure that those associates reinstating a lapsed or inactive registration are progressing toward certification. Any qualifying education course taken under this rule as continuing education shall also apply as qualifying education toward certification. If the applicant has completed all qualifying education prior to applying to reinstate a lapsed or inactive associate registration, the applicant may use any approved continuing education course as provided in 193F—Chapter 11, in addition to the required seven-hour USPAP update course, toward the continuing education required for reinstatement.

[ARC 1731C, IAB 11/12/14, effective 12/17/14]

These rules are intended to implement Iowa Code chapters 543D and 272C.

[Filed 2/1/02, Notice 11/28/01—published 2/20/02, effective 3/27/02]

[Filed 4/22/05, Notice 3/16/05—published 5/11/05, effective 6/15/05]

[Filed 4/6/06, Notice 3/1/06—published 4/26/06, effective 5/31/06]

[Filed 6/1/07, Notice 3/28/07—published 6/20/07, effective 7/25/07]

[Filed 11/2/07, Notice 8/29/07—published 11/21/07, effective 12/26/07]

[Filed ARC 7774B (Notice ARC 7595B, IAB 2/25/09), IAB 5/20/09, effective 6/24/09]

[Filed ARC 1731C (Notice ARC 1631C, IAB 9/17/14), IAB 11/12/14, effective 12/17/14]

CHAPTER 5
CERTIFIED RESIDENTIAL REAL PROPERTY APPRAISER

[Prior to 2/20/02, see rule 193F—3.4(543D) and 193F—Chapter 4]

193F—5.1(543D) General.

5.1(1) The certified residential real property appraiser classification qualifies the appraiser to appraise one- to four-unit residential properties without regard to value or complexity. The classification includes the appraisal of vacant or unimproved land that is utilized for one- to four-unit residential properties or for which the highest and best use is for one- to four-unit residential properties. The classification does not include the appraisal of subdivisions for which a development analysis/appraisal is necessary.

5.1(2) Certification is composed of three parts: education, examination, and experience, which includes work product review.

5.1(3) All certified residential real property appraisers must comply with USPAP.
[ARC 7774B, IAB 5/20/09, effective 6/24/09; ARC 1731C, IAB 11/12/14, effective 12/17/14]

193F—5.2(543D) Education. Education requirements for an applicant to obtain a certificate as a certified residential real property appraiser shall be in compliance with the criteria as set forth by the Appraiser Qualifications Board (AQB) of the Appraisal Foundation.

5.2(1) Formal education.

a. Applicants must hold an associate's degree or higher from an accredited college, junior college, community college, or university. In lieu of the associate's degree, an applicant shall successfully pass all of the following collegiate subject matter courses from an accredited college, junior college, community college, or university:

- (1) English composition;
- (2) Principles of economics (micro or macro);
- (3) Finance;
- (4) Algebra, geometry, or higher mathematics;
- (5) Statistics;
- (6) Computer science; and
- (7) Business or real estate law.

b. Total hours of equivalent college courses in lieu of an associate's degree are 21 semester credit hours or equivalent. If an accredited college or university (accredited by the Commission on Colleges, by a regional or national accreditation association, or by an accrediting agency that is recognized by the U.S. Secretary of Education) accepts the College-Level Examination Program© (CLEP) examination(s) and issues a transcript for the examination(s) showing the college's or university's approval, the CLEP credit will be considered as credit for the college course.

c. Effective January 1, 2015, applicants must hold a bachelor's degree or higher from an accredited college or university.

5.2(2) Core criteria. In addition to the formal education in subrule 5.2(1), an applicant must complete 200 creditable class hours before taking the AQB-approved examination. All courses must be AQB-approved current core criteria to be considered creditable. The required courses and 200 hours consist of the following:

<i>a.</i> Basic appraisal principles	30 hours
<i>b.</i> Basic appraisal procedures	30 hours
<i>c.</i> The 15-hour USPAP course or equivalent	15 hours
<i>d.</i> Residential market analysis and highest and best use	15 hours
<i>e.</i> Residential appraiser site valuation and cost approach	15 hours
<i>f.</i> Residential sales comparison and income approaches	30 hours
<i>g.</i> Residential report writing and case studies	15 hours
<i>h.</i> Statistics, modeling and finance	15 hours
<i>i.</i> Advanced residential applications and case studies	15 hours
<i>j.</i> Appraisal subject matter electives	20 hours

5.2(3) Degree program. Credit toward core criteria qualifying education requirements may also be obtained via the completion of a degree in real estate from an accredited degree-granting college or university, provided that the college or university has had its curriculum reviewed and approved by the AQB.

[ARC 7774B, IAB 5/20/09, effective 6/24/09; ARC 1731C, IAB 11/12/14, effective 12/17/14]

193F—5.3(543D) Examination. The prerequisite for taking the AQB-approved examination is completion of 200 creditable course hours as specified in subrule 5.2(2). Effective January 1, 2015, the 200 creditable course hours, college or university degree, and all experience must be completed as specified in subrules 5.2(1) and 5.2(2) and rule 193F—5.4(543D) prior to the examination. For 5.2(2)“c,” equivalency shall be determined through the AQB Course Approval Program or by an alternate method established by the AQB. USPAP qualifying education shall be awarded only when the class is instructed by at least one AQB-certified USPAP instructor who holds a state-issued certified residential or certified general appraiser credential in active status and good standing.

5.3(1) Qualification.

a. In order to qualify to sit for the certified residential real property appraiser examination, the applicant must:

(1) Complete the board’s application form and provide copies of documentation of completion of all courses claimed that qualify the applicant to sit for the examination.

(2) Pay the fee specified in 193F—Chapter 12.

b. Effective January 1, 2015, the bachelor’s degree, education and experience must be completed and the documentation submitted to the board at the time of application to sit for the examination.

5.3(2) The board may verify educational credits claimed. Undocumented credits will be sufficient cause to invalidate the examination results pursuant to 193F—paragraph 3.3(2)“c.”

5.3(3) Responsibility for documenting the educational credits claimed rests with the applicant.

5.3(4) An applicant must supply the original examination scores when applying for certification. Copies of the scores will not be accepted.

5.3(5) If an applicant who has passed an examination does not obtain the related appraiser credential within 24 months after passing the examination, that examination result loses its validity to support issuance of an appraiser credential. To regain eligibility for the credential, the applicant must retake and pass the examination. This requirement applies to individuals obtaining an initial certified credential or upgrading from an associate credential.

[ARC 7774B, IAB 5/20/09, effective 6/24/09; ARC 1731C, IAB 11/12/14, effective 12/17/14]

193F—5.4(543D) Supervised experience required for initial certification. Commencing with experience attained on or after July 1, 2007, all experience required for initial certification pursuant to Iowa Code section 543D.9 shall be performed as a registered associate real property appraiser under the direct supervision of a certified real property appraiser pursuant to the provisions of 193F—Chapter 15.

5.4(1) Acceptable experience. The board will accept as qualifying experience the documented experience attained while the applicant for initial certification was in an educational program recognized by the Appraiser Qualifications Board and Appraisal Subcommittee as providing qualifying experience for initial certification, whether or not the applicant was registered as an associate real property appraiser at the time the educational program was completed. Such programs, if approved by federal authorities, will incorporate direct supervision by a certified real property appraiser and such additional program features as to satisfy the purpose of requiring that qualifying experience be attained by the applicant as an associate real property appraiser.

5.4(2) Exceptions.

a. Applicants for initial certification in Iowa who request that the board approve experience performed in the absence of registration as an associate real property appraiser may file an application for approval on a form provided by the board. The burden shall be on the applicant to establish by clear and convincing evidence all of the following:

(1) The experience is qualifying experience under the substantive and documentation standards of the Appraiser Qualifications Board and Appraisal Subcommittee.

- (2) Denial of the application would impose an undue hardship on the applicant.
- (3) The nature of the experience attained is qualitatively and substantially equivalent to the experience an associate real property appraiser would receive under the direct supervision of a certified real property appraiser pursuant to the standards established in 193F—Chapter 15.
- (4) Approval of the application would foster the board's goal of fair and consistent treatment of applicants.
- (5) A basis exists beyond the individual control of the applicant to explain why the experience at issue could not have been attained by the applicant as an associate real property appraiser under the direct supervision of a certified real property appraiser.
 - b.* Among the circumstances the board may consider favorably in ruling on an application for approval of unsupervised experience or experience attained by the applicant in the absence of registration as an associate real property appraiser are:
 - (1) The experience was attained in a jurisdiction that, at the time, did not register associate real property appraisers or otherwise offer an associate, trainee or equivalent category of certification.
 - (2) The applicant attained the experience while employed in a county assessor's office engaged in mass appraisals, and the experience would otherwise qualify under applicable federal standards.
 - (3) The experience was attained between July 1, 2007, and January 1, 2008, and the appraiser could not reasonably have become registered and associated with a supervising certified appraiser by July 1, 2007, which is the effective date of the requirement that qualifying experience be attained by the applicant as an associate real property appraiser working under the direct supervision of a certified real property appraiser.

[ARC 7774B, IAB 5/20/09, effective 6/24/09; ARC 1731C, IAB 11/12/14, effective 12/17/14]

193F—5.5(543D) Demonstration of experience. The experience necessary for certification pursuant to Iowa Code section 543D.9 must meet the requirements of this rule. The objective of the demonstration of experience is to ensure that, before the applicant is issued a certificate, the applicant has obtained sufficient diversified experience to perform an appraisal.

5.5(1) The applicant shall provide to the board an appraisal log that includes all information required by the AQB as a precondition for certification and shall maintain the log contemporaneously with the performance of supervised real property appraisal services. The appraisal log shall, at a minimum, include all information as described in 193F—subrule 4.2(3).

5.5(2) The applicant shall accumulate a total of 2500 hours of appraisal experience in no fewer than 24 months while in active status, of which a minimum of 1500 hours must consist of residential appraisal experience. While the hours may be cumulative, the 24 months must have elapsed before the applicant can apply to take the examination. Experience claimed must have been performed in compliance with USPAP in which the appraiser demonstrates proficiency in appraisal principles methodology, procedures and reporting conclusions. Acceptable appraisal experience includes, but is not limited to, the following:

- a.* Fee and staff appraisal;
- b.* Ad valorem tax appraisal;
- c.* Review appraisal;
- d.* Appraisal analysis;
- e.* Appraisal consulting;
- f.* Highest and best use analysis; and
- g.* Feasibility analysis/study.

5.5(3) The types of experience set out in 5.5(2) are intended neither to exclude other sorts of appraisal experience nor to prescribe a specified minimum array of experience. However, an applicant who cannot demonstrate a background of experience of the diversity manifested by this rule shall bear the burden of showing that the applicant's experience is of sufficient quality and diversity to fulfill the objective of the demonstration of experience.

5.5(4) An applicant may be required to appear before the board or its representative to supplement or verify evidence of experience, which shall be in the form of written reports or file memoranda.

5.5(5) The board may require inspection, by the board itself or by its representatives, of documentation relating to an applicant's claimed experience. Such inspection may be made at the board's offices or such other place as the board may designate.

[ARC 7774B, IAB 5/20/09, effective 6/24/09; ARC 1731C, IAB 11/12/14, effective 12/17/14]

193F—5.6(543D) Work product review.

5.6(1) An applicant shall submit a complete appraisal log at the time of application for examination and work product review. The board will select three appraisals for work product review and request that the applicant submit four paper copies of each report and four paper copies of each work file in addition to an electronic format requested by the board for each of the selected appraisals along with the appropriate form and fee. The fee for work product review of the appraisals is provided in 193F—Chapter 12. The board may select the appraisals at random from the entire log or within certain types of appraisals. The board reserves the right to request one or more additional appraisals if those submitted by the applicant raise issues concerning the applicant's competency or compliance with applicable appraisal standards or the degree to which the submitted appraisals are representative of the applicant's work product. Such additional appraisals may be selected at random from the applicant's log or may be selected specifically to provide an example of the applicant's work product regarding a particular type of appraisal.

5.6(2) The board shall treat all appraisals received as public records unless the applicant notifies the board at the time of submission that a submitted appraisal is subject to the confidentiality provisions of appraisal standards or is otherwise confidential under state or federal law. While applicants are encouraged to submit appraisals actually performed for clients, applicants may submit one or more demonstration appraisals if the appraisals are prepared based on factual information in the same manner as applicable to actual appraisal assignments and are clearly marked as demonstration appraisals.

5.6(3) An applicant seeking to upgrade to a certified residential real property appraiser shall submit three residential appraisals for review.

5.6(4) The board will submit the appraisals to a peer review consultant for an opinion on the appraiser's compliance with applicable appraisal standards.

5.6(5) The work product review process is not intended as an endorsement of an applicant's work product. No applicant or appraiser shall represent the results of work product review in communications with a client or in marketing to potential clients in a manner which falsely portrays the board's work product review as an endorsement of the appraiser or the appraiser's work product. Failure to comply with this prohibition may be grounds for discipline as a practice harmful or detrimental to the public.

5.6(6) The board views work product review, in part, as an educational process. While the board may deny an application based on an applicant's failure to adhere to appraisal standards or otherwise demonstrate a level of competency upon which the public interest can be protected, the board will attempt to work with applicants deemed in need of assistance to arrive at a mutually agreeable remedial plan. A remedial plan may include additional education, desk review, a mentoring program, or additional precertification experience.

5.6(7) An applicant who is denied certification based on the work product review described in this rule, or on any other ground, shall be entitled to a contested case hearing as provided in rule 193—7.39(546,272C). Notice of denial shall specify the grounds for denial, which may include any of the work performance-related grounds for discipline against a certified appraiser.

5.6(8) If probable cause exists, the board may open a disciplinary investigation against a certificate holder based on the work product review of an applicant. A potential disciplinary action could arise, for example, if the applicant is a certified residential real property appraiser seeking an upgrade to a certified general real property appraiser, or where the applicant is uncertified and is working under the supervision of a certified real property appraiser who cosigned the appraisal report.

5.6(9) After accumulating a minimum of 500 hours of appraisal experience, an applicant may voluntarily submit work product to the board to be reviewed by a peer reviewer for educational purposes only. A maximum of three reports may be submitted for review during the experience portion of the certification process. The fee for voluntary submissions of work product for review is provided in 193F—Chapter 12.

5.6(10) The board will retain the appraisals for as long as needed as documentation of the board's actions for the Appraisal Subcommittee or as needed in a pending proceeding involving the work product of the applicant or the applicant's supervisor. When no longer needed for such purposes, the work product may be retained or destroyed at the board's discretion.

5.6(11) Upon successful completion of the work product review process, an applicant will have 60 days to submit an application. Any application filed on or after January 1, 2015, must meet 2015 AQB criteria.

[ARC 7774B, IAB 5/20/09, effective 6/24/09; ARC 1731C, IAB 11/12/14, effective 12/17/14]

193F—5.7(543D) Upgrade to a certified general real property appraiser. To upgrade from a certified residential real property appraiser to a certified general real property appraiser, an applicant must complete the following additional education, examination, and experience requirements and, effective January 1, 2017, a national criminal history check as provided in Iowa Code section 543D.22.

5.7(1) Education.

a. Formal education. Certified residential real property appraisers must satisfy the college-level education requirements as specified in rule 193F—6.2(543D).

b. Core criteria. In addition to the formal education, an applicant must complete 100 creditable class hours before taking the AQB-approved examination. All courses must be AQB-approved under current core criteria to be considered creditable. The required courses and 100 hours consist of the following:

- | | |
|--|----------|
| (1) General appraiser market analysis and highest and best use | 15 hours |
| (2) General appraiser sales comparison approach | 15 hours |
| (3) General appraiser site valuation and cost approach | 15 hours |
| (4) General appraiser income approach | 45 hours |
| (5) General appraiser report writing and case studies | 10 hours |

5.7(2) Examination. An applicant must satisfy the examination requirements as specified in rule 193F—6.3(543D).

5.7(3) Experience. An applicant must satisfy the experience requirements as specified in rule 193F—6.4(543D).

5.7(4) Work product review. An applicant must satisfy the work product review requirements as specified in rule 193F—6.5(543D).

5.7(5) Background check. Effective January 1, 2017, a national criminal history check as provided in Iowa Code section 543D.22 shall be performed on any appraiser upgrading to a certified general real property appraiser.

[ARC 7774B, IAB 5/20/09, effective 6/24/09; ARC 1731C, IAB 11/12/14, effective 12/17/14]

These rules are intended to implement Iowa Code sections 543D.5, 543D.8, and 543D.9.

[Filed 8/1/91, Notice 5/29/91—published 8/21/91, effective 9/25/91]

[Filed 12/12/95, Notice 10/25/95—published 1/3/96, effective 2/7/96]

[Filed 2/28/96, Notice 1/3/96—published 3/27/96, effective 5/1/96]

[Filed 12/22/97, Notice 11/5/97—published 1/14/98, effective 2/18/98]

[Filed 2/1/02, Notice 11/28/01—published 2/20/02, effective 3/27/02]

[Filed 5/5/02, Notice 3/20/02—published 5/29/02, effective 7/3/02]

[Filed 4/22/05, Notice 3/16/05—published 5/11/05, effective 6/15/05]

[Filed 6/1/07, Notice 3/28/07—published 6/20/07, effective 7/25/07]

[Filed 8/9/07, Notice 6/20/07—published 8/29/07, effective 10/3/07]

[Filed 12/7/07, Notice 10/24/07—published 1/2/08, effective 2/6/08]

[Filed ARC 7774B (Notice ARC 7595B, IAB 2/25/09), IAB 5/20/09, effective 6/24/09]

[Filed ARC 1731C (Notice ARC 1631C, IAB 9/17/14), IAB 11/12/14, effective 12/17/14]

CHAPTER 6
 CERTIFIED GENERAL REAL PROPERTY APPRAISER
 [Prior to 2/20/02, see rule 193F—3.3(543D) and 193F—Chapter 4]

193F—6.1(543D) General.

6.1(1) The certified general real property appraiser classification qualifies the appraiser to appraise all types of real property.

6.1(2) All certified general real property appraisers must comply with USPAP.

6.1(3) Certification is composed of three parts: education, examination, and experience, which includes work product review.

[ARC 7774B, IAB 5/20/09, effective 6/24/09; ARC 1731C, IAB 11/12/14, effective 12/17/14]

193F—6.2(543D) Education. Education requirements for an applicant to obtain a certificate as a certified general real property appraiser shall be in compliance with the criteria as set forth by the Appraiser Qualifications Board (AQB) of the Appraisal Foundation.

6.2(1) Formal education.

a. Applicants must hold a bachelor's degree or higher from an accredited college, junior college, community college, or university. In lieu of the bachelor's degree, an applicant shall successfully pass all of the following collegiate subject matter courses from an accredited college, junior college, community college, or university:

- (1) English composition;
- (2) Microeconomics;
- (3) Macroeconomics;
- (4) Finance;
- (5) Algebra, geometry, or higher mathematics;
- (6) Statistics;
- (7) Computer science;
- (8) Business or real estate law; and
- (9) Two elective courses in accounting, geography, agricultural economics, business management, or real estate.

b. Total hours of equivalent college courses in lieu of a bachelor's degree are 30 semester credit hours or equivalent. If an accredited college or university (accredited by the Commission on Colleges, by a regional or national accreditation association, or by an accrediting agency that is recognized by the U.S. Secretary of Education) accepts the College-Level Examination Program© (CLEP) examination(s) and issues a transcript for the examination(s) showing the college's or university's approval, the CLEP credit will be considered as credit for the college course.

c. Effective January 1, 2015, applicants must hold a bachelor's degree or higher from an accredited college or university.

6.2(2) Core criteria. In addition to the formal education in 6.2(1), an applicant must complete 300 creditable class hours before taking the AQB-approved examination. All courses must be AQB-approved under current core criteria to be considered creditable. The required courses and 300 hours consist of the following:

- | | |
|--|----------|
| <i>a.</i> Basic appraisal principles | 30 hours |
| <i>b.</i> Basic appraisal procedures | 30 hours |
| <i>c.</i> The 15-hour USPAP course or equivalent | 15 hours |
| <i>d.</i> General appraiser market analysis and highest and best use | 30 hours |
| <i>e.</i> General appraiser site valuation and cost approach | 30 hours |
| <i>f.</i> General appraiser sales comparison approach | 30 hours |
| <i>g.</i> General appraiser income approach | 60 hours |
| <i>h.</i> General appraiser report writing and case studies | 30 hours |
| <i>i.</i> Statistics, modeling and finance | 15 hours |
| <i>j.</i> Appraisal subject matter electives | 30 hours |

6.2(3) Degree program. Credit toward core criteria qualifying education requirements may also be obtained via the completion of a degree in real estate from an accredited degree-granting college or university, provided that the college or university has had its curriculum reviewed and approved by the AQB.

[ARC 7774B, IAB 5/20/09, effective 6/24/09; ARC 1731C, IAB 11/12/14, effective 12/17/14]

193F—6.3(543D) Examination. The prerequisite for taking the AQB-approved examination is completion of 300 creditable course hours as specified in subrule 6.2(2). Effective January 1, 2015, the 300 core criteria hours, college or university degree, and all experience must be completed as specified in subrules 6.2(1) and 6.2(2) and rule 193F—6.4(543D) prior to the examination. For 6.2(2)“c,” equivalency shall be determined through the AQB Course Approval Program or by an alternate method established by the AQB. USPAP qualifying education shall be awarded only when the class is instructed by at least one AQB-certified USPAP instructor who holds a state-issued certified residential or certified general appraiser credential in active status and good standing.

6.3(1) In order to qualify to sit for the certified general real property appraiser examination, the applicant must:

- a. Complete the board’s application form and provide copies of documentation of completion of all courses claimed that qualify the applicant to sit for the examination.
- b. Pay the fee specified in 193F—Chapter 12.
- c. Effective January 1, 2015, the degree, education and experience must be completed and documentation submitted to the board at the time of application to sit for the examination.

6.3(2) The board may verify educational credits claimed. Undocumented credits will be sufficient cause to invalidate the examination results pursuant to 193F—paragraph 3.3(2)“c.”

6.3(3) Responsibility for documenting the educational credits claimed rests with the applicant.

6.3(4) An applicant must supply the original examination scores when applying for certification. Copies of the scores will not be accepted.

6.3(5) If an applicant who has passed an examination does not obtain the related appraiser credential within 24 months after passing the examination, that examination result loses its validity to support issuance of an appraiser credential. To regain eligibility for the credential, the applicant must retake and pass the examination. This requirement applies to individuals obtaining an initial certified credential or upgrading from an associate credential.

[ARC 7774B, IAB 5/20/09, effective 6/24/09; ARC 1731C, IAB 11/12/14, effective 12/17/14]

193F—6.4(543D) Supervised experience required for initial certification. Commencing with experience attained on or after July 1, 2007, all experience required for initial certification pursuant to Iowa Code section 543D.9 shall be performed as a registered associate real property appraiser under the direct supervision of a certified real property appraiser pursuant to the provisions of 193F—Chapter 15.

6.4(1) Acceptable experience. The board will accept as qualifying experience the documented experience attained while the applicant for initial certification was in an educational program recognized by the Appraiser Qualifications Board and Appraisal Subcommittee as providing qualifying experience for initial certification, whether or not the applicant was registered as an associate real property appraiser at the time the educational program was completed. Such programs, if approved by federal authorities, will incorporate direct supervision by a certified real property appraiser and such additional program features as to satisfy the purpose of requiring that qualifying experience be attained by the applicant as an associate real property appraiser.

6.4(2) Exceptions.

a. Applicants for initial certification in Iowa who request that the board approve experience performed in the absence of registration as an associate real property appraiser may file an application for approval on a form provided by the board. The burden shall be on the applicant to establish by clear and convincing evidence all of the following:

- (1) The experience is qualifying experience under the substantive and documentation standards of the Appraiser Qualifications Board and Appraisal Subcommittee.
- (2) Denial of the application would impose an undue hardship on the applicant.

(3) The nature of the experience attained is qualitatively and substantially equivalent to the experience an associate real property appraiser would receive under the direct supervision of a certified real property appraiser pursuant to the standards established in 193F—Chapter 15.

(4) Approval of the application would foster the board's goal of fair and consistent treatment of applicants.

(5) A basis exists beyond the individual control of the applicant to explain why the experience at issue could not have been attained by the applicant as an associate real property appraiser under the direct supervision of a certified real property appraiser.

b. Among the circumstances the board may consider favorably in ruling on an application for approval of unsupervised experience or experience attained by the applicant in the absence of registration as an associate real property appraiser are:

(1) The experience was attained in a jurisdiction that, at the time, did not register associate real property appraisers or otherwise offer an associate, trainee or equivalent category of certification.

(2) The applicant attained the experience while employed in a county assessor's office engaged in mass appraisals, and the experience would otherwise qualify under applicable federal standards.

(3) The experience was attained between July 1, 2007, and January 1, 2008, and the appraiser could not reasonably have become registered and associated with a supervising certified appraiser by July 1, 2007, which is the effective date of the requirement that qualifying experience be attained by the applicant as an associate real property appraiser working under the direct supervision of a certified real property appraiser.

[ARC 7774B, IAB 5/20/09, effective 6/24/09; ARC 1731C, IAB 11/12/14, effective 12/17/14]

193F—6.5(543D) Demonstration of experience. The experience necessary for certification pursuant to Iowa Code section 543D.9 must meet the requirements of this rule. The objective of the demonstration of experience is to ensure that, before the applicant is issued a certificate, the applicant has obtained sufficient diversified experience to perform an appraisal.

6.5(1) The applicant shall provide to the board an appraisal log that includes all information required by the AQB as a precondition for certification and shall maintain the log contemporaneously with the performance of supervised real property appraisal services. The appraisal log shall, at a minimum, include all information as described in 193F—subrule 4.2(3).

6.5(2) The applicant shall accumulate a total of 3000 hours of appraisal experience in no fewer than 30 months while in active status, of which 1500 hours must consist of nonresidential appraisal experience. While the hours may be cumulative, the 30 months must have elapsed before an applicant can be certified. Experience claimed must have been performed in compliance with USPAP where the appraiser demonstrates proficiency in appraisal principles methodology, procedures and reporting conclusions. Acceptable appraisal experience includes, but is not limited to, the following:

- a.* Fee and staff appraisal;
- b.* Ad valorem tax appraisal;
- c.* Review appraisal;
- d.* Appraisal analysis;
- e.* Appraisal consulting;
- f.* Highest and best use analysis; and
- g.* Feasibility analysis/study.

6.5(3) The types of experience set out in 6.5(2) are intended neither to exclude other sorts of appraisal experience nor to prescribe a specified minimum array of experience. However, an applicant who cannot demonstrate a background of experience of the diversity manifested by this rule shall bear the burden of showing that the applicant's experience is of sufficient quality and diversity to fulfill the objective of the demonstration of experience.

6.5(4) An applicant may be required to appear before the board or its representative to supplement or verify evidence of experience, which shall be in the form of written reports or file memoranda.

6.5(5) The board may require inspection, by the board itself or by its representatives, of documentation relating to an applicant's claimed experience. Such inspection may be made at the board's offices or such other place as the board may designate.

[ARC 7774B, IAB 5/20/09, effective 6/24/09; ARC 1731C, IAB 11/12/14, effective 12/17/14]

193F—6.6(543D) Work product review.

6.6(1) An applicant shall submit a complete appraisal log at the time of application for examination and work product review. The board will then select three appraisals for work product review and request that the applicant submit four paper copies of each report and four paper copies of each work file in addition to an electronic format requested by the board for each of the selected appraisals along with the appropriate form and fee. The fee for work product review of the appraisals is provided in 193F—Chapter 12. The board may select the appraisals at random from the entire log or within certain types of appraisals. The board reserves the right to request one or more additional appraisals if those submitted by the applicant raise issues concerning the applicant's competency or compliance with applicable appraisal standards or the degree to which the submitted appraisals are representative of the applicant's work product. Such additional appraisals may be selected at random from the applicant's log or may be selected specifically to provide an example of the applicant's work product regarding a particular type of appraisal.

6.6(2) The board shall treat all appraisals received as public records unless the applicant notifies the board at the time of submission that a submitted appraisal is subject to the confidentiality provisions of appraisal standards or is otherwise confidential under state or federal law. While applicants are encouraged to submit appraisals actually performed for clients, applicants may submit one or more demonstration appraisals if the appraisals are prepared based on factual information in the same manner as applicable to actual appraisal assignments and are clearly marked as demonstration appraisals.

6.6(3) An applicant seeking original or upgrade certification as a certified general real property appraiser shall submit one residential appraisal and two nonresidential appraisals for review.

6.6(4) The board, or a committee of the board, will evaluate the submitted work product. The board will submit the appraisals to a peer review consultant for an opinion on the appraiser's compliance with applicable appraisal standards.

6.6(5) The work product review process is not intended as an endorsement of an applicant's work product. No applicant or appraiser shall represent the results of work product review in communications with a client or in marketing to potential clients in a manner which falsely portrays the board's work product review as an endorsement of the appraiser or the appraiser's work product. Failure to comply with this prohibition may be grounds for discipline as a practice harmful or detrimental to the public.

6.6(6) The board views work product review, in part, as an educational process. While the board may deny an application based on an applicant's failure to adhere to appraisal standards or otherwise demonstrate a level of competency upon which the public interest can be protected, the board will attempt to work with applicants deemed in need of assistance to arrive at a mutually agreeable remedial plan. A remedial plan may include additional education, desk review, a mentoring program, or additional precertification experience.

6.6(7) An applicant who is denied certification based on the work product review described in this rule, or on any other ground, shall be entitled to a contested case hearing as provided in rule 193—7.39(546,272C). Notice of denial shall specify the grounds for denial, which may include any of the work performance-related grounds for discipline against a certified appraiser.

6.6(8) If probable cause exists, the board may open a disciplinary investigation against a certificate holder based on the work product review of an applicant. A potential disciplinary action could arise, for example, if the applicant is a certified residential real property appraiser seeking an upgrade to a certified general real property appraiser, or where the applicant is uncertified and is working under the supervision of a certified real property appraiser who cosigned the appraisal report.

6.6(9) After accumulating a minimum of 500 hours of appraisal experience, an applicant may voluntarily submit work product to the board to be reviewed by a peer reviewer for educational purposes only. A maximum of three reports may be submitted for review during the experience portion of the

certification process. The fee for voluntary submissions of work product for review is provided in 193F—Chapter 12.

6.6(10) The board will retain the appraisals for as long as needed as documentation of the board's actions for the Appraisal Subcommittee or as needed in a pending proceeding involving the work product of the applicant or the applicant's supervisor. When no longer needed for such purposes, the work product may be retained or destroyed at the board's discretion.

6.6(11) Upon successful completion of the work product review process, an applicant will have 60 days to submit an application. Any application filed on or after January 1, 2015, must meet 2015 AQB criteria.

[ARC 7774B, IAB 5/20/09, effective 6/24/09; ARC 1731C, IAB 11/12/14, effective 12/17/14]

193F—6.7(543D) Background check. Effective January 1, 2017, a national criminal history check as provided in Iowa Code section 543D.22 shall be performed on any appraiser upgrading to a new credential.

[ARC 1731C, IAB 11/12/14, effective 12/17/14]

These rules are intended to implement Iowa Code sections 543D.5, 543D.8, 543D.9, and 543D.22.

[Filed 8/1/91, Notice 5/29/91—published 8/21/91, effective 9/25/91]

[Filed 12/12/95, Notice 10/25/95—published 1/3/96, effective 2/7/96]

[Filed 2/28/96, Notice 1/3/96—published 3/27/96, effective 5/1/96]

[Filed 12/22/97, Notice 11/5/97—published 1/14/98, effective 2/18/98]

[Filed 2/1/02, Notice 11/28/01—published 2/20/02, effective 3/27/02]

[Filed 5/5/02, Notice 3/20/02—published 5/29/02, effective 7/3/02]

[Filed 4/22/05, Notice 3/16/05—published 5/11/05, effective 6/15/05]

[Filed 6/1/07, Notice 3/28/07—published 6/20/07, effective 7/25/07]

[Filed 8/9/07, Notice 6/20/07—published 8/29/07, effective 10/3/07]

[Filed 12/7/07, Notice 10/24/07—published 1/2/08, effective 2/6/08]

[Filed ARC 7774B (Notice ARC 7595B, IAB 2/25/09), IAB 5/20/09, effective 6/24/09]

[Filed ARC 1731C (Notice ARC 1631C, IAB 9/17/14), IAB 11/12/14, effective 12/17/14]

CHAPTER 7
DISCIPLINARY ACTIONS AGAINST CERTIFIED AND
ASSOCIATE APPRAISERS

193F—7.1(17A,272C,543D) Disciplinary authority. The board is empowered to administer Iowa Code chapters 17A, 272C, and 543D and related administrative rules for the protection and well-being of those persons who may rely upon registered associate appraisers or certified real property appraisers for the performance of real property appraisal services within this state and for clients in this state. To perform these functions, the board is broadly vested with authority to review and investigate alleged acts or omissions of registered associate appraisers and certified real property appraisers to determine whether disciplinary proceedings are warranted, to initiate and prosecute disciplinary proceedings, to establish standards of professional conduct, and to impose discipline pursuant to Iowa Code sections 17A.13, 272C.3 to 272C.6 and 272C.10, and Iowa Code chapter 543D.

193F—7.2(543D) Standards of practice. The standards of practice governing all real property appraisal activities shall be the Uniform Standards of Professional Appraisal Practice, including Provisions, Rules, Comments, and Statements, as promulgated by the Appraisal Standards Board of the Appraisal Foundation. All registered associate appraisers and certified real property appraisers shall comply with the USPAP edition applicable to each appraisal assignment.

193F—7.3(17A,272C,543D) Grounds for discipline. The board may initiate disciplinary action against a registered associate appraiser or a certified real property appraiser based on any one or more of the following grounds:

7.3(1) *Fraud in procuring a registration or certificate.* Fraud in procuring or attempting to procure a registration or certificate includes an intentional perversion of the truth when making application for an initial, renewal, reciprocal, or temporary registration or certificate to practice in this state, including:

- a. False representation of a material fact, whether by word or by conduct, by false or misleading allegation, or by concealment of that which should have been disclosed;
- b. Attempting to file or filing with the board any false or forged diploma, course certificate, identification, credential, license, registration, certification, examination report, affidavit, or other record;
- c. Failing or refusing to provide complete information in response to a question on an application for initial or renewal registration or certification; or
- d. Otherwise participating in any form of fraud or misrepresentation by act or omission.

7.3(2) *Professional incompetence.* Professional incompetence includes, but is not limited to:

- a. A substantial lack of knowledge or ability to discharge professional obligations within the scope of practice.
- b. A substantial deviation from the standards of learning or skill ordinarily possessed and applied by other practitioners in the state of Iowa acting in the same or similar circumstances.
- c. A failure to exercise the degree of care which is ordinarily exercised by the average practitioner acting in the same or similar circumstances.
- d. Failure to conform to the minimal standards of acceptable and prevailing practice of registered associate appraisers or certified real property appraisers in this state.
- e. A willful, repeated, or material deviation from USPAP standards, or other act or omission that demonstrates an inability to safely practice in a manner protective of the public's interest, including any violation of USPAP's COMPETENCY RULE.

7.3(3) *Deceptive practices.* Deceptive practices are grounds for discipline, whether or not actual injury is established, and include:

- a. Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of real property appraising.
- b. Use of untruthful or improbable statements in advertisements. Use of untruthful or improbable statements in advertisements includes, but is not limited to, an action by a registrant or certificate holder

in making information or intention known to the public which is false, deceptive, misleading or promoted through fraud or misrepresentation.

c. Acceptance of any fee by fraud or misrepresentation, or in violation of Iowa Code section 543D.18(2).

d. Falsification of business records or appraisal logs through false or deceptive representations or omissions.

e. Submission of false or misleading reports or information to the board including information supplied in an audit of continuing education, reports submitted as a condition of probation, or any reports identified in this rule.

f. Making any false or misleading statement in support of an application for registration or certification submitted by another.

g. Knowingly presenting as one's own a certificate or registration, certificate or registration number, or signature of another or of a fictitious registrant or certificate holder, or otherwise falsely impersonating a certified appraiser or registered associate appraiser.

h. Representing oneself as a registered associate appraiser or certified appraiser when one's registration or certificate has been suspended, revoked, surrendered, or placed on inactive status, or has lapsed.

i. Permitting another person to use the registrant's or certificate holder's registration or certificate for any purposes.

j. Fraud in representations as to skill or ability.

k. Misrepresenting a specialized service as an appraisal assignment in violation of Iowa Code section 543D.18(3) or (5).

7.3(4) *Unethical, harmful or detrimental conduct.* Registrants and certificate holders engaging in unethical conduct or practices harmful or detrimental to the public may be disciplined whether or not injury is established. Behaviors and conduct which are unethical, harmful or detrimental to the public may include, but are not limited to, the following actions:

a. A violation of 2007 Iowa Acts, Senate File 137, section 5 (improper influence of an appraisal assignment).

b. Verbal or physical abuse, improper sexual contact, or making suggestive, lewd, lascivious, offensive or improper remarks or advances, if such behavior occurs within the practice of real property appraising or if such behavior otherwise provides a reasonable basis for the board to conclude that such behavior within the practice of real estate appraising would place the public at risk.

c. Engaging in a professional conflict of interest, or otherwise violating the public trust, as provided in Iowa Code section 543D.18(1) as amended by 2007 Iowa Acts, Senate File 137, section 3, and in USPAP's ETHICS RULE.

d. Aiding or abetting any unlawful activity for which a civil penalty can be imposed under 193F—16.2(543D).

7.3(5) *Lack of proper qualifications.*

a. Continuing to practice as a registered associate appraiser or certified real property appraiser without satisfying the continuing education required for registration or certificate renewal.

b. Acting as a supervisor without proper qualification, as provided in 193F—15.3(543D).

c. Habitual intoxication or addiction to the use of drugs, or impairment which adversely affects the registrant's or certificate holder's ability to practice in a safe and competent manner.

d. Any act, conduct, or condition, including lack of education or experience and careless or intentional acts or omissions, that demonstrates a lack of qualifications which are necessary to ensure a high standard of professional care as provided in Iowa Code section 272C.3(2) "b," or that impairs a practitioner's ability to safely and skillfully practice the profession.

e. Failure to meet the minimum qualifications for registration as an associate appraiser or certification as a certified real property appraiser.

f. Practicing outside the scope of a residential certification, or outside the scope of a supervisor's residential certification.

7.3(6) *Negligence by the registrant or certificate holder in the practice of the profession.* Negligence by the registrant or certificate holder in the practice of the profession includes:

a. Failure or refusal without good cause to exercise reasonable diligence in developing an appraisal, preparing an appraisal report, or communicating an appraisal.

b. A failure to exercise due care including negligent delegation of duties to or supervision of associate appraisers, or other employees, agents, or persons, in developing an appraisal, preparing an appraisal report, or communicating an appraisal, whether or not injury results.

c. Neglect of contractual or other duties to a client.

7.3(7) *Professional misconduct.*

a. A violation of any of the standards applicable to the development or communication of real estate appraisals as provided in 193F—7.2(543D).

b. Violation of a regulation or law of this state, another state, or the United States, which relates to the practice of real estate appraising.

c. Engaging in any conduct that subverts or attempts to subvert a board investigation, or failure to fully cooperate with a disciplinary investigation of the registrant or certificate holder or with a disciplinary investigation of persons who are not registrants or certificate holders, including failure to comply with a subpoena issued by the board or to respond to a board inquiry within 30 calendar days of the date of mailing by certified mail of a written communication directed to the registrant's or certificate holder's last address on file at the board office.

d. Revocation, suspension, or other disciplinary action taken by a licensing authority of this state or another state, territory, or country. A stay by an appellate court shall not negate this requirement; however, if such disciplinary action is overturned or reversed by a court of last resort, discipline by the board based solely on such action shall be vacated.

e. A violation of Iowa Code section 543D.18 as amended by 2007 Iowa Acts, Senate File 137, section 4 (disclosure of significant real property appraisal assistance), or Iowa Code section 543D.18(6).

f. A violation of 2007 Iowa Acts, Senate File 137, section 6 (restrictions on persons assisting in the development or reporting of a certified appraisal).

g. Failure to retain records as provided in Iowa Code section 543D.19.

h. Violation of the terms of an initial agreement with the impaired practitioner review committee or violation of the terms of an impaired practitioner recovery contract with the impaired practitioner review committee.

7.3(8) *Willful or repeated violations.* The willful or repeated violation or disregard of any provision of Iowa Code chapter 272C or 543D, or any administrative rule adopted by the board in the administration or enforcement of such chapters.

7.3(9) *Failure to report.*

a. Failure by a registrant or certificate holder or an applicant for a registration or certificate to report in writing to the board any revocation, suspension, or other disciplinary action taken by a licensing authority, in Iowa or any other jurisdiction, within 30 calendar days of the final action.

b. Failure of a registrant or certificate holder or an applicant for a registration or certificate to report, within 30 calendar days of the action, any voluntary surrender of a professional license to resolve a pending disciplinary investigation or action, in Iowa or any other jurisdiction.

c. Failure to notify the board of a criminal conviction within 30 calendar days of the action, regardless of the jurisdiction where it occurred.

d. Failure to notify the board within 30 calendar days after occurrence of any adverse judgment in a professional or occupational malpractice action, or settlement of any claim involving malpractice, regardless of the jurisdiction where it occurred.

e. Failure to report another registrant or certificate holder to the board for any violation listed in these rules, pursuant to Iowa Code section 272C.9(2), promptly after the registrant or certificate holder becomes aware that a reportable violation has occurred.

f. Failure to report to the board the appraiser's principal place of business and any change in the appraiser's principal place of business within 10 calendar days of such change; or failure to report to the board all other addresses at which the appraiser engages in the business of preparing real estate appraisal reports, or any change in such information, within 30 calendar days of such occurrence or change.

g. Failure of an associate appraiser or supervisor to timely respond to board requests for information, as provided in 193F—Chapter 4.

7.3(10) *Failure to comply with board order.* Failure to comply with the terms of a board order or the terms of a settlement agreement or consent order, or other decision of the board imposing discipline.

7.3(11) *Conviction of a crime.* Conviction, in this state or any other jurisdiction, of any felony related to the profession, or of any crime which is substantially related to the qualifications, functions, duties or practice of a person developing or communicating real estate appraisals to others. Any crime involving deception, dishonesty or disregard for the safety of others shall be deemed substantially related to the practice of real property appraising. A copy of the record of conviction or plea of guilty shall be conclusive evidence. "Conviction" shall include any plea of guilty or nolo contendere, including Alford pleas, or finding of guilt whether or not judgment or sentence is deferred, and whether or not the conviction is on appeal. If such conviction is overturned or reversed by a court of last resort, discipline by the board based solely on the conviction shall be vacated.

These rules are intended to implement Iowa Code chapters 17A, 272C and 543D and 2007 Iowa Acts, Senate File 137.

[Filed 8/1/91, Notice 5/29/91—published 8/21/91, effective 9/25/91]

[Filed 12/12/95, Notice 10/25/95—published 1/3/96, effective 2/7/96]

[Filed 2/28/96, Notice 1/3/96—published 3/27/96, effective 5/1/96]

[Filed 2/1/02, Notice 11/28/01—published 2/20/02, effective 3/27/02]

[Filed 12/7/07, Notice 10/24/07—published 1/2/08, effective 2/6/08]

CHAPTER 8
INVESTIGATIONS AND DISCIPLINARY PROCEDURES

193F—8.1(272C,543D) Disciplinary action. The real estate appraiser examining board has authority pursuant to Iowa Code chapters 543D, 17A and 272C to impose discipline for violations of these Iowa Code chapters and the rules promulgated thereunder.

193F—8.2(17A,272C,543D) Initiation of disciplinary investigations. The board may initiate a licensee disciplinary investigation upon the board's receipt of information suggesting that a licensee may have violated a law or rule enforced by the board which, if true, would constitute grounds for licensee discipline.

193F—8.3(272C,543D) Sources of information. Without limitation, the following nonexclusive list of information sources may form the basis for the initiation of a disciplinary investigation or proceeding:

1. News articles or other media sources.
2. General or random review of publicly available work product.
3. Reports filed with the board by the commissioner of insurance pursuant to Iowa Code subsection 272C.4(9).
4. Complaints filed with the board by any member of the public.
5. License applications or other documents submitted to the board, including appraisal logs and appraisal reports.
6. Reports to the board from any regulatory or law enforcement agency from any jurisdiction.
7. Board audits of licensee compliance with conditions for licensure, such as continuing education or qualifying experience.

193F—8.4(17A,272C,543D) Conflict of interest. If the subject of a complaint is a member of the board, or if a member of the board has a conflict of interest in any disciplinary matter before the board, that member shall abstain from participation in any consideration of the complaint and from participation in any disciplinary hearing that may result from the complaint.

193F—8.5(272C,543D) Complaints. Written complaints may be submitted to the board office by mail, E-mail, facsimile or personal delivery by members of the public, including clients, business organizations, lenders, governmental bodies, licensees, or other individuals or entities with knowledge of possible law or rule violations by licensees.

8.5(1) Contents of a written complaint. Written complaints may be submitted on forms provided by the board that are available from the board office and on the board's Web site. Written complaints, whether submitted on a board complaint form or in other written media, shall contain the following information:

- a. The full name, address, and telephone number of the complainant (person complaining).
- b. The full name, address, and telephone number of the respondent (licensee against whom the complaint is filed).
- c. A statement of the facts and circumstances giving rise to the complaint, including a description of the alleged acts or omissions that the complainant believes demonstrate that the respondent has violated or is violating laws or rules enforced by the board.
- d. If known, citations to the laws or rules allegedly violated by the respondent.
- e. Evidentiary supporting documentation.
- f. Steps, if any, taken by the complainant to resolve the dispute with the respondent prior to filing a complaint.

8.5(2) Immunity. As provided by Iowa Code section 272C.8, a person shall not be civilly liable as a result of filing a report or complaint with the board unless such act is done with malice, nor shall an employee be dismissed from employment or discriminated against by an employer for filing such a report or complaint.

8.5(3) *Role of complainant.* The role of the complainant in the disciplinary process is limited to providing the board with factual information relative to the complaint. A complainant is not party to any disciplinary proceeding which may be initiated by the board based in whole or in part on information provided by the complainant.

8.5(4) *Role of the board.* The board does not act as an arbiter of disputes between private parties, nor does the board initiate disciplinary proceedings to advance the private interest of any person or party. The role of the board in the disciplinary process is to protect the public by investigating complaints and initiating disciplinary proceedings in appropriate cases. The board possesses sole decision-making authority throughout the disciplinary process, including the authority to determine whether a case will be investigated, the manner of the investigation, whether a disciplinary proceeding will be initiated, and the appropriate licensee discipline to be imposed, if any.

8.5(5) *Initial complaint screening.* All written complaints received by the board shall be initially screened by the board's executive officer to determine whether the allegations of the complaint fall within the board's investigatory jurisdiction and whether the facts presented, if true, would constitute a basis for disciplinary action against a licensee. Complaints which are clearly outside the board's jurisdiction, which clearly do not allege facts upon which disciplinary action would be based, or which are frivolous shall be referred by the board's executive officer to the board for closure at the next scheduled board meeting. All other complaints shall be referred by the board's executive officer to the board's disciplinary committee for committee review as described in subrule 8.8(1).

193F—8.6(272C,543D) Case numbers. Whether based on written complaint received by the board or complaint initiated by the board, all complaint files shall be tracked by a case numbering system. Complaints are assigned case numbers in chronological order with the first two digits representing the year in which the complaint was received or initiated, and the second two digits representing the order in which the case file was opened (e.g., 01-01, 01-02, 01-03, etc.). The board's executive officer shall maintain a case file log noting the date each case file was opened, whether disciplinary proceedings were initiated in the case, and the final disposition of the case. Once a case file number is assigned to a complaint, all persons communicating with the board regarding that complaint are encouraged to include the case file number to facilitate accurate records and prompt response.

193F—8.7(272C,543D,546) Confidentiality of complaint and investigative information.

8.7(1) All complaint and investigative information received or created by the board is privileged and confidential pursuant to Iowa Code subsection 272C.6(4). Such information shall not be released to any person except as provided in that section and in this rule.

8.7(2) Disclosure to the subject of the investigation.

a. Legal authority. Pursuant to Iowa Code section 546.10(9), the board may, prior to the initiation of a disciplinary proceeding, supply to a licensee who is the subject of a disciplinary complaint or investigation all or such parts of a disciplinary complaint, disciplinary or investigatory file, report, or other information as the board in its sole discretion believes would aid the investigation or resolution of the matter.

b. General rule. As a matter of general policy, the board shall not disclose confidential complaint and investigative information to a licensee except as permitted by Iowa Code section 272C.6(4). Disclosure of a complainant's identity in advance of the filing of formal disciplinary charges, for instance, may adversely affect a complainant's willingness to file a complaint with the board.

c. Exceptions to general rule. The board may exercise its discretion to release to a licensee information that would otherwise be confidential under Iowa Code section 272C.6(4) under narrow circumstances, including but not limited to the following:

(1) Following a board determination that probable cause exists to file disciplinary charges against a licensee but prior to the issuance of the notice of hearing, the board may provide the licensee with a peer review report or investigative report or with expert opinions, as reasonably needed for the licensee to assess the merits of a settlement proposal.

(2) The board may release to a licensee who is the subject of a board-initiated investigation, including investigations initiated following the board's receipt of an anonymous complaint, such records or information as may aid the investigation or resolution of the matter.

(3) The board may disclose information from a peer review report or consultant's report when soliciting the licensee's position will aid in making the probable cause determination or when providing the information would be educational to the licensee, and such disclosure can be made to the licensee without revealing identifying information regarding the complainant, peer reviewer or consultant.
[ARC 0412C, IAB 10/31/12, effective 12/5/12]

193F—8.8(17A,272C,543D) Investigation procedures.

8.8(1) *Disciplinary committee.* The board chairperson shall annually appoint two to three members of the board to serve on the board's disciplinary committee. The disciplinary committee is a purely advisory body which shall review complaint files referred by the board's executive officer, generally supervise the investigation of complaints, and make recommendations to the full board on the disposition of complaints. Members of the committee shall not personally investigate complaints, but they may review the investigative work product of others in formulating recommendations to the board.

8.8(2) *Committee screening of complaints.* Upon the referral of a complaint from the board's executive officer or from the full board, the committee shall determine whether the complaint presents facts which, if true, suggest that a licensee may have violated a law or rule enforced by the board. If the committee concludes that the complaint does not present facts which suggest such a violation or that the complaint does not otherwise constitute an appropriate basis for disciplinary action, the committee shall refer the complaint to the full board with the recommendation that the complaint be closed with no further action. If the committee determines that the complaint does present a credible basis for disciplinary action, the committee may either immediately refer the complaint to the full board recommending that a disciplinary proceeding be commenced or initiate a disciplinary investigation.

8.8(3) *Committee procedures.* If the committee determines that additional information is necessary or desirable to evaluate the merits of a complaint, the committee may assign an investigator or expert consultant, appoint a peer review committee, provide the licensee an opportunity to appear before the disciplinary committee for an informal discussion as described in rule 193F—8.9(17A,272C,543D) or request board staff to conduct further investigation. Upon completion of an investigation, the investigator, expert consultant, peer review committee or board staff shall present a report to the committee. The committee shall review the report and determine what further action is necessary. The committee may:

- a. Request further investigation.
- b. Determine there is not probable cause to believe a disciplinary violation has occurred, and refer the case to the full board with the recommendation of closure.
- c. Determine there is probable cause to believe that a law or rule enforced by the board has been violated, but that disciplinary action is unwarranted on other grounds, and refer the case to the full board with the recommendation of closure. The committee may also recommend that the licensee be informally cautioned or educated about matters which could form the basis for disciplinary action in the future.
- d. Determine there is probable cause to believe a disciplinary violation has occurred, and refer the case to the full board with the recommendation that the board initiate a disciplinary proceeding (contested case).

8.8(4) *Subpoena authority.* Pursuant to Iowa Code subsections 17A.13(1) and 272C.6(3), the board is authorized in connection with a disciplinary investigation to issue subpoenas to compel witnesses to testify or persons to produce books, papers, records and any other real evidence, whether or not privileged or confidential under law, which the board deems necessary as evidence in connection with a disciplinary proceeding or relevant to the decision about whether to initiate a disciplinary proceeding. Board procedures concerning investigative subpoenas are set forth in 193—Chapter 6.

193F—8.9(17A,272C,543D) Informal discussion. If the disciplinary committee considers it advisable, or if requested by the affected licensee, the committee may grant the licensee any opportunity to appear

before the committee for a voluntary informal discussion of the facts and circumstances of an alleged violation, subject to the provisions of this rule.

8.9(1) An informal discussion is intended to provide a licensee an opportunity to share in an informal setting the licensee's side of a complaint before the board determines whether probable cause exists to initiate a disciplinary proceeding. Licensees are not required to attend an informal discussion. Because disciplinary investigations are confidential, licensees may not bring other persons with them to an informal discussion, but licensees may be represented by legal counsel.

8.9(2) Unless disqualification is waived by the licensee, board members or staff who personally investigate a disciplinary complaint are disqualified from making decisions or assisting the decision makers at a later formal hearing. Because board members generally rely upon investigators, peer review committees, or expert consultants to conduct investigations, the issue rarely arises. An informal discussion, however, is a form of investigation because it is conducted in a question and answer format. In order to preserve the ability of all board members to participate in board decision making and to receive the advice of staff, licensees who desire to attend an informal discussion must therefore waive their right to seek disqualification of a board member or staff based solely on the board member's or staff's participation in an informal discussion. Licensees would not be waiving their right to seek disqualification on any other ground. By electing to attend an informal discussion, a licensee accordingly agrees that participating board members or staff are not disqualified from acting as a presiding officer in a later contested case proceeding or from advising the decision maker.

8.9(3) Because an informal discussion constitutes a part of the board's investigation of a pending disciplinary case, the facts discussed at the informal discussion may be considered by the board in the event the matter proceeds to a contested case hearing and those facts are independently introduced into evidence.

8.9(4) The disciplinary committee, subject to board approval, may propose a consent order at the time of the informal discussion. If the licensee agrees to a consent order, a statement of charges shall be filed simultaneously with the consent order, as provided in rule 193—7.4(17A,272C).

193F—8.10(272C,543D) Peer review committee (PRC). A peer review committee may be appointed by the board to investigate a complaint. The committee may consist of one or more certified general or certified residential real property appraisers registered to practice in Iowa. The board may appoint a single peer review consultant to perform the functions of a PRC when, in the board's opinion, appointing a committee with more members would be impractical, unnecessary or undesirable given the nature of the expertise required, the need for prompt action or the circumstances of the complaint. An individual shall be ineligible as a PRC member in accordance with the standard for disqualification found in 193—7.14(17A).

8.10(1) Authority. The PRC investigation may include activities such as interviewing the complainant, the respondent, and individuals with knowledge of the respondent's practice in the community; gathering documents; and performing independent analyses as deemed necessary. The board may give specific instructions to the PRC regarding the scope of the investigation. In the course of the investigation, PRC members shall refrain from advising the complainant or respondent on actions that the board might take.

8.10(2) Term of service. The PRC serves at the pleasure of the board. The board may dismiss any or all members of a PRC or add new members at any time.

8.10(3) Compensation. PRC members may receive compensation as the board may provide by contract. Within established budget limitations, PRC members may be reimbursed for reasonable and necessary expenses that are incurred for travel, meals and lodging while performing committee duties. The PRC shall not hire legal counsel, investigators, secretarial help or any other assistance without written authorization from the board.

8.10(4) Reports. Each PRC shall submit a written report to the board within a reasonable period of time.

8.10(5) Components of the report. The report shall include:

- a. Statement of the charge to the PRC;

b. Description of the actions taken by the PRC in its investigation, including but not limited to appraisal review(s) and interviews with the respondent or complainant;

c. Summary of the PRC's findings, including the PRC's opinion as to whether a violation occurred, citation of the specific USPAP violation(s), citation of the Iowa Code section(s) and Iowa Administrative Code rule(s) violated, and the PRC's opinion of the seriousness of the violation;

d. Recommendation.

8.10(6) Recommended action. The PRC report shall recommend one of the following:

a. Dismissal of the complaint;

b. Further investigation;

c. Disciplinary proceedings;

d. Allowing the appraiser who is the subject of the complaint an opportunity to appear before the board for an informal discussion regarding the circumstances of the alleged violation.

If the PRC recommends further investigation or disciplinary proceedings, supporting information must be submitted to the board including citation of the specific USPAP violation(s), Iowa Code section(s) and Iowa Administrative Code rule(s) violated.

8.10(7) Disciplinary recommendations. When recommending disciplinary proceedings, a PRC shall refrain from suggesting a particular form of discipline, but may provide guidance on the severity of the violations that prompted the recommendation and may identify professional areas in which the appraiser needs additional education or supervision in order to safely practice.

8.10(8) Confidentiality. The PRC shall not discuss its findings and conclusions with any party to the complaint other than the board (through its report to the board) or board staff. PRC findings including the name of the complainant shall be kept confidential at all times. PRC findings shall be used only for the purposes of the board's possible disciplinary action and not for any other court case, lawsuit, or investigation.

8.10(9) Testimony. In the event of formal disciplinary proceedings, PRC members may be required to testify.

193F—8.11(17A,272C,543D) Closing complaint files.

8.11(1) Grounds for closing. Upon the recommendation of the executive officer, the recommendation of the disciplinary committee, or on its own motion, the board may close a complaint file, with or without prior investigation. Given the broad scope of matters about which members of the public may complain, it is not possible to catalog all possible reasons why the board may close a complaint file. The following nonexclusive list is, however, illustrative of the grounds upon which the board may close a complaint file:

a. The complaint alleges matters outside the board's jurisdiction.

b. The complaint does not allege a reasonable or credible basis to believe that the subject of the complaint violated a law or rule enforced by the board.

c. The complaint is frivolous or trivial.

d. The complaint alleges matters more appropriately resolved in a different forum, such as civil litigation to resolve a contract dispute, or more appropriately addressed by alternative procedures, such as outreach education or rule making.

e. The matters raised in the complaint are situational, isolated, or unrepresentative of a licensee's typical practice, and the licensee has taken appropriate steps to ensure future compliance and prevent public injury.

f. Resources are unavailable or better directed to other complaints or board initiatives in light of the board's overall budget and mission.

g. While the evidence may reveal one or more appraisal standards about which the appraiser should be more vigilant in the future, the issues appear correctable, are not likely to recur with proper diligence in the development and reporting of future appraisals, and do not reveal impediments to competent practice in the future.

h. Other extenuating factors exist which weigh against the imposition of public discipline when considered in the context of the board's purpose and mission.

8.11(2) Closing orders. The board's executive officer may enter an order stating the basis for the board's decision to close a complaint file. If entered, the order shall not contain the identity of the complainant or the respondent and shall not disclose confidential complaint or investigative information.

If entered, a closing order will be indexed by case number and shall be a public record pursuant to Iowa Code subsection 17.3(1) "d." A copy of the order may be mailed to the complainant, if any, and to the respondent. The board's decision whether or not to pursue an investigation, to institute disciplinary proceedings, or to close a file is not subject to judicial review.

8.11(3) Cautionary letters. The board may issue a confidential letter of caution to a licensee when a complaint file is closed which informally cautions or educates the licensee about matters which could form the basis for disciplinary action in the future if corrective action is not taken by the licensee. Informal cautionary letters do not constitute disciplinary action, but the board may take such letters into consideration in the future if a licensee continues a practice about which the licensee has been cautioned.

8.11(4) Reopening closed complaint files. The board may reopen a closed complaint file if additional information arises after closure which provides a basis to reassess the merits of the initial complaint.

193F—8.12(17A,272C,543D) Initiation of disciplinary proceedings. Disciplinary proceedings may only be initiated by the affirmative vote of a majority of a quorum of the board at a public meeting. Board members who are disqualified shall not be included in determining whether a quorum exists. If, for example, two members of the board are disqualified, three members of the board shall constitute a quorum of the remaining five board members for purposes of voting on the case in which the two members are disqualified. When three or more members of the board are disqualified or otherwise unavailable for any reason, the executive officer may request the special appointment of one or more substitute board members pursuant to Iowa Code section 17A.11, subsection 5. Discipline may only be imposed against a licensee by the affirmative vote of a majority of the members of the board who are not disqualified.

193F—8.13(17A,272C,543D) Disciplinary contested case procedures. Unless in conflict with a provision of board rules in this chapter, all of the procedures set forth in 193—Chapter 7 shall apply to disciplinary contested cases initiated by the board.

193F—8.14(543D) Decisions. The board shall make findings of fact and conclusions of law, and may take one or more of the following actions:

1. Dismiss the charges;
2. Suspend or revoke the appraiser's certification or associate's registration as authorized by law;
3. Impose civil penalties, the amount which shall be set at the discretion of the board, but which shall not exceed \$1000 per violation. Civil penalties may be imposed for any of the disciplinary violations specified in Iowa Code section 543D.17 and chapter 272C or for any repeat offenses;
4. Impose a period of probation, either with or without conditions;
5. Require reexamination;
6. Require additional professional education, reeducation, or continuing education;
7. Issue a citation and a warning;
8. Require desk review of the appraiser's work product;
9. Issue a consent order;
10. Impose any other form of discipline authorized by a provision of law that the board, in its discretion, believes is warranted under the circumstances of the case.

193F—8.15(272C,543D) Mitigating and aggravating factors. Factors the board may consider when determining whether to impose discipline and what type of discipline to impose include:

8.15(1) History and background of respondent.

- a. Whether the respondent was a registered associate appraiser or a certified appraiser at the time of the violation.
- b. Prior disciplinary history or cautionary letters.

- c. Length of certification or registration at the time of the violation.
- d. Disciplinary history of current or prior supervisor.
- e. Degree of cooperation with investigation.
- f. Extent of self-initiated reform or remedial action after the date of the violation.
- g. Whether the volume or geographic range of the respondent's practice is, or was at the time of the violation, reasonable under the circumstances.
- h. Whether the respondent practiced with a lapsed, inactive, suspended, revoked, or surrendered certificate or registration.

8.15(2) Nature of violation.

- a. Length of time since the date of the violation.
- b. Whether the violation is isolated or recurring.
- c. Whether there are multiple violations or appraisals involved.
- d. Whether the violation is in the nature of an error or situational carelessness or neglect, or reflects a more fundamental lack of familiarity with applicable appraisal methodology or standards.
- e. Indicia of bad faith, false statements, deceptive practices, or willful and intentional acts, whether within the circumstances of the violation or in the course of the board's investigation or disciplinary proceeding.
- f. Evidence of improper advocacy or other violation of the USPAP ethics rule or of Iowa Code section 543D.18 or 543D.18A(1).
- g. The clarity of the issue or standard involved.
- h. Whether the respondent practiced outside the scope of practice authorized by respondent's certification or registration.
- i. Whether the violation relates to the respondent's supervisory role, the respondent's individual appraisal practice, or both.

8.15(3) Interest of the public.

- a. Degree of financial or other harm to a client, consumer, lending institution, or others.
- b. Risk of harm, whether or not the violation caused actual harm.
- c. Economic or other benefit gained by respondent or by others as a result of the violation.
- d. Deterrent impact of discipline.
- e. Whether the respondent issued a corrected appraisal report when warranted.

[ARC 0412C, IAB 10/31/12, effective 12/5/12]

193F—8.16(272C,543D) Voluntary surrender. The board may accept the voluntary surrender of a license to resolve a pending disciplinary contested case or pending disciplinary investigation. The board shall not accept a voluntary surrender of a license to resolve a pending disciplinary investigation unless a statement of charges is filed along with the order accepting the voluntary surrender. Such voluntary surrender is considered disciplinary action and shall be published in the same manner as is applicable to any other form of disciplinary order.

193F—8.17(272C,543D) Reinstatement. In addition to the provisions of rule 193—7.38(17A,272C), the following provisions shall apply to license reinstatement proceedings:

8.17(1) The board may grant an applicant's request to appear informally before the board prior to the issuance of a notice of hearing on an application to reinstate if the applicant requests an informal appearance in the application and agrees not to seek to disqualify, on the ground of personal investigation, board members or staff before whom the applicant appears.

8.17(2) An order granting an application for reinstatement may impose such terms and conditions as the board deems desirable, which may include one or more of the types of disciplinary sanctions described in rule 193F—8.14(543D).

8.17(3) The board shall not grant an application for reinstatement when the initial order which revoked, suspended or restricted the license, denied license renewal, or accepted a voluntary surrender was based on a criminal conviction and the applicant cannot demonstrate to the board's satisfaction that:

- a. All terms of the sentencing or other criminal order have been fully satisfied;

- b.* The applicant has been released from confinement and any applicable probation or parole; and
- c.* Restitution has been made or is reasonably in the process of being made to any victims of the crime.

These rules are intended to implement Iowa Code sections 543D.5, 543D.17 and 543D.18 and chapters 17A and 272C.

[Filed 8/1/91, Notice 5/29/91—published 8/21/91, effective 9/25/91]

[Filed 12/12/95, Notice 10/25/95—published 1/3/96, effective 2/7/96]

[Filed 4/30/99, Notice 3/24/99—published 5/19/99, effective 6/23/99]

[Filed 2/1/02, Notice 11/28/01—published 2/20/02, effective 3/27/02]

[Filed 5/5/02, Notice 3/20/02—published 5/29/02, effective 7/3/02]

[Filed 9/26/02, Notice 8/21/02—published 10/16/02, effective 11/20/02]

[Filed 11/2/07, Notice 8/29/07—published 11/21/07, effective 12/26/07]

[Filed ARC 0412C (Notice ARC 0209C, IAB 7/11/12), IAB 10/31/12, effective 12/5/12]

CHAPTER 9
RENEWAL, EXPIRATION AND REINSTATEMENT OF
CERTIFICATES AND REGISTRATIONS, AND INACTIVE STATUS
[Prior to 2/20/02, see rules 193F—4.2(543D) and 193F—4.5(543D)]

193F—9.1(272C,543D) Biennial renewal.

9.1(1) Certificates and associate registrations must be renewed on a biennial basis or they shall lapse.

9.1(2) Persons whose last names begin with A to K shall renew in even-numbered years. Persons whose last names begin with L to Z shall renew in odd-numbered years. Certificates and registrations shall expire biennially on June 30.

9.1(3) An application to renew a certificate or registration shall be submitted on a form obtained from the board office or on the board's Web site. Applicants may renew electronically through a board-established electronic process, as available.

193F—9.2(272C,543D) Notices.

9.2(1) It is the policy of the board to mail or send electronic renewal notices to certified and associate appraisers at the last address or e-mail address on file with the board in the May preceding certificate or registration expiration. Neither the failure of the board to send such a notice nor the licensee's failure to receive such a notice shall excuse the requirement to timely renew and pay the renewal fee.

9.2(2) Certified and associate appraisers must ensure that the address on file with the board office is current and that the board is notified within 30 days of any address change.
[ARC 1732C, IAB 11/12/14, effective 12/17/14]

193F—9.3(272C,543D) Renewal procedures.

9.3(1) *Date of filing.* Certified and associate appraisers shall file a timely and sufficient renewal application with the board by the June 30 deadline in the biennial renewal year. An application shall be deemed filed on the date received by the board, the date of electronic submission or, if mailed, the date postmarked, but not the date metered. Applications to renew that are not timely received by the board shall be treated as applications to reinstate, as provided in rule 193F—9.4(272C,543D).

9.3(2) *Continuing education.* An applicant for renewal shall report the applicant's compliance with the continuing education requirements provided in 193F—Chapter 11. Full compliance with applicable continuing education requirements is a condition of renewal in active status. Applications to renew certificates or registrations in active status that do not, on their face, demonstrate full compliance with all applicable continuing education requirements shall be rejected as insufficient, as provided in subrule 9.3(4).

9.3(3) *Background disclosures.* An applicant for renewal shall disclose such background and character information as the board requests, which may include disciplinary action taken by any jurisdiction regarding a professional license of any type, the denial of an application for a professional license of any type by any jurisdiction, and the conviction of any crime.

9.3(4) *Insufficient applications.* The board shall reject applications that are insufficient. A sufficient application within the meaning of Iowa Code section 17A.18(2) must:

- a. Be signed by the applicant if submitted in person or mailed, or be certified as accurate if submitted electronically;
- b. Be fully completed;
- c. Reflect, on its face, full compliance with all applicable continuing education requirements; and
- d. Be accompanied by the proper fee. The fee shall be deemed improper if, for instance, the amount is incorrect, the fee was not included with the application, the credit card number provided by the applicant is incorrect, the date of expiration of a credit card is omitted or incorrect, the attempted credit card transaction is rejected, or the applicant's check is returned for insufficient funds or written on a closed account.

9.3(5) *Resubmission of rejected applications.* The board shall promptly notify an applicant of the basis for rejecting an insufficient renewal application, and shall return or refund any fees received. Applicants for certificate or registration renewal may remedy the insufficiency and resubmit applications

that were rejected as insufficient. Resubmitted applications shall be deemed received when personally delivered to the board office, on the date of electronic submission or, if mailed, the date postmarked, but not the date metered. Resubmitted applications to renew that are not timely received by the board shall be treated as applications to reinstate, as provided in rule 193F—9.4(272C,543D).

9.3(6) *Administrative processing not determinative.* The administrative processing of an application to renew a certificate or registration shall not prevent the board from subsequently commencing a contested case to challenge the applicant's qualifications for continued licensure or to assert disciplinary charges if grounds exist to do so. The board may take such an action, for example, if an application to renew reflects full compliance with continuing education, but the licensee is unable to document compliance in a subsequent audit.

9.3(7) *Denial of timely and sufficient application to renew.* If grounds exist to deny a timely and sufficient application to renew, the board shall send written notification to the applicant stating the grounds for denial. The procedures described in rule 193—7.40(546,272C) shall apply.

193F—9.4(272C,543D) Failure to renew.

9.4(1) The certificate or registration of a certified or associate appraiser shall lapse unless the appraiser submits a timely and sufficient renewal application by the expiration date.

9.4(2) A certified or associate appraiser may renew a certificate or registration after the expiration date by submitting a sufficient renewal application and biennial renewal fee, accompanied by an additional penalty of 25 percent of the biennial renewal fee, within 30 calendar days of the expiration date. The board will allow the reinstatement of a lapsed certificate or registration during the 30-day period following expiration for an appraiser who did not complete all required continuing education during the prior biennium but who will have sufficient continuing education if courses completed during the 30-day period following lapse are included; provided that such applicant must demonstrate 42 hours of qualifying continuing education rather than the 28 hours required to renew for those who completed all continuing education on a timely basis prior to the lapse. The continuing education completed between July 1 and July 30 that fulfills a shortage of continuing education in the prior biennium shall not be counted toward the continuing education required in a subsequent renewal.

9.4(3) If a certified or associate appraiser fails to renew within the 30-day grace period provided for in subrule 9.4(2), the appraiser shall be required to reinstate in accordance with subrule 9.4(5).

9.4(4) Certified and associate appraisers are not authorized to practice or to hold themselves out to the public as certified or registered appraisers during the period of time that the certificate or registration is lapsed, including during the 30-day grace period following the lapse. Any violation of this subrule shall be grounds for discipline.

9.4(5) Reinstatement. The board may reinstate a lapsed certificate or registration upon the applicant's submission of an application to reinstate and completion of all of the following:

- a. Paying a penalty as provided in rule 193F—12.1(543D); and
- b. Paying the current renewal fee as provided in rule 193F—12.1(543D); and
- c. Providing evidence of completed continuing education outlined in rule 193F—11.2(272C,543D), as modified for associate appraisers in subrule 9.4(6), if the licensee wishes to reinstate to active status; and
- d. Providing a written statement outlining the professional activities of the applicant in the state of Iowa during the period in which the applicant's certificate or registration was lapsed. The statement shall describe all appraisal services performed, with or without the use of the titles described in Iowa Code section 543D.15, for all appraisal assignments that are required by federal or state law, rule, or policy to be performed by a certified real estate appraiser.

9.4(6) Special continuing education requirements for reinstating associate appraisers. The board seeks to ensure that associate appraisers make progress toward full completion of all qualifying education required for eventual certification, as provided in rules 193F—5.2(543D) and 193F—6.2(543D). As a result, an associate appraiser applying to reinstate a registration that has been lapsed for 12 months or longer shall apply, in addition to the most recent 7-hour USPAP course, only qualifying education toward the continuing education required for reinstatement, until all qualifying education has been completed.

All qualifying education taken as continuing education may also be applied as qualifying education toward certification. If the applicant has already completed all qualifying education or is required to have continuing education hours beyond those needed to fully complete all qualifying education, the applicant may use any approved continuing education course in addition to the mandatory 7-hour USPAP course. [ARC 1732C, IAB 11/12/14, effective 12/17/14]

193F—9.5(272C,543D) Inactive status.

9.5(1) *General purpose.* This rule establishes a procedure under which a person issued a certificate or associate registration may apply to the board to register in inactive status. Registration under this rule is available to a certificate holder or associate registrant residing within or outside the state of Iowa who is not engaged in Iowa in any practice for which a certificate or associate registration is required. A person eligible to register as inactive may, as an alternative to such registration, allow a certificate or associate registration to lapse. The board will continue to maintain a data base on persons registered as inactive, including information which may not routinely be maintained after a certificate or associate registration has lapsed through failure to renew. A person who registers as inactive will accordingly receive renewal applications, board newsletters and other mass communications from the board. Because a person registered in inactive status may not practice in Iowa or hold oneself out to the public as authorized to practice as a certified appraiser or registered associate appraiser, such person is not required to complete continuing education.

9.5(2) *Eligibility.* A person holding a lapsed or active certificate as a real property appraiser, or a lapsed or active registration as a registered associate, which has not been revoked or suspended may apply on forms provided by the board to register as inactive if the person is not engaged in the state of Iowa in any practice for which a certificate or associate registration is required. Such a person may be actively engaged in the practice of real estate appraising in another jurisdiction. Such a person may also engage in such appraisal practices as may be performed in Iowa by persons who do not hold a certificate as a real property appraiser or associate registration as long as the person does not hold oneself out to the public as a certified or associate real estate appraiser.

9.5(3) *Affirmation.* The application form shall contain a statement in which the applicant affirms that the applicant will not engage in any practice prohibited by subrule 9.5(2) in Iowa without first complying with all rules governing reactivation to active status. A person in inactive status may reactivate to active status at any time pursuant to subrule 9.5(6).

9.5(4) *Renewal.* A person registered as inactive may renew the person's certificate or associate registration on the biennial schedule described in 193F—9.1(272C,543D). Such person is exempt from the continuing education requirements for renewal and will be charged a reduced rate, as provided in 193F—Chapter 12. An inactive certificate or associate registration shall lapse if not timely renewed. An active certificate holder or associate registrant may renew as inactive if such person has not completed all continuing education requirements and may thereafter apply for active status when the deficiency has been remedied.

9.5(5) *Grounds for discipline.* Certified and associate appraisers are not authorized to practice or to hold themselves out to the public as certified or registered appraisers during the period of time that the certificate or registration is in inactive status. Any violation of this subrule shall be grounds for discipline.

9.5(6) *Reactivation.* A person registered as inactive shall apply to reactivate to active status prior to engaging in any practice in Iowa that requires certification or associate registration. An application to reactivate to active status shall be on a form provided by the board, shall demonstrate full compliance with all applicable continuing education requirements, and shall be accompanied by a change of status fee and the biennial fee for active status as provided in rule 193F—12.1(543D). Prior to reactivation to active status, the applicant must complete all education that would have been required had the applicant been on active status, including the most recent seven-hour USPAP update course. All such continuing education must be verified whether or not the applicant has been in active practice in another jurisdiction. Additionally, the special continuing education requirements that apply to associate appraisers reinstating a lapsed registration, as provided in subrule 9.4(6), shall apply to associate appraisers reactivating to active status following a period of inactive status of 12 months or longer. Such an applicant shall be

given credit for the most recent renewal fees previously paid if the applicant applies to reactivate in the same biennium at other than the applicant's regular renewal date. An applicant changing from active to inactive status during a biennial renewal period shall not, however, be entitled to a refund of any of the fees previously paid to attain active status.

[ARC 1732C, IAB 11/12/14, effective 12/17/14]

193F—9.6(272C,543D) Property of the board. Every certificate or associate registration issued by the board shall, while it remains in the possession of the holder, be preserved by the holder but shall, nevertheless, always remain the property of the board. In the event that a certificate or associate registration is revoked or suspended, or is not renewed, or is registered in inactive status, it shall, on demand, be delivered by the holder to the board. The board shall generally not request return of a certificate or associate registration if it has not been revoked, suspended or voluntarily surrendered in a disciplinary action, but may do so if the board reasonably determines that grounds exist to believe that a person holding a lapsed or inactive certificate or associate registration has engaged in a practice for which active certification or registration is required.

These rules are intended to implement Iowa Code section 543D.5.

[Filed 2/1/02, Notice 11/28/01—published 2/20/02, effective 3/27/02]

[Filed 4/22/05, Notice 3/16/05—published 5/11/05, effective 6/15/05]

[Filed ARC 1732C (Notice ARC 1629C, IAB 9/17/14), IAB 11/12/14, effective 12/17/14]

CHAPTER 10
RECIPROCITY

[Prior to 2/20/02, see 193F—Chapter 5]

193F—10.1(543D) Nonresident certification by reciprocity.

10.1(1) A nonresident of Iowa seeking certification in this state shall apply on forms provided by the board and pay the appropriate fee required in rule 193F—12.1(543D).

10.1(2) The board may issue a reciprocal certificate to a nonresident individual who is certified and demonstrates good standing in another state. An appraiser who is listed in good standing on the National Registry of the Appraisal Subcommittee satisfies the requirement that good standing be demonstrated and does not need to submit additional documentation. An appraiser who is not listed in good standing on the National Registry of the Appraisal Subcommittee must supply an official letter of good standing issued by the licensing board of the appraiser's resident state and bearing its seal. An appraiser may verify the appraiser's status on the National Registry of the Appraisal Subcommittee by accessing the Web site at www.asc.gov.

10.1(3) A reciprocal certified appraiser shall comply with all provisions of Iowa law and rules.

10.1(4) Reciprocal certified appraisers shall be required to pay the federal registry fee as required in rule 193F—12.3(543D).

[ARC 1197C, IAB 11/27/13, effective 1/1/14]

193F—10.2(543D) Nonresident temporary practice.

10.2(1) The board will recognize, on a temporary basis and for a maximum of two assignments per year, the certification of an appraiser issued by another state.

10.2(2) The appraiser must register with the board and identify the property(ies) to be appraised, the name and address of the client and the estimated length of time the appraiser will be in the state. The appraiser must demonstrate good standing to be considered for a temporary practice permit. An appraiser who is listed in good standing on the National Registry of the Appraisal Subcommittee satisfies the requirement that good standing be demonstrated and does not need to submit additional documentation. An appraiser who is not listed in good standing on the National Registry of the Appraisal Subcommittee must supply an official letter of good standing issued by the licensing board of the appraiser's resident state and bearing its seal. An appraiser may verify the appraiser's status on the National Registry of the Appraisal Subcommittee by accessing the Web site at www.asc.gov. Registration shall be on a form provided by the board and submitted to the board office prior to the performance of the appraisal. The appraiser shall pay the appropriate fee as required in 193F—12.1(543D).

10.2(3) An appraiser holding an inactive or lapsed certificate as a real estate appraiser in Iowa may apply for a temporary practice permit if the appraiser holds an active, unexpired certificate as a real estate appraiser in good standing in another jurisdiction and is otherwise eligible for a temporary practice permit.

10.2(4) An appraiser who was previously a registered associate or certified appraiser in Iowa whose Iowa registration or certificate has been revoked or surrendered in connection with a disciplinary investigation or proceeding is ineligible to apply for a temporary practice permit in Iowa.

10.2(5) The board may deny an application for a temporary practice permit if the applicant has been disciplined in Iowa or another jurisdiction, a disciplinary investigation or proceeding is pending in Iowa, the person has been convicted of a crime that is a ground for discipline in Iowa, or it appears the applicant is applying for a temporary permit because the applicant would not qualify to renew or reinstate in active status in Iowa and the application for a temporary permit is made primarily to compromise compliance with Iowa laws and rules.

10.2(6) An appraiser holding an inactive or lapsed Iowa certificate who applies to reinstate to active status in Iowa shall not be given credit for any fees paid during the biennial period for one or more temporary practice permits.

10.2(7) An appraiser holding a license to practice as a real estate appraiser in another jurisdiction may practice in Iowa without applying for a temporary practice permit or paying any fees as long as

the appraiser does not perform appraisal services in Iowa for which certification is required by state or federal law, rule or policy.

10.2(8) The board must receive and approve an application for a temporary practice permit before the applicant is eligible to practice in Iowa under a temporary practice permit. Applicants are encouraged to submit applications by e-mail or facsimile to avoid the possible delays of mail service, because the board will not approve an application with a retroactive start date. The board shall grant or deny all applications for temporary practice permits as quickly as reasonably feasible and no later than five days of receipt of a completed application. Applicants shall use the form prescribed by the board. Applicants disclosing discipline or criminal convictions shall attach documentation from which the board can determine if the discipline or criminal history would be a ground to deny the application. Falsification of information or failure to disclose material information shall be a ground to deny the application and may form the basis to deny any subsequent application or an application to reinstate a lapsed or inactive Iowa certificate.

[ARC 9865B, IAB 11/30/11, effective 1/4/12]

These rules are intended to implement Iowa Code sections 543D.10 and 543D.11.

[Filed 8/1/91, Notice 5/29/91—published 8/21/91, effective 9/25/91]

[Filed 12/12/95, Notice 10/25/95—published 1/3/96, effective 2/7/96]

[Filed 2/1/02, Notice 11/28/01—published 2/20/02, effective 3/27/02]

[Filed 2/22/07, Notice 1/17/07—published 3/14/07, effective 4/18/07]

[Filed 3/27/08, Notice 1/30/08—published 4/23/08, effective 5/28/08]

[Filed ARC 9865B (Notice ARC 9716B, IAB 9/7/11), IAB 11/30/11, effective 1/4/12]

[Filed ARC 1197C (Notice ARC 1035C, IAB 10/2/13), IAB 11/27/13, effective 1/1/14]

CHAPTER 11
CONTINUING EDUCATION
[Prior to 2/20/02, see 193F—Chapter 6]

193F—11.1(272C,543D) Definitions. For the purpose of these rules, the following definitions shall apply:

“*Approved program*” means a continuing education program, course, or activity that satisfies the standards set forth in these rules and has received advance approval of the board pursuant to these rules.

“*Approved provider*” means a person or an organization that has been approved by the board to conduct continuing education programs pursuant to these rules.

“*Board*” means the Iowa real estate appraiser examining board.

“*Continuing education*” means education which is obtained by a person certified to practice real estate appraising in order to maintain, improve, or expand skills and knowledge obtained prior to initial certification or registration, or to develop new and relevant skills and knowledge, all as a condition of renewal.

“*Credit hour*” means the value assigned by the board to a continuing education program.

“*Distance education*” means any education process based on the geographical separation of student and instructor. “Distance education” includes computer-generated programs and webinars.

“*Guest speaker*” means an individual who teaches an appraisal education program on a one-time-only or very limited basis and who possesses a unique depth of knowledge and experience in the subject matter.

“*Hour*” means 50 minutes of instruction.

“*Live instruction*” means an educational program delivered in a classroom setting where both the student and the instructor are present in the same room.

[ARC 9865B, IAB 11/30/11, effective 1/4/12; ARC 1732C, IAB 11/12/14, effective 12/17/14]

193F—11.2(272C,543D) Continuing education requirements.

11.2(1) Certified residential, certified general and associate appraisers must demonstrate compliance with the following continuing education requirements as a condition of biennial renewal:

a. A minimum of 28 credit hours in approved continuing education programs must be acquired during the two-year renewal period. Carryover hours from a previous renewal period are not allowed.

b. The purpose of continuing education is to ensure that the appraiser participates in a program that maintains and increases the appraiser’s skill, knowledge and competency in real estate appraising. Credit may be granted for educational offerings that are consistent with the purpose of continuing education. A minimum of 21 of the required 28 credit hours must involve courses that address one or more of the subject areas listed in subrule 11.4(2).

c. Appraisers must successfully complete the seven-hour National USPAP Update Course, or its equivalent, each two-year renewal cycle. Equivalency shall be determined through the AQB Course Approval Program or by an alternate method established by the AQB. USPAP continuing education credit shall be awarded only when the class is instructed by an AQB-certified instructor(s) and when the class is instructed by at least one state-certified residential or state-certified general appraiser. Individuals who are credentialed in more than one jurisdiction shall not have to take more than one seven-hour National USPAP Update Course within a two-calendar-year period for the purposes of meeting AQB criteria.

11.2(2) All continuing education credit hours may be acquired in approved classroom or distance education programs.

11.2(3) A maximum of 14 of the required 28 credit hours may be claimed by an instructor for teaching one or more approved continuing education programs in an amount equal to the credit hours approved for attendees. Instructors claiming such credit must teach the appraisal course during the renewal cycle in which credit is claimed and may not claim the course more than once in the renewal cycle. The board may request supportive documentation to ascertain course content and to verify the date(s), time, place and hours taught.

11.2(4) An applicant seeking to renew an initial certificate or registration issued less than 185 days prior to renewal is not required to report any continuing education. An applicant seeking to renew an initial certificate or registration issued for 185 days to 365 days prior to renewal must demonstrate completion of at least 14 credit hours, including 7 credit hours of the most recent National USPAP Update. An applicant seeking to renew an initial certificate or registration issued 365 days prior to renewal or more must demonstrate completion of at least 28 credit hours, including 7 credit hours of the most recent National USPAP Update.

11.2(5) Prior to reinstatement or reactivation of a certified general registration or a certified residential registration, a certified credential holder in inactive or lapsed status must complete all required continuing education hours that would have been required if the certified credential holder was in active status. The required hours must also include the most recent edition of a 7-hour National USPAP Update Course. Waivers may not be granted to credential holders who have failed to meet the continuing education requirements.

11.2(6) During each two-year renewal period, a continuing education program may be taken for credit only once, except USPAP courses.

11.2(7) Successful completion of a continuing education program requires that at least 50 minutes of every class hour be attended by the student. Continuing education credits shall not be granted to attendees who are present for less than 50 minutes of every class hour.

11.2(8) An applicant may claim continuing education credits earned in a state that has a continuing education requirement for renewal of a real estate appraisal certificate if the program is approved by the appraisal certification board of that state or the Appraiser Qualifications Board for continuing education purposes. All other programs must be approved upon application to the board pursuant to rules 193F—11.4(272C,543D), 193F—11.5(272C,543D) and 193F—11.6(272C,543D).

11.2(9) A person certified or registered to practice real estate appraising in Iowa shall be deemed to have complied with Iowa's continuing education requirements for periods in which the person is a resident of another state or district having continuing education requirements for real estate appraising and meets all requirements of that state or district. Waivers may not be granted to credential holders who have failed to meet the continuing education requirements. Deferrals may not be granted to credential holders, except in the case of persons returning from active military duty. Credential holders returning from active military duty may be placed in active status for a period of up to 90 days pending completion of all continuing education requirements. To qualify, the credential holder must submit a request in writing and provide a copy of the military orders.

[ARC 7774B, IAB 5/20/09, effective 6/24/09; ARC 9865B, IAB 11/30/11, effective 1/4/12; ARC 0412C, IAB 10/31/12, effective 12/5/12; ARC 0635C, IAB 3/6/13, effective 4/10/13; ARC 1732C, IAB 11/12/14, effective 12/17/14]

193F—11.3(272C,543D) Hardship and disability provisions. Rescinded IAB 5/20/09, effective 6/24/09.

193F—11.4(272C,543D) Minimum program qualifications.

11.4(1) Continuing education programs, as a condition of board approval, must provide a formal program of learning that contributes to the growth in the professional knowledge and professional competence of real estate appraisers.

11.4(2) Continuing education programs dealing with the following subject areas that are integrally related to appraisal topics will generally be acceptable:

- a. Ad valorem taxation;
- b. Agriculture production and economics;
- c. Agronomy/soil;
- d. Approaches to value;
- e. Arbitrations, dispute resolution;
- f. Courses related to the practice of real estate appraisal or consulting;
- g. Construction cost or development cost estimating;
- h. Ethics and standards of professional practice, USPAP;
- i. Land use planning or zoning;

- j.* Management, leasing, time sharing;
- k.* Property development, partial interests;
- l.* Real estate appraisal law and rules;
- m.* Real estate appraisal (valuations/evaluations);
- n.* Real estate law, easements, and legal interests;
- o.* Real estate litigation, damages, condemnation;
- p.* Real estate financing and investment;
- q.* Real estate appraisal-related computer applications;
- r.* Real estate securities and syndication;
- s.* Developing opinions of real property value in appraisals that also include personal property or business value, or both;
- t.* Seller concessions and impact on value; and
- u.* Energy efficient items and “green building” appraisals.

11.4(3) The following programs will not be acceptable:

- a.* Sales promotion or other meetings held in conjunction with the appraiser’s general business;
- b.* Time devoted to breakfast, lunch or dinner;
- c.* A program certified by the use of a challenge examination. The required number of hours must be completed to receive credit hours;
- d.* Meetings that are a normal part of the in-house staff or employee training;
- e.* Programs that do not provide at least two credit hours.

11.4(4) Continuing education credit will be granted only for whole hours, with a minimum of 50 minutes constituting one hour. For example, 100 minutes of continuous instruction would count as two credit hours; however, more than 50 minutes but less than 100 minutes of continuous instruction would only count as one hour.

11.4(5) Continuing education credit may be approved for university or college courses in qualifying topics according to the following formula: Each semester hour of credit shall equal 15 credit hours and each quarter hour of credit shall equal 10 credit hours.

[ARC 9865B, IAB 11/30/11, effective 1/4/12; ARC 1732C, IAB 11/12/14, effective 12/17/14]

193F—11.5(272C,543D) Standards for provider and program approval. Providers and programs must satisfy the following minimum standards in order to be preapproved in accordance with the procedures established in rule 193F—11.4(272C,543D) and in order to maintain approved status.

11.5(1) The program must be taught or developed by individuals who have the education, training and experience to be considered experts in the subject matter of the program and competent in the use of teaching methods appropriate to the program.

11.5(2) Live instruction programs must be taught by instructors who have successfully completed an instructor development workshop within 24 months preceding board approval of the program. Certified USPAP instructors shall be considered to have met this requirement.

11.5(3) In determining whether an instructor is qualified to teach a particular program, the board will consider whether the instructor has an ability to teach and an in-depth knowledge of the subject matter.

11.5(4) An instructor may demonstrate the ability to teach by meeting one or more of the following criteria:

- a.* Hold a bachelor’s degree or higher in education from an accredited college (attach a copy of transcripts);
- b.* Hold a current teaching credential or certificate in any real estate or real estate-related fields (attach copy);
- c.* Hold a certificate of completion in the area of instruction from an instructor institute, workshop or school that is sponsored by a member of the Appraisal Foundation (detail specific teaching experiences);
- d.* Hold a full-time current appointment to the faculty of an accredited college;
- e.* Other, as the board may determine.

11.5(5) An instructor may demonstrate in-depth knowledge of the program's subject matter by meeting one or more of the following criteria:

a. Hold a bachelor's degree or higher from an accredited college with a major in a field of study directly related to the subject matter of the course the instructor proposes to teach, such as business, economics, accounting, real estate or finance (attach copy of transcript);

b. Hold a bachelor's degree or higher from an accredited college and have five years of appraisal experience related to the subject matter of the course the instructor proposes to teach (attach copy of transcript and document how the instructor's experience is related to the subject matter the instructor proposes to teach);

c. Hold a generally recognized professional real property appraisal designation or be a sponsor member of the Appraisal Foundation;

d. Other, as the board may determine.

11.5(6) Only AQB-certified USPAP instructors, listed on the Web site of the Appraisal Foundation may teach the national USPAP courses including the 15-hour tested course and the 7-hour continuing education course.

11.5(7) Course content and materials must be accurate, consistent with currently accepted standards relating to the program's subject matter and updated no later than 30 days after the effective date of a change in standards, laws or rules.

11.5(8) Programs must have an appropriate means of written evaluation by participants. Evaluations shall include the relevance of the materials, effectiveness of presentation, content, facilities, and such additional features as are appropriate to the nature of the program.

11.5(9) No part of any course shall be used to solicit memberships in organizations, recruit appraisers for affiliation with any organization or advertise the merits of any organization or sell any product or service.

11.5(10) Providers must clearly inform prospective participants of the number of credit hours preapproved by the board for each program and all applicable policies concerning registration, payment, refunds, attendance requirements and examination grading.

11.5(11) Procedures must be in place to monitor whether the person receiving credit hours is the person who attended or completed the program.

11.5(12) Providers must be accessible to students during normal business hours to answer questions and provide assistance as necessary.

11.5(13) Providers must comply with or demonstrate exemption from the provisions of Iowa Code sections 714.14 to 714.25.

11.5(14) Providers must designate a coordinator in charge of each program who will act as the board's contact on all compliance issues.

11.5(15) Programs shall not offer more than eight credit hours in a single day.

11.5(16) Providers shall not provide any information to the board, the public or prospective students which is misleading in nature. For example, providers may not refer to themselves as a "college" or "university" unless qualified as such under Iowa law.

11.5(17) Providers must establish and maintain for a period of five years complete and detailed records on the programs successfully attended by each Iowa participant.

11.5(18) Providers must issue an individual certificate of attendance to each participant upon successful completion of the program. The certificate must be no larger than 8½" × 11" and must include the provider name and number, program name and number, name of attendee, date program was completed, number of approved credit hours, and the signature of the coordinator or other person authorized by the board.

11.5(19) Program providers and instructors are solely responsible for the accuracy of all program materials, instruction and examinations. Board approval of a provider or program is not an assurance or warranty of accuracy and shall not be explicitly or implicitly marketed or advertised as such.

11.5(20) Providers must apply for approval using forms prescribed by the board.

[ARC 1732C, IAB 11/12/14, effective 12/17/14]

193F—11.6(272C,543D) Acceptable distance education courses. Distance education is an education process based on the geographical separation of student and instructor. A distance education course is acceptable to meet class hour requirements if:

11.6(1) The course provides interaction. Interaction is a reciprocal environment in which the student has verbal or written communication with the instructor; and

11.6(2) Content approval is obtained from the AQB, a state licensing jurisdiction, or an accredited college, community college, or university that offers distance education programs and is approved or accredited by the Commission on Colleges, a regional or national accreditation association, or by an accrediting agency that is recognized by the U.S. Secretary of Education. Nonacademic credit college courses provided by a college shall be approved by the AQB or the state licensing jurisdiction; and

11.6(3) Course delivery mechanism approval is obtained from one of the following sources:

- a. AQB-approved organizations providing approval of course design and delivery; or
- b. A college or university that qualifies for content approval pursuant to subrule 11.6(2) that awards academic credit for the distance education course; or
- c. A qualifying college or university for content approval with a distance education delivery program that approves the course design and delivery that incorporate interactivity.

11.6(4) Distance education courses must include at least one of the following:

a. A written examination proctored by an official approved by the college or university, or by the sponsoring organization. The term “written” in this subrule refers to an examination that may be written on paper or administered electronically on a computer or other device. Oral examinations are not acceptable.

b. Successful completion of prescribed course mechanisms required to demonstrate knowledge of the subject matter.

[ARC 1732C, IAB 11/12/14, effective 12/17/14]

193F—11.7(272C,543D) Applications for approval of programs. Applications for approval of programs must be submitted on forms prescribed by the board. All non-AQB courses are approved for 24 months, including the month of approval. AQB-approved courses are approved through the AQB expiration date, which may be longer than 24 months from the date of approval.

11.7(1) Approval must be obtained for each program separately.

11.7(2) A nonrefundable fee of \$50 must be submitted for each program except for programs that are submitted for approval by the primary provider and that have been approved by the Appraiser Qualifications Board through the Course Approval Program (CAP).

11.7(3) All required forms and attachments must be submitted for approval at least 30 days prior to the first offering of each program. The board will approve or deny each program, in whole or part, within 15 days of the date the board receives the fee and fully completed application.

11.7(4) Application forms for non-AQB CAP courses will request information including, but not limited to, the following:

- a. Program description;
- b. Program purpose;
- c. Learning objectives that specify the level of knowledge or competency the student should demonstrate upon completing the program;
- d. Description of the instructional methods utilized to accomplish the learning objective;
- e. Identifying information for all guest speakers or instructors and such documentation as is necessary to verify compliance with the instructor qualifications described in subrule 11.5(5);
- f. Copies of all instructor and student program materials;
- g. Copies of all examinations and a description of all grading procedures;
- h. A description of the diagnostic assessment method(s) used when examinations are not given;
- i. Such information as needed to verify compliance with board rules;
- j. The name, address, telephone number, and e-mail address for the program’s coordinator;
- k. Such other information as the board deems reasonably needed for informed decision making.

11.7(5) Application forms for courses that are AQB CAP-approved shall include information as deemed necessary for accurate documentation but may be more limited than information required in subrule 11.7(4).

11.7(6) The board shall assign each provider and program a number. This number shall be placed on all correspondence with the board, all subsequent applications by the same provider, and all certificates of attendance issued to participants.

[ARC 1732C, IAB 11/12/14, effective 12/17/14]

193F—11.8(272C,543D) Waiver of application fees. Application fees may be waived for approved programs sponsored by a federal, state, or local governmental agency when the program is offered at no cost or at a nominal cost to participants. A request for waiver of application fees should be made by the provider or certificate holder at the time the application is filed with the board.

193F—11.9(272C,543D) Authority to approve education. The executive officer has the authority to approve or deny education applications subject to the applicant's right to a hearing as provided for in rule 193F—11.13(272C,543D).

[ARC 1732C, IAB 11/12/14, effective 12/17/14]

193F—11.10(272C,543D) Appraiser request for preapproval of continuing education programs. An appraiser seeking credit for attendance and participation in a program which is to be conducted by a provider not accredited or otherwise approved by the board shall apply for approval to the board at least 15 days in advance of the commencement of the activity. The board shall approve or deny the application in writing. Application for prior approval of a continuing education activity shall include the following fee and information:

1. Application fee of \$25;
2. School, firm, organization or person conducting the program;
3. Location of the program;
4. Title and hour-by-hour outline of the program, course or activity;
5. Credit hours requested for approval;
6. Date of program; and
7. Principal instructor(s).

193F—11.11(272C,543D) Appraiser request for postapproval of continuing education program. An appraiser seeking credit for attendance and participation in a program that was not conducted by an approved provider or approved by the licensing authority in another state or otherwise approved by the board shall submit to the board a request for credit for the program. Within 15 days after receipt of the request, the board shall advise the requester in writing whether the program is approved and the number of hours allowed. Appraisers not complying with the requirement of this rule may be denied credit for the program. Application for postapproval of a continuing education program shall include the following fee and information:

1. Application fee of \$25;
2. School, firm, organization or person conducting the program;
3. Location of the program;
4. Title of program and description of program;
5. Credit hours requested for approval;
6. Dates of program;
7. Principal instructor(s); and
8. Verification of attendance.

193F—11.12(272C,543D) Review of provider or program. The board on its own motion or upon receipt of a complaint or negative evaluation may monitor or review any approved program or provider and, upon evidence of significant variation in the program presented from the program approved, a violation of board rules, or material misstatement or omission in the application form, may withdraw

approval of the provider or program and disallow all or any part of the approved hours granted to the provider. The provider, as a condition of approval, agrees to allow the board or its authorized representatives to monitor ongoing compliance with board rules through means including, but not limited to, unannounced attendance at programs.

193F—11.13(272C,543D) Hearings. In the event of denial, in whole or in part, of any application for approval of a continuing education program or provider, or credit for a continuing education program, or withdrawal of approval of a continuing education program or provider, the provider or appraiser may, within 30 days of the date of mailing of the notice of denial or withdrawal, request a contested case hearing before the board, as provided in rule 193—7.8(17A).

[ARC 1732C, IAB 11/12/14, effective 12/17/14]

These rules are intended to implement Iowa Code sections 543D.5, 543D.9 and 543D.16 and chapter 272C.

[Filed 8/1/91, Notice 5/29/91—published 8/21/91, effective 9/25/91]

[Filed 12/12/95, Notice 10/25/95—published 1/3/96, effective 2/7/96]

[Filed 12/22/97, Notice 11/5/97—published 1/14/98, effective 2/18/98]

[Filed 2/1/02, Notice 11/28/01—published 2/20/02, effective 3/27/02]

[Filed 5/5/02, Notice 3/20/02—published 5/29/02, effective 7/3/02]

[Filed 4/22/05, Notice 3/16/05—published 5/11/05, effective 6/15/05]

[Filed 2/22/07, Notice 1/17/07—published 3/14/07, effective 4/18/07]

[Filed 6/1/07, Notice 3/28/07—published 6/20/07, effective 7/25/07]

[Filed 12/7/07, Notice 10/24/07—published 1/2/08, effective 2/6/08]

[Filed ARC 7774B (Notice ARC 7595B, IAB 2/25/09), IAB 5/20/09, effective 6/24/09]

[Filed ARC 9865B (Notice ARC 9716B, IAB 9/7/11), IAB 11/30/11, effective 1/4/12]

[Filed ARC 0412C (Notice ARC 0209C, IAB 7/11/12), IAB 10/31/12, effective 12/5/12]

[Filed ARC 0635C (Notice ARC 0534C, IAB 12/26/12), IAB 3/6/13, effective 4/10/13]

[Filed ARC 1732C (Notice ARC 1629C, IAB 9/17/14), IAB 11/12/14, effective 12/17/14]

CHAPTER 12

FEES

[Prior to 2/20/02, see 193F—Chapter 10]

193F—12.1(543D) Required fees. The following fee schedule applies to certified general, certified residential and associate appraisers.

Initial examination application fee	\$100
Examination fee (and reexamination fee)	\$145
Biennial registration fee for active status:	
Certified general real property appraiser	\$390
Certified residential real property appraiser	\$390
Associate real property appraiser	\$250
Biennial registration fee for inactive status:	
Certified general real property appraiser	\$130
Certified residential real property appraiser	\$130
Associate real property appraiser	\$50
Temporary practice permit fee (each request)	\$150
Reciprocal application fee (one time only)	\$50
Reciprocal registration fee (biennial)	\$390
Fee to reinstate a lapsed license	\$150 (plus the registration fee)
Fee to reinstate an inactive license to active status	\$50
Reissuance or replacement of a lost, destroyed, or stolen certificate or registration	\$50
Work product review fees:	
Original submission, certified residential	\$300
Original submission, certified general	\$650
Additional residential reports as requested by the board	\$150 per report
Additional nonresidential reports as requested by the board	\$250 per report
Voluntary submission of residential reports for review	\$150 per report
Voluntary submission of nonresidential reports for review	\$250 per report

[ARC 7774B, IAB 5/20/09, effective 6/24/09; ARC 9667B, IAB 8/10/11, effective 9/14/11]

193F—12.2(543D) Prorating of registration fees. An applicant applying for initial registration or certification within 12 months from the applicant's required renewal date, pursuant to 193F—9.1(543D), shall pay half the required fee. An applicant applying for initial registration or certification more than 12 months from the applicant's required renewal date shall pay the full registration fee.

193F—12.3(543D) Federal registry fee. The board shall collect and transmit to the Federal Financial Institutions Examination Council, on an annual basis, a roster of individuals who have received certification or registration as real property appraisers and a registry fee of \$40 for each individual listed on the roster. The registry fee is included in the registration fee.

[ARC 9667B, IAB 8/10/11, effective 9/14/11]

These rules are intended to implement Iowa Code section 543D.6.

[Filed 8/1/91, Notice 5/29/91—published 8/21/91, effective 9/25/91]

[Filed 12/12/95, Notice 10/25/95—published 1/3/96, effective 2/7/96]

[Filed 11/9/00, Notice 8/23/00—published 11/29/00, effective 1/3/01]

[Filed 2/1/02, Notice 11/28/01—published 2/20/02, effective 3/27/02]

[Filed 6/6/03, Notice 4/30/03—published 6/25/03, effective 7/30/03]

[Filed 4/22/05, Notice 3/16/05—published 5/11/05, effective 6/15/05]

[Filed 2/22/07, Notice 1/17/07—published 3/14/07, effective 4/18/07]

[Filed 7/13/07, Notice 5/23/07—published 8/1/07, effective 9/5/07]

[Filed 3/27/08, Notice 1/30/08—published 4/23/08, effective 5/28/08]

[Filed ARC 7774B (Notice ARC 7595B, IAB 2/25/09), IAB 5/20/09, effective 6/24/09]

[Filed ARC 9667B (Notice ARC 9558B, IAB 6/15/11), IAB 8/10/11, effective 9/14/11]

CHAPTER 14
CERTIFIED GENERAL APPRAISER
EDUCATION REQUIREMENTS
Rescinded IAB 5/20/09, effective 6/24/09

CHAPTER 15
SUPERVISOR RESPONSIBILITIES

193F—15.1(543D) Description. The importance of the role of the supervisory appraiser places ethical and professional standards on those who serve in this capacity. The function of the supervisory appraiser is to help adequately prepare an associate to demonstrate professional competence and work independently upon issuance of full licensure. The supervisor is considered an integral part of the training process, and supervision should be considered a full-time, hands-on responsibility.

[ARC 0881C, IAB 7/24/13, effective 8/28/13; ARC 1732C, IAB 11/12/14, effective 12/17/14]

193F—15.2(543D) Supervisory appraiser responsibilities. Supervisory appraisers shall:

1. Ensure that the information presented in the appraisal report is accurate and dependable in order to provide a valid and credible report.
2. Adequately supervise an associate in the data-gathering process to ensure that the associate is correctly and properly collecting pertinent and factual data for analysis.
3. Ensure that the associate is knowledgeable about the various sources from which to gather data and that the data collected is reliable. The associate should be exposed to any sources of research that would be considered by one's peers in the marketplace including cost manuals, multiple listing services, public records and Internet study.
4. Teach the associate to reason independently and formulate reasonable conclusions based upon the analysis of the information gathered.
5. Teach the basic routine of the appraisal process including a consistent and regular pattern of data gathering, analysis, and report writing.
6. Review and critique appraisal reports for accuracy, ease of reading, understanding and purpose, and ensure that all addenda are both relevant and pertinent.
7. Ensure that factual data is reliable and that analysis is both supported and documented. All necessary certification and limiting conditions should be up to date and applicable to the assignment.
8. Expose an associate to as many different property types, report formats and value ranges as possible with the understanding that each time a new or unique assignment is introduced, there is a responsibility to instruct and educate the associate to ensure competency.
9. Inspect each appraised property with the associate until the supervisor determines the associate is competent, in accordance with the COMPETENCY RULE of USPAP for the property type and geographic location.
10. Bring the associate appraiser to a professional level that enables the associate to demonstrate competency independently.

[ARC 0881C, IAB 7/24/13, effective 8/28/13; ARC 1732C, IAB 11/12/14, effective 12/17/14]

193F—15.3(543D) Requirements for a supervisory appraiser.

15.3(1) A supervisory appraiser shall:

- a.* Have a minimum of three years of experience as an Iowa certified appraiser, be in good standing in all jurisdictions, and be actively certified in Iowa during all periods when providing supervision.
- b.* Have a maximum of three associates and shall register with the board the name, office address and starting date of each associate, as well as any termination dates (voluntary or involuntary).
- c.* Be responsible for the training and direct supervision of the associate appraiser by accepting full responsibility for the appraisal report by signing and certifying that the report is in compliance with USPAP.
- d.* Keep copies of associate appraiser reports for a period of at least five years or at least two years after final disposition of any judicial proceeding in which testimony was given, whichever period expires last.
- e.* Comply with all applicable requirements of the Appraiser Qualifications Board.

15.3(2) For purposes of this rule, "good standing" means the absence of a disciplinary action in any jurisdiction which affects the appraiser's legal eligibility to engage in an appraisal practice as a certified appraiser. Examples of disciplinary actions that would affect an appraiser's legal eligibility to engage

in an appraisal practice as a certified appraiser include revocation, suspension, or voluntary surrender to resolve a disciplinary investigation or action, or a practice restriction that limits the type, geographic location, or scope of an appraiser's practice or an appraiser's authority to practice without the supervision of another certified appraiser. An appraiser subject to such a disciplinary action would not be in good standing until three years after the successful completion or termination of the sanction which affected the appraiser's legal eligibility to engage in an appraisal practice as a certified appraiser.

15.3(3) An appraisal experience log shall be maintained jointly by the supervisory appraiser and the associate appraiser as more fully described in rule 193F—4.2(543D).

15.3(4) Effective January 1, 2015, a certified appraiser shall perform as a supervisory appraiser in Iowa only if the appraiser has completed a course that, at a minimum, complies with the specifications for course content established by the Appraiser Qualifications Board. The course is to be completed before the certified appraiser provides supervision.

[ARC 0881C, IAB 7/24/13, effective 8/28/13; ARC 1732C, IAB 11/12/14, effective 12/17/14]

193F—15.4(543D) Restrictions. The board may prohibit or further restrict an appraiser's authorization to act as a supervisory appraiser if the board deems such action necessary to protect the public as part of the remedies or sanctions imposed in a disciplinary action.

[ARC 0881C, IAB 7/24/13, effective 8/28/13]

These rules are intended to implement Iowa Code sections 543D.5 and 543D.22.

[Filed 4/22/05, Notice 3/16/05—published 5/11/05, effective 6/15/05]

[Filed ARC 0881C (Notice ARC 0745C, IAB 5/15/13), IAB 7/24/13, effective 8/28/13]

[Filed ARC 1732C (Notice ARC 1629C, IAB 9/17/14), IAB 11/12/14, effective 12/17/14]

CHAPTER 16
ENFORCEMENT PROCEEDINGS AGAINST NONLICENSEES

193F—16.1(543D) Civil penalties against nonlicensees. The board may impose civil penalties by order against a person who is not certified or registered by the board pursuant to 2007 Iowa Acts, Senate File 137, based on the unlawful practices specified in 2007 Iowa Acts, Senate File 137, section 7.

For the purposes of this chapter, “nonlicensee” means a person who has never been certified or registered with the board, a person who surrendered a certificate or associate registration to the board, or a person whose certificate or associate registration has been revoked by the board.

193F—16.2(543D) Grounds for imposing civil penalties. Grounds for issuing an order requiring compliance with Iowa Code chapter 543D or imposing civil penalties up to \$1,000 for each violation include:

16.2(1) Use of the term “certified real estate appraiser” by a person who is not certified as a real estate appraiser by the board or in compliance with the temporary practice provisions of 193F—10.2(543D).

16.2(2) Use of the term “certified real estate appraiser” by a person in connection with or as part of the name or signature of a firm, partnership, corporation, or group, or in a manner that may be interpreted as referring to a firm, partnership, corporation, group, other business entity, or anyone other than an individual holder of a certificate issued by the board.

16.2(3) Use of the term “associate real estate appraiser” by a person who is not registered with the board as an associate real estate appraiser.

16.2(4) Falsely impersonating a certified real estate appraiser or associate real estate appraiser by using the certification or registration title, number or signature of a certified real estate appraiser or associate real estate appraiser, or by using the nonexistent certification or registration title, number or signature of a fictitious holder of a certificate or registration with the board.

16.2(5) Fraud, deceit, or deception, through act or omission, in connection with an application for certification or registration under Iowa Code chapter 543D, including the submission to the board of false information or documents, or the failure to disclose material information in connection with such an application for certification or registration.

16.2(6) Assisting a certified real estate appraiser in the development or reporting of an appraisal assignment that is required by Iowa Code chapter 543D, or by federal or state law, rule, or policy to be performed by a certified real estate appraiser, unless the person assisting the certified real estate appraiser meets one or more of the following conditions:

- a. The person is certified under this chapter.
- b. The person is registered as an associate real estate appraiser and is acting under the direct supervision of a certified real estate appraiser.
- c. The person is solely providing administrative services, such as taking photographs, preparing charts, or typing reports, and is not providing real estate appraisal assistance in developing the analysis, valuation, opinions, or conclusions associated with the appraisal assignment.
- d. The person is providing professional consultation that does not constitute real property appraisal assistance, such as the assistance of a professional engineer or certified public accountant.

16.2(7) Improperly influencing or attempting to improperly influence the development, reporting, result, or review of a real estate appraisal as provided in 2007 Iowa Acts, Senate File 137, section 7.

193F—16.3(543D) Investigations. The board is authorized by Iowa Code subsection 17A.13(1) and 2007 Iowa Acts, Senate File 137, section 7, to conduct such investigations as are needed to determine whether grounds exist to make application to the district court pursuant to 2007 Iowa Acts, Senate File 137, section 7, or to impose civil penalties against a person who is not certified or registered with the board. Such investigations shall conform to the procedures outlined in 193—Chapter 6 and 193F—Chapter 8. The board is authorized to issue subpoenas and to compel the testimony of witnesses in connection with such investigations, pursuant to 2007 Iowa Acts, Senate File 137, section

7. Complaint and investigatory files solely concerning persons who are not certified or registered by the board are not confidential except as provided in Iowa Code chapter 22.

193F—16.4(543D) Notice of intent to impose civil penalties.

16.4(1) The notice of the board's intent to issue an order to require compliance with 2007 Iowa Acts, Senate File 137, section 7, and to impose a civil penalty shall be served upon the nonlicensee by restricted certified mail, return receipt requested, or by personal service in accordance with Iowa Rule of Civil Procedure 1.305. Alternatively, the nonlicensee may accept service personally or through authorized counsel.

16.4(2) The notice shall include the following:

- a. A statement of the legal authority and jurisdiction under which the proposed civil penalty would be imposed.
- b. Reference to the particular sections of the statutes and rules involved.
- c. A short, plain statement of the alleged unlawful practices.
- d. The dollar amount of the proposed civil penalty and the nature of the intended order to require compliance with 2007 Iowa Acts, Senate File 137, section 7.
- e. Notice of the nonlicensee's right to a hearing and the time frame in which hearing must be requested.
- f. The address to which written request for hearing must be made.

193F—16.5(543D) Request for hearing.

16.5(1) Nonlicensees must request a hearing within 30 days of the date the notice is received or service is accepted. A request for hearing must be in writing and is deemed made on the date of the nonmetered United States Postal Service postmark or the date of personal delivery to the board office.

16.5(2) If a request for hearing is not timely made, as described in the notice, the board chairperson or the chairperson's designee may issue an order imposing a civil penalty and requiring compliance with Iowa Code chapter 543D. The order may be mailed by regular first-class mail or served in the same manner as the notice of intent to impose a civil penalty.

16.5(3) If a request for hearing is timely made, the board shall issue a notice of hearing and conduct a hearing in the same manner as applicable to disciplinary cases against licensees. Hearings involving nonlicensees are open to the public.

16.5(4) A nonlicensee may waive the right to hearing and all attendant rights and enter into a consent order imposing a civil penalty and requiring compliance with Iowa Code chapter 543D at any stage of the proceeding upon mutual consent of the board.

16.5(5) The notice of intent to issue an order and the order are public records available for inspection and copying in accordance with Iowa Code chapter 22. Copies may be published as provided in rule 193—7.30(17A,272C).

193F—16.6(543D) Factors to consider. Among the factors the board may consider when determining the amount of civil penalty to impose, if any, are the following:

1. The time elapsed since the unlawful practice occurred.
2. Evidence of reform or remedial actions.
3. Whether the violation is a repeat offense following a prior warning letter or other notice of the nature of the infraction.
4. Whether the violation involved an element of deception.
5. Whether the unlawful practice violated a prior order of the board, court order, cease and desist agreement, consent order, or similar document.
6. The clarity of the issue involved.
7. Whether the violation was willful and intentional.
8. Whether the nonlicensee acted in bad faith.
9. The extent to which the nonlicensee cooperated with the board.
10. The circumstances leading to the violation.

11. Whether the amount imposed will be a substantial economic deterrent to the violation.
12. The economic benefits gained by the nonlicensee as a result of the violation.
13. The severity of the violation and the risk of harm to the public.
14. The interest of the public.

193F—16.7(543D) Enforcement options. In addition or as an alternative to the administrative process described in these rules, the board may seek an injunction in district court, refer the matter for criminal prosecution, enter into a consent order, issue an informal cautionary letter, refer the matter to the attorney general, or refer the matter to the licensing entity with regulatory authority over the nonlicensee and jurisdiction to take action against the person's real estate-related license as provided in 2007 Iowa Acts, Senate File 137, section 7.

These rules are intended to implement Iowa Code chapter 17A and chapter 543D as amended by 2007 Iowa Acts, Senate File 137.

[Filed 7/13/07, Notice 5/23/07—published 8/1/07, effective 9/5/07]

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. 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.

[ARC 2808C, IAB 11/9/16, effective 1/1/17]

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.

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).

[ARC 2808C, IAB 11/9/16, effective 1/1/17]

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

[Filed ARC 2808C (Notice ARC 2710C, IAB 9/14/16), IAB 11/9/16, effective 1/1/17]