



MINUTES

MARCH 2025 MEETING ADMINISTRATIVE RULES REVIEW COMMITTEE

MEMBERS PRESENT

Senator Mike Klimesh, Vice Chair
Senator Mike Boussetlot
Senator Dan Dawson
Senator Sarah Trone Garriott
Senator Cindy Winckler

Representative Chad Ingels, Chair
Representative Amy Nielsen
Representative Rick L. Olson
Representative Michael V. Sexton
Representative David E. Young

EX OFFICIO, NONVOTING MEMBER: Steve Blankenship, Administrative Rules Coordinator, Office of the Governor

LSA CONTACTS: Organizational staffing provided and minutes prepared by Jack Ewing, Administrative Code Editor, 515.281.6048, and Kate O'Connor, Division Editor/Supervisor, 515.281.6329

BULLETINS NEEDED FOR THIS MEETING: 2/19/25

Procedural Business

Representative Ingels convened the regular, statutory meeting of the Administrative Rules Review Committee (ARRC) at 10 a.m. on Monday, March 10, 2025, in Room 116, State Capitol, Des Moines, Iowa. The next meeting was scheduled for Monday, April 7, 2025, at 10 a.m. The meeting was adjourned at 10:40 a.m.

Fiscal Overview

Mr. Chris Ubben, Division Editor/Supervisor, presented the LSA fiscal report.

UTILITIES COMMISSION

Representing the agency: Jon Tack

ARC 8899C (AF), Hazardous Liquid Pipelines and Underground Storage, Ch. 13
No discussion on ARC 8899C.

Rulemaking type is indicated in parentheses following the ARC number. The acronyms have the following meanings: Notice of Intended Action (NOIA), Amended Notice of Intended Action (ANOIA), Notice of Termination (NOT), Adopted and Filed Emergency (AFE), Filed Emergency After Notice (FEAN), and Adopted and Filed (AF).

REVENUE DEPARTMENT

Representing the agency: Madelyn Cutler

ARC 8944C (AF), Rules on Agency Procedure, Chs. 1-7, 201

Mr. Nate Ristow, on behalf of the Iowa Taxpayer's Association (ITA), stated that there were discrepancies between chapter 7, ARC 8944C, that dealt with taxpayer requirements and chapter 11, ARC 8947C, that dealt with department requirements. He further stated that the red tape review process was intended to identify opportunities to reduce the regulatory burden for Iowans, and ITA had concerns with how 701 IAC 7.85 interacts with 701 IAC 11.6(2) and 11.6(4). 701 IAC 7.85 requires taxpayers to provide the department with an explanation for any error, and all relevant facts related to the error. 701 IAC 11.6(2) and 11.6(4) do not require the department to provide a taxpayer with a complete explanation for the basis of an assessment or a refund denial. ITA requested that the department have the same burden as was placed on the taxpayer, and the department be required to provide the taxpayer with all factual and legal bases for the department's assessments and refund denials. He explained that the department had declined to do that and had cited Iowa Code section 421.60, the Tax Procedures and Practices Act, as the reason. He stated that ITA contended that Iowa Code section 421.60 sets the floor for what the department was required to provide the taxpayer. The department could, through practice or rule, provide a taxpayer with more information when making an assessment or denying a refund so the taxpayer could respond adequately and appropriately. The statute only requires the department to provide the amount of tax, interest, penalty, and the department's computations, and the department is not required to provide an explanation for why the numbers the taxpayer provided were in error.

He stated that ITA commented on 701 IAC 11.6(3) as there was not a limit on the number of times the department could reassess a tax period. He stated that it was unfair for taxpayers to have the department continually make assessments on a taxpayer that the department had already audited, or continue to raise new issues on appeal. He expressed appreciation that the department addressed ITA's concerns regarding the location of an interview and a taxpayer's ability to record an interview, although the department was requiring prior notification that the taxpayer intended to record an interview. He stated that Iowa Code section 421.60 directs the department to adopt rules, permits taxpayers to record interviews, and does not place restrictions on a taxpayer's ability to do so. He stated that ITA would not ask for a session delay as these were the existing rules, but added that the red tape review provided the opportunity to improve the rules. He also stated that the ITA might pursue a legislative solution.

Committee members asked the department to explain the department's unlimited reassessments of taxpayers. Ms. Cutler responded that 701 IAC 11.6(2) and 11.6(3) recognize the department's duty to issue assessments and supplemental assessments within the statute of limitations, and that the department was prohibited from assessing outside of the statute of limitations. She stated that 701 IAC 11.6(5) prohibits the department from supplemental assessments for the same issue in the same tax period.

No action taken on ARC 8944C.

ARC 8945C (AF), Forms and Communications, Ch. 8

Mr. Nate Ristow, on behalf of the Iowa Taxpayer's Association (ITA), stated that the ITA looked forward to working with the department to streamline the power of attorney approval process. He stated that ITA was in favor of eliminating the representative certification form, which is separate from the power of attorney form, and ITA practitioner members found the form duplicative, burdensome, and confusing for taxpayers. It was a self-attestation of information that was also included in the power of attorney form, and ITA recommended adding the self-attestation to the power of attorney form.

No action taken on ARC 8945C.

ARC 8947C (AF), Tax Administration, Chs. 11, 202

See discussion of ARC 8944C above.

No action taken on ARC 8947C.

INSPECTIONS AND APPEALS DEPARTMENT

Representing the agency: Amy Oetken

ARC 8905C (NOIA), Dependent Adult Abuse in Facilities and Programs, Ch. 52

Committee members asked why “shall” was changed to “should” rather than “will” in rule 481 IAC 52.2(2)(f). Ms. Oetken responded that she had not drafted the rule; however, she would get an answer and provide that to the committee. Members stated that the word choice indicated that it was optional whether to report, and that was a significant change. Members stated that 481 IAC 55.2(5)(b) struck “is” and replaced it with “may be” which was also a significant change. She replied that she would find out why that change had been made and follow up with the committee.

No action taken on ARC 8905C.

REAL ESTATE COMMISSION

Representing the agency: Emily DeRonde

ARC 8859C (NOIA), Failure to Have a Brokerage Agreement—Civil Penalty, Rule 18.14(5)

Mr. John Dunn, broker manager for Iowa Realty, stated that the class action that resulted in a settlement against the National Association of Realtors, and the Iowa Real Estate Transparency Act (Act), provided the background for his comments. He stated that the rulemaking interpreted the Act and open houses, auctions, and dwellings with more than four units were exempt from requiring a buyer representation agreement (agreement). He stated that another exemption that should be added was the circumstance in which a buyer was not represented, or did not want to be represented, such as a for sale by owner situation. He stated that this could have fair housing ramifications.

Committee members asked for clarification if it was necessary to employ an agent to purchase commercial property. He replied that was the case under the old law; however, that would not be true under the current law. Members asked if that was also true for the purchase of a residential property. He replied that for residential properties a person who represented the buyer had to have an agreement to provide transparency in the transaction. Members asked if it was necessary to employ an agent to buy a house if the house was listed by a real estate company. He replied that if a person engaged with a licensee at any point in the transaction an agreement would be required. He also confirmed that the same would be true for the purchase of commercial property. Members asked for clarification on what his disagreements were with the rulemaking. He replied that under the current rules, an unrepresented buyer in a residential real estate transaction could draft the purchase agreement and not need an agreement. If, however, a buyer involved a licensee in the transaction there must be an agreement. He recommended that if the buyer does not want to be represented, a licensee should still be allowed to pencil the transaction for the buyer without an agreement being required. He also stated that sellers were not required to be represented.

Ms. Greta Haas, speaking on behalf of the Iowa Association of Realtors (IAR), stated that IAR worked closely with the commission on the rulemaking. She stated that an individual who wanted to be represented needed to sign a brokerage agreement either on the listing side or the buyer side. There was still the opportunity to be self-represented and there was no requirement that an individual had to be represented by a licensee. Ms. Jen Kingland, also with IAR, stated that if someone who was unrepresented came into an open house and wanted to write an offer while they were there, IAR does not think a licensee should be allowed to complete that document because of potential liability, and it would also lend itself to the buyer being exposed to bad actors.

No action taken on ARC 8859C.

RACING AND GAMING COMMISSION

Representing the agency: Tina Eick

ARC 8892C (AF), Sports Wagering; Fantasy Sports Contests, Rules 13.2, 13.5, 13.6(3), 14.7(2), 14.8

No discussion on ARC 8892C.