

*State of Iowa*

# **Iowa Administrative Code Supplement**

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The Iowa Administrative Code Supplement is published biweekly pursuant to Iowa Code section 17A.6. The Supplement contains replacement pages to be inserted in the loose-leaf Iowa Administrative Code (IAC) according to instructions included with each Supplement. The replacement pages incorporate rule changes which have been adopted by the agencies and filed with the Administrative Rules Coordinator as provided in Iowa Code sections 7.17 and 17A.4 to 17A.6. To determine the specific changes in the rules, refer to the Iowa Administrative Bulletin bearing the same publication date.

In addition to the changes adopted by agencies, the replacement pages may reflect objection to a rule or a portion of a rule filed by the Administrative Rules Review Committee (ARRC), the Governor, or the Attorney General pursuant to Iowa Code section 17A.4(4); an effective date delay imposed by the ARRC pursuant to section 17A.4(5) or 17A.8(9); rescission of a rule by the Governor pursuant to section 17A.4(6); or nullification of a rule by the General Assembly pursuant to Article III, section 40, of the Constitution of the State of Iowa.

The Supplement may also contain replacement pages for the IAC Index and for the preliminary sections of the IAC: General Information about the IAC, Chapter 17A of the Code of Iowa, Style and Format of Rules, Table of Rules Implementing Statutes, and Uniform Rules on Agency Procedure.

# INSTRUCTIONS

FOR

Updating Iowa Administrative Code  
with Biweekly Supplement

**NOTE:** Please review the "Preface" for both the Iowa Administrative Code and Biweekly Supplement and follow carefully the updating instructions.

The boldface entries in the left-hand column of the updating instructions correspond to the tab sections in the IAC Binders.

Obsolete pages of IAC are listed in the column headed "Remove Old Pages." New and replacement pages in this Supplement are listed in the column headed "Insert New Pages." It is important to follow instructions in both columns.

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## UPDATING INSTRUCTIONS

March 24, 1999, Biweekly Supplement

[Previous Supplement dated 3/10/99]

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*REGULATION OF INSURERS*CHAPTER 5  
REGULATION OF INSURERS—GENERAL PROVISIONS

[Prior to 10/22/86, Insurance Department [510]]

**191—5.1(507) Examination reports.** Upon the completion of an examination a copy of the report will be furnished the company, association or society examined, whereupon the company, association or society will have 20 days in which to determine whether or not it will demand a hearing before the commissioner of insurance. If a hearing is desired, then and in that event the company, association or society shall, within said 20 days, file with the commissioner of insurance a written application, attaching thereto the specific grounds upon which a hearing is desired. Within a reasonable time after the receipt of said application, the commissioner will fix a date for the hearing and notify the company, association or society thereof. Upon the completion of the hearing, or as soon as convenient thereafter, the commissioner shall render the commissioner's decision, either orally or in writing at the commissioner's discretion and file said report as part of the records in the division.

This rule is intended to implement Iowa Code sections 505.8 and 507.2.

**191—5.2(505,507) Examination for admission.** Any foreign or alien insurance company seeking to be admitted to do business in the state of Iowa shall, at the discretion of the division of insurance, be subject to either or both of the following:

1. An on-site examination by the division;
2. A desk examination, if the applicant provides a financial examination report prepared by the insurance regulatory body of the applicant's state or country of domicile. The examination report must be certified by the issuing regulatory body and must have an effective date of not more than two years prior to the date of application for admission.

This rule is intended to implement Iowa Code section 507.2.

**191—5.3(507,508,515) Submission of quarterly financial information.** All insurers, corporations, associations, and other entities required to submit annual financial statements to the commissioner shall also submit a short form quarterly financial statement within 45 days of the close of each calendar quarter on a form as specified by the commissioner. Upon request of the commissioner an exhibit showing a count of policies in force by line of business as of the close of the quarter shall be submitted with the quarterly report. The quarterly financial statements shall also be filed with the National Association of Insurance Commissioners.

This rule is intended to implement Iowa Code section 507.2 and Iowa Code chapters 508 and 515.

**191—5.4(505,508,515,520) Surplus notes.** Surplus notes are recognized by the commissioner for both stock and mutual insurers. All payments of principal and interest on these notes require the prior approval of the commissioner.

**191—5.5(505,515,520) Maximum allowable premium volume.** A domestic property/casualty insurer shall not cause the ratio of its net written premiums to its surplus as regards policyholders to exceed three to one without the approval of the commissioner of insurance.

**191—5.6(505,515,520) Treatment of various items on the financial statement.** An admitted insurer shall at all times show the value of the following items on its financial statements in the following manner unless a different treatment is authorized by the state where the insurer is domiciled:

**5.6(1) *Real estate.*** At amortized cost.

**5.6(2) *Stocks.*** At market value as determined by the Securities Valuation Office of the National Association of Insurance Commissioners.

**5.6(3) *Bonds.*** At amortized cost, unless directed otherwise by the commissioner of insurance.

**5.6(4) *Artwork.*** Nonadmitted.

**5.6(5) *Other assets not listed.*** As treated by the applicable accounting practices and procedures manual of the National Association of Insurance Commissioners.

**5.6(6) *Liabilities.*** Liabilities, including active life reserves, unearned premium reserves, and liabilities for claims and losses unpaid and for incurred but not reported claims. As determined by the applicable accounting practices and procedures manual of the National Association of Insurance Commissioners.

These rules are intended to implement Iowa Code sections 505.8, 515.20, 515.49, 515.63, and 520.21.

**191—5.7(505) Ordering withdrawal of domestic insurers from states.** Upon a finding, after notice and opportunity for hearing, of substantial likelihood of future financial impairment of a domestic insurer due to persistent operating losses in any line of business in any state where the insurer does business, the commissioner may order a domestic insurer to withdraw and cease doing business in that line of business in that state or in the alternative, order the insurer to withdraw and cease doing business in all lines, pending further order. For the purposes of this rule, impaired or threatened financial solvency is deemed to exist where an insurer experiences a reduction of 5 percent or greater in surplus in any 12-month period from all cases, including the regulatory environment in a state.

**191—5.8(505) Monitoring.** Upon request of the commissioner, a domestic insurer shall provide all relevant information as to its business in any state identified by the commissioner and found by the commissioner to have a consistently oppressive and confiscatory regulatory environment: The commissioner's request shall identify the state and shall include a basis for the commissioner's findings that the state has a consistently oppressive and confiscatory regulatory environment.

**191—5.9(505) Rate filings.** No rate filing shall include any adjustment designed to recover underwriting or operating losses incurred out of state. Upon request by the commissioner, insurers doing business in Iowa shall segregate in their rate filings data from any state identified by the commissioner, and the filings shall include a certification that no portion of any rate increase is designed to recover underwriting or operating losses incurred in another state.

**191—5.10(511) Life companies—permissible investments.**

**5.10(1)** The phrase "preferred dividend requirements as of the date of acquisition" in Iowa Code section 511.8(6) is construed to include the dividend requirements of a new issue. Consequently, a new preferred issue will qualify if the net earnings of the corporation for each of the five preceding years have been not less than one and one-half times the sum of the annual fixed charges, contingent interest and the annual preferred dividend requirements including the new issue.

**5.10(2)** The phrase “the obligations are adequately secured and have investment qualities and characteristics wherein the speculative elements are not predominant” in Iowa Code section 511.8(5) means “investment grade” as defined in 191—subrule 22.1(4). As a result, except as permitted by the commissioner in exceptional circumstances, corporate obligations must be “investment grade” in order to meet legal reserve requirements unless the other requirements of Iowa Code section 511.8(5) “a” regarding the financial condition of the issuer of the obligation are met. The legal reserve investment limitations of Iowa Code section 511.8 regarding less than investment grade obligations, but not the deposit requirements of that section, are applicable to foreign insurers.

This rule is intended to implement Iowa Code section 511.8(5).

**191—5.11(511) Investment of funds.**

*Ruling No. R21. By Division.*

The Forty-first General Assembly of Iowa amended [508 & 511](511.8) of the Code of 1924, relating to the investment of funds by life insurance companies organized in this state, by adding to paragraph one of said section the following:

“Or federal farm loan bonds issued under the Act of Congress, approved July 17, 1916.”

Doubt has arisen in the minds of company officials as to whether or not the amendment in question authorizes life insurance companies organized in Iowa to invest their funds in bonds issued by joint stock land banks.

In a written opinion of the attorney general of Iowa, bearing date May 25, 1925, it is held that, inasmuch as joint stock land banks were created under the Act of Congress approved July 17, 1916, bonds issued by such banks are included in the amendment aforesaid.

Therefore, it is the ruling of this division that such bonds are a legal investment for life insurance companies organized in this state. However, said amendment is not effective until July 4, 1925, and until said date no such investments should be made.

**191—5.12(515) Collateral loans.** The collateral pledged to secure a loan must qualify as a legal investment for insurance companies before the loan it secures may so qualify [section 515.35(7)]. The statute provides that a company may not invest in excess of 30 percent of its capital and funds in stocks and not more than 10 percent of its capital and surplus in the stock or bonds, or both, of any one corporation.

Normally, a loan is little better than the collateral securing it. Therefore, in order to conform to the intent and purpose of the legislature it would appear that the same limitations should likewise be applied to the stock securing a collateral loan. The statute also provides that the value of the collateral must exceed the amount of the loan by 10 percent.

**191—5.13(508,515) Loans to officers, directors, employees, etc.** No insurance company or association of any kind, domiciled in the state of Iowa, shall loan any portion of its funds to an officer, director, stockholder, employee or any relative or immediate member of the family of an officer or director.

The provisions of Iowa Code sections 508.8 and 511.12 shall likewise be applicable to fire and casualty companies.

**191—5.14(515) Salvage as an asset.** Rescinded IAB 11/25/92, effective 11/6/92.

**191—5.15 to 5.19** Reserved.

**191—5.20(508) Computation of reserves.** Iowa life insurance companies may report the nonadmitted excess item to this division on the basis of the true reserve instead of the mean reserve as has been the practice in the past. Under the true reserve system there will be no excess excepting in the case of indebtedness in excess of policy liabilities. The true reserve system eliminates all excess on account of due and deferred premiums, but there may be an excess equal to or in excess of the loading depending upon what premium the note represents, and how long it has been running when a premium note is taken for the gross premiums or when there is an overloan.

This concession is made to Iowa companies with the conviction that it removes many of the defects and disadvantages of the present practice of requiring the excess of the mean reserve.

As a corollary to the proposed system of determining this excess item, the business of the company must be reported upon a strictly paid for basis.

This division will not require that policies be lapsed if premium is not paid within a limited time after the due date, but no credit for an uncollected premium may be taken if more than 60 days past due, unless a premium note of the proper form has been taken therefor.

UNEARNED PREMIUM RESERVES ON MORTGAGE GUARANTY INSURANCE POLICIES

**191—5.21(515C) Unearned premium reserve factors.** In the case of premiums paid in advance on ten-year policies, mortgage guaranty insurers shall apply the following annual factors or comparable monthly factors in determining the unearned premium reserve:

Years policy is in force	Unearned premium factor	Years policy is in force	Unearned premium factor
1	81.8	6	18.2
2	65.5	7	10.9
3	50.9	8	5.5
4	38.2	9	1.8
5	27.3	10	-0-

**191—5.22(515C) Contingency reserve.** From the premium remaining after applying the appropriate factor from the table in 5.21(515C) above, there shall be maintained a contingency reserve as prescribed in Iowa Code section 515C.4.

These rules are intended to implement Iowa Code sections 515C.3 and 515C.4.

**191—5.23(507C) Standards.** The following standards, either singly or a combination of two or more, may be considered by the commissioner to determine whether the continued operation of any insurer transacting an insurance business in this state might be deemed to be hazardous to the policyholders, creditors or the general public. The commissioner may consider:

5.23(1) Adverse findings reported in financial condition and market conduct examination reports.

5.23(2) The National Association of Insurance Commissioners Insurance Regulatory Information System and its related reports.

5.23(3) The ratios of commission expense, general insurance expense, policy benefits and reserve increases to annual premium and net investment income which could lead to an impairment of capital and surplus.

5.23(4) The insurer's asset portfolio when viewed in light of current economic conditions is not of sufficient value, liquidity, or diversity to ensure the company's ability to meet its outstanding obligations as they mature.

5.23(5) The ability of an assuming reinsurer to perform and whether the insurer's reinsurance program provides sufficient protection for the company's remaining surplus after taking into account the insurer's cash flow and the classes of business written as well as the financial condition of the assuming reinsurer.

5.23(6) The insurer's operating loss in the last 12-month period or any shorter period of time including, but not limited to: net capital gain or loss, change in nonadmitted assets, and cash dividends paid to shareholders reduces such insurer's remaining surplus as regards policyholders below the minimum required.

5.23(7) Whether any affiliate, subsidiary or reinsurer of the insurer is insolvent as defined in Iowa Code section 507C.2(11), is threatened with insolvency, or is delinquent in payment of its monetary or other obligation.

5.23(8) Contingent liabilities, pledges or guarantees which either individually or collectively involve a total amount which, in the opinion of the commissioner, may affect the solvency of the insurer.

5.23(9) Whether any "controlling person" of an insurer is delinquent in the transmitting to, or payment of, net premiums to such insurer.

5.23(10) The age and collectibility of receivables.

5.23(11) Whether the management of an insurer, including officers, directors, or any other person who directly or indirectly controls the operation of such insurer, fails to possess and demonstrate the competence, fitness and reputation deemed necessary to serve the insurer in such position.

5.23(12) Whether management of an insurer has failed to respond to inquiries relative to the condition of the insurer or has furnished false and misleading information concerning an inquiry.

5.23(13) Whether management of an insurer either has filed any false or misleading sworn financial statement, or has released false or misleading financial statement to lending institutions or to the general public, or has made a false or misleading entry, or has omitted an entry of material amount in the books of the insurer.

5.23(14) Whether the insurer has grown so rapidly and to such an extent that it lacks adequate financial and administrative capacity to meet its obligations in a timely manner.

5.23(15) Whether the company has experienced or will experience in the foreseeable future cash flow or liquidity problems.

5.23(16) Rescinded IAB 7/10/91, effective 6/21/91.

This rule is intended to implement Iowa Code sections 507C.9, 507C.12 and 507C.17.

#### 191—5.24(507C) Commissioner's authority.

5.24(1) For the purposes of making a determination of an insurer's financial condition under this rule, the commissioner may:

a. Disregard any credit or amount receivable resulting from transactions with a reinsurer which is insolvent, impaired or otherwise subject to a delinquency proceeding;

b. Make appropriate adjustments to asset values attributable to investments in or transactions with parents, subsidiaries, or affiliates;

c. Refuse to recognize the stated value of accounts receivable if the ability to collect receivables is highly speculative in view of the age of the account or the financial condition of the debtor; or

d. Increase the insurer's liability in an amount equal to any contingent liability, pledge, or guarantee not otherwise included if there is a substantial risk that the insurer will be called upon to meet the obligation undertaken within the next 12-month period.

5.24(2) If the commissioner determines that the continued operation of the insurer licensed to transact business in this state may be hazardous to the policyholders or the general public, then the commissioner may issue an order requiring the insurer to:

a. Reduce the total amount of present and potential liability for policy benefits by reinsurance;

b. Reduce, suspend or limit the volume of business being accepted or renewed;

c. Reduce general insurance and commission expenses by specified methods;

d. Increase the insurer's capital and surplus;

- e. Suspend or limit the declaration and payment of dividend by an insurer to its stockholders or to its policyholders;
- f. File reports in a form acceptable to the commissioner concerning the market value of an insurer's assets;
- g. Limit or withdraw from certain investments or discontinue certain investment practices to the extent the commissioner deems necessary;
- h. Document the adequacy of premium rates in relation to the risks insured;
- i. File, in addition to regular annual statements, interim financial reports on the form adopted by the National Association of Insurance Commissioners or on such format as promulgated by the commissioner.

5.24(3) Any insurer subject to an order under subrule 5.24(2) may request, pursuant to rule 191—3.5(17A,502,505), review of that order. Any ensuing hearing shall not be open to the public, unless the insurer requests otherwise.

This rule is intended to implement Iowa Code sections 507C.9, 507C.12 and 507C.17.

### 191—5.25(505) Annual audited financial reports.

5.25(1) *Purpose.* The purpose of this rule is to improve the Iowa insurance division's surveillance of the financial condition of insurers by requiring an annual examination by independent certified public accountants of the financial statements reporting the financial position and the results of operations of insurers.

Every insurer (as defined in subrule 5.25(2), paragraph "c,") shall be subject to this rule. Insurers having direct premiums written in this state of less than \$1 million in any calendar year and less than 1,000 policyholders or certificate holders of directly written policies nationwide at the end of such calendar year shall be exempt from this rule for such year (unless the commissioner makes a specific finding that compliance is necessary for the commissioner to carry out statutory responsibilities) except that insurers having assumed premiums pursuant to contracts or treaties of reinsurance of \$1 million or more will not be so exempt.

Foreign or alien insurers filing audited financial reports in another state, pursuant to such other state's requirement of audited financial reports which has been found by the commissioner to be substantially similar to the requirements herein, are exempt from this rule if:

a. A copy of the Audited Financial Report, Report on Significant Deficiencies in Internal Controls, and the Accountant's Letter of Qualifications which are filed with such other state are filed with the commissioner in accordance with the filing dates specified in subrules 5.25(3), 5.25(10), and 5.25(11), respectively (Canadian insurers may submit accountants' reports as filed with the Canadian Dominion Department of Insurance).

b. A copy of any Notification of Adverse Financial Condition Report filed with such other state is filed with the commissioner within the time specified in subrule 5.25(9).

This rule shall not prohibit, preclude or in any way limit the commissioner of insurance from ordering or conducting or performing examinations of insurers under the rules of the division of insurance and the practices and procedures of the division of insurance.

5.25(2) *Definitions.* As used in this rule:

"*Audited financial report*" means and includes those items specified in subrule 5.25(4).

"*Accountant*" or "*independent certified public accountant*" means an independent certified public accountant or accounting firm in good standing with the American Institute of CPAs and in all states in which they are licensed to practice; for Canadian and British companies, it means a Canadian-chartered or British-chartered accountant.

"*Insurer*" means a licensed insurer under Title XX of the Iowa Code, except entities organized under Iowa Code chapters 512A, 512B, 518, and 518A.



**5.25(3) Filing and extensions for filing of annual audited financial reports.** All insurers shall have an annual audit by an independent certified public accountant and shall file an audited financial report with the commissioner on or before June 1 for the year ended December 31 immediately preceding. The commissioner may require an insurer to file an audited financial report earlier than June 1 with 90 days' advance notice to the insurer.

Extensions of the June 1 filing date may be granted by the commissioner for 30-day periods upon showing by the insurer and its independent certified public accountant the reasons for requesting such extension and determination by the commissioner of good cause for an extension. The request for extension must be submitted in writing not less than ten days prior to the due date in sufficient detail to permit the commissioner to make an informed decision with respect to the requested extension.

**5.25(4) Contents of annual audited financial report.** The annual audited financial report shall report the financial position of the insurer as of the end of the most recent calendar year and the results of its operations, cash flows and changes in capital and surplus for the year then ended in conformity with statutory accounting practices prescribed, or otherwise permitted, by the division of insurance of the state of domicile.

The annual audited financial report shall include the following:

- a. Report of independent certified public accountant.
- b. Balance sheet reporting admitted assets, liabilities, capital and surplus.
- c. Statement of operations.
- d. Statement of cash flows.
- e. Statement of changes in capital and surplus.
- f. Notes to financial statements. These notes shall be required by the appropriate NAIC annual statement instructions and any other notes required by generally accepted accounting principles and shall also include:

(1) A reconciliation of differences, if any, between the audited statutory financial statements and the annual statement filed pursuant to Iowa Code sections 508.11 and 515.63 with a written description of the nature of these difficulties.

(2) A summary of ownership and relationships of the insurer and all affiliated companies.

g. The financial statements included in the audited financial report shall be prepared in a form and using language and groupings substantially the same as the relevant sections of the annual statement of the insurer filed with the commissioner, and the financial statement shall be comparative, presenting the amounts as of December 31 of the current year and the amounts as of the immediately preceding December 31. (However, in the first year in which an insurer is required to file an audited financial report, the comparative data may be omitted.)

**5.25(5) Designation of independent certified public accountant.** Each insurer required by this rule to file an annual audited financial report must, within 60 days after becoming subject to such requirement, register with the commissioner in writing the name and address of the independent certified public accountant or accounting firm (generally referred to in this rule as the "accountant") retained to conduct the annual audit set forth in this rule. Insurers not retaining an independent certified public accountant on August 28, 1991, shall register the name and address of their retained certified public accountant not less than six months before the date when the first audited financial report is to be filed.

The insurer shall obtain a letter from the accountant, and file a copy with the commissioner, stating that the accountant is aware of the provisions of Title XX of the Iowa Code and administrative rules thereunder that relate to accounting and financial matters and affirming that the accountant will express an opinion on the financial statements in terms of their conformity to the statutory accounting practices prescribed or otherwise permitted by the insurance division, specifying such exceptions as the accountant may believe appropriate.

If an accountant who was the accountant for the immediately preceding filed audited financial report is dismissed or resigns, the insurer shall within five business days notify the division of this event. The insurer shall also furnish the commissioner with a separate letter within ten business days of the above notification stating whether in the 24 months preceding such event there were any disagreements with the former accountant on any matter of accounting principles or practices, financial statement disclosure, or auditing scope or procedure; which disagreements, if not resolved to the satisfaction of the former accountant, would have caused the accountant to make reference to the subject matter of the disagreement in connection with the opinion. The disagreements required to be reported in response to this rule include both those resolved to the former accountant's satisfaction and those not resolved to the former accountant's satisfaction. Disagreements contemplated by this rule are those that occur at the decision-making level, i.e., between personnel of the insurer responsible for presentation of its financial statements and personnel of the accounting firm responsible for rendering its report. The insurer shall also in writing request such former accountant to furnish a letter addressed to the insurer stating whether the accountant agrees with the statements contained in the insurer's letter and, if not, stating the reasons for the disagreement; and the insurer shall furnish such responsive letter from the former accountant to the commissioner together with its own.

**5.25(6) Qualifications of independent certified public accountant.**

a. The commissioner shall not recognize any person or firm as a qualified independent certified public accountant that is not in good standing with the American Institute of CPAs and in all states in which the accountant is licensed to practice, or, for a Canadian or British company, that is not a chartered accountant.

b. Except as otherwise provided herein, independent certified public accountants shall be recognized as qualified as long as they conform to the standards of their profession, as contained in the Code of Professional Ethics of the American Institute of Certified Public Accountants and rules and regulations and code of ethics and rules of professional conduct of the Iowa accountancy examining board, or similar code.

c. No partner or other person responsible for rendering a report may act in that capacity for more than seven consecutive years. Following any period of service such person shall be disqualified from acting in that or a similar capacity for the same company or its insurance subsidiaries or affiliates for a period of two years. An insurer may make application to the commissioner for relief from the above rotation requirement on the basis of unusual circumstances. The commissioner may consider the following factors in determining if the relief should be granted:

- (1) Number of partners, expertise of the partners or the number of insurance clients in the currently registered firm;
- (2) Premium volume of the insurer; or
- (3) Number of jurisdictions in which the insurer transacts business.

The requirements of this paragraph shall become effective on August 28, 1993.

d. The commissioner shall not recognize as a qualified independent certified public accountant, nor accept any annual audited financial report prepared in whole or in part by, any natural person who:

- (1) Has been convicted of fraud, bribery, a violation of the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. Sections 1961-1968, or any dishonest conduct or practices under federal or state law;
- (2) Has been found to have violated the insurance laws of this state with respect to any previous reports submitted under this rule; or
- (3) Has demonstrated a pattern or practice of failing to detect or disclose material information in previous reports filed under the provisions of this rule.

e. The commissioner of insurance, under 191—Chapter 3, may hold a hearing to determine whether a certified public accountant is qualified and, considering the evidence presented, may rule that the accountant is not qualified for purposes of expressing the opinion of the accountant on the financial statements in the annual audited financial report made pursuant to this rule and require the insurer to replace the accountant with another whose relationship with the insurer is qualified within the meaning of this rule.

**5.25(7) Consolidated or combined audits.** An insurer may make written application to the commissioner for approval to file audited consolidated or combined financial statements in lieu of separate annual audited financial statements if the insurer is part of a group of insurance companies which utilizes a pooling or 100 percent reinsurance agreement that affects the solvency and integrity of the insurer's reserves and such insurer cedes all of its direct and assumed business to the pool. In such cases, a columnar consolidating or combining worksheet shall be filed with the report as follows:

a. Amounts shown on the consolidated or combined audited financial report shall be shown on the worksheet.

b. Amounts for each insurer subject to this rule shall be stated separately.

c. Noninsurance operations may be shown on the worksheet on a combined or individual basis.

d. Explanations of consolidating and eliminating entries shall be included.

e. A reconciliation shall be included of any differences between the amounts shown in the individual insurer columns of the worksheet and comparable amounts shown on the annual statements of the insurers.

**5.25(8) Scope of examination.** Financial statements furnished pursuant to subrule 5.25(4) shall be examined by an independent certified public accountant. The examination of the insurer's financial statements shall be conducted in accordance with generally accepted auditing standards. Consideration should also be given to such other procedures illustrated in the Financial Condition Examiner's Handbook promulgated by the National Association of Insurance Commissioners as the independent certified public accountant deems necessary.

**5.25(9) Notification of adverse financial condition.** The insurer required to furnish the annual audited financial report shall require the independent certified public accountant to report, in writing, within five business days to the board of directors or its audit committee any determination by the independent certified public accountant that the insurer has materially misstated its financial condition as reported to the commissioner as of the balance sheet date currently under examination or that the insurer does not meet the applicable minimum capital and surplus requirements of Iowa Code sections 508.5, 508.10, 515.8, 515.10 and subsection 515.12(5) as of that date. An insurer who has received a report pursuant to this paragraph shall forward a copy of the report to the commissioner within five business days of receipt of such report and shall provide the independent certified public accountant making the report with evidence of the report being furnished to the commissioner. If the independent certified public accountant fails to receive such evidence within the required five-business-day period, the independent certified public accountant shall furnish to the commissioner a copy of its report within the next five business days.

No independent public accountant shall be liable in any manner to any person for any statement made in connection with the above paragraph if such statement is made in good faith in compliance with the above paragraph.

If the accountant, subsequent to the date of the audited financial report filed pursuant to this rule, becomes aware of facts which might have affected this report, the insurance division notes the obligation of the accountant to take such action as prescribed in Volume 1, Section AU561 of the Professional Standards of the American Institute of Certified Public Accountants.

**5.25(10) Report on significant deficiencies in internal controls.** In addition to the annual audited financial statements, each insurer shall furnish the commissioner with a written report prepared by the accountant describing significant deficiencies in the insurer's internal control structure noted by the accountant during the audit. SAS No. 60, Communication of Internal Control Structure Matters Noted in an Audit (AU section 325 of the Professional Standards of the American Institute of Certified Public Accountants) requires an accountant to communicate significant deficiencies (known as "reportable conditions") noted during a financial statement audit to the appropriate parties within an entity. No report should be issued if the accountant does not identify significant deficiencies. If significant deficiencies are noted, the written report shall be filed annually by the insurer with the insurance division within 60 days after the filing of the annual audited financial statements. The insurer is required to provide a description of remedial actions taken or proposed to correct significant deficiencies, if such actions are not described in the accountant's report.

**5.25(11) Letter furnished to insurer.** The accountant shall furnish the insurer, in connection with, and for inclusion in, the filing of the annual audited financial report, a letter stating:

a. That the accountant is independent with respect to the insurer and conforms to the standards of the profession as contained in the Code of Professional Ethics and pronouncements of the American Institute of Certified Public Accountants and the rules of professional conduct of the Iowa accountancy examining board, or similar code.

b. The background and experience in general, and the experience in audits of insurers of the staff assigned to the engagement and whether each is an independent certified public accountant. Nothing within this rule shall be construed as prohibiting the accountant from utilizing such staff as is deemed appropriate where use is consistent with the standards prescribed by generally accepted auditing standards.

c. That the accountant understands the annual audited financial report and the opinion thereon will be filed in compliance with this rule and that the commissioner will be relying on this information in the monitoring and regulation of the financial position of insurers.

d. That the accountant consents to the requirements of subrule 5.25(12) and that the accountant consents and agrees to make available for review by the commissioner, or a designee or appointed agent, the workpapers, as defined in subrule 5.25(12).

e. A representation that the accountant is properly licensed by an appropriate state licensing authority and is a member in good standing in the American Institute of Certified Public Accountants.

f. A representation that the accountant is in compliance with the requirements of subrule 5.25(6).

**5.25(12) Definition, availability and maintenance of CPA workpapers.** Workpapers are the records kept by independent certified public accountants of the procedures followed, the tests performed, the information obtained, and the conclusions reached pertinent to their examination of the financial statements of an insurer. Workpapers, accordingly, may include audit planning documentation, work programs, analyses, memoranda, letters of confirmation and representation, abstracts of company documents and schedules or commentaries prepared or obtained by independent certified public accountants in the course of their examination of the financial statements of an insurer and which support their opinions thereof.

Every insurer required to file an audited financial report pursuant to this rule shall require the accountant to make available for review by insurance division examiners all workpapers prepared in the conduct of the examination and any communications related to the audit between the accountant and the insurer, at the offices of the insurer, at the insurance division, or at any other reasonable place designated by the commissioner. The insurer shall require that the accountant retain the audit workpapers and communications until the insurance division has filed a report on examination covering the period of the audit but no longer than seven years from the date of the audit report.

In the conduct of the aforementioned periodic review by insurance division examiners, it shall be agreed that photocopies of pertinent audit workpapers may be made and retained by the division. Such reviews by the division examiners shall be considered investigations and all working papers and communications obtained during the course of such investigations shall be afforded the same confidentiality as other examination workpapers generated by the division.

**5.25(13) Exemption from compliance.** Upon written application of any insurer, the commissioner may grant an exemption from compliance with this rule if the commissioner finds, upon review of the application, that compliance with this rule would constitute a financial or organizational hardship upon the insurer. An exemption may be granted at any time and from time to time for a specified period or periods. Within ten days from a denial of an insurer's written request for an exemption from this rule, such insurer may request in writing a hearing on its application for an exemption. Such hearing shall be held in accordance with 191—Chapter 3.

Domestic insurers retaining a certified public accountant on August 28, 1991, who qualify as independent shall comply with this rule for the year ending December 31, 1992, and each year thereafter unless the commissioner permits otherwise.

Domestic insurers not retaining a certified public accountant on August 28, 1991, who qualify as independent may meet the following schedule for compliance unless the commissioner permits otherwise:

a. As of December 31, 1992, file with the commissioner:

- (1) Report of independent certified public accountant;
- (2) Audited balance sheet;
- (3) Notes to audited balance sheet.

b. For the year ending December 31, 1992, and each year thereafter, such insurers shall file with the commissioner all reports required by this rule.

Foreign insurance shall comply with this rule for the year ending December 31, 1992, and each year thereafter unless the commissioner permits otherwise.

**5.25(14) Canadian and British companies.** In the case of Canadian and British insurers, the annual audited financial report shall be defined as the annual statement of total business on the form filed by such companies with their domiciliary supervision authority duly audited by an independent chartered accountant.

For such insurers, the letter required in subrule 5.25(5) shall state that the accountant is aware of the requirements relating to the annual audited statement filed with the commissioner pursuant to subrule 5.25(3).

This rule is intended to implement Iowa Code section 505.8.

### **191—5.26(508,515) Participation in the NAIC Insurance Regulatory Information System.**

**5.26(1)** This rule applies to all domestic, foreign and alien insurers who are authorized to transact business in this state.

**5.26(2)** Each domestic, foreign and alien insurer, except entities organized under Iowa Code chapters 512A, 512B, 514, 514B, 518 and 518A and those which write only in this state, who is authorized to transact insurance in this state shall annually on or before March 1 of each year, file with the National Association of Insurance Commissioners (NAIC) a copy of its annual statement convention blank, along with such additional filings as prescribed by the insurance commissioner for the preceding year. The information filed with the NAIC shall be in the same format and scope as that required by the commissioner and shall include the signed jurat page and the actuarial certification. Any amendments and addendums to the annual statement filing subsequently filed with the commissioner shall also be filed with the NAIC.

Foreign insurers that are domiciled in a state which has a law substantially similar to the requirement in the previous sentence shall be deemed in compliance with this rule.

**5.26(3)** Members of the NAIC, their duly authorized committees, subcommittees, and task forces, their delegates, NAIC employees, and all others charged with the responsibility of collecting, reviewing, analyzing and disseminating the information developed from the filing of the annual statement convention blanks shall be deemed to be acting on behalf of the commissioner by virtue of their collection, review, and analysis or dissemination of the data and information collected from the filings required under this rule.

**5.26(4)** All financial analysis ratios and examination synopses concerning insurance companies that are submitted to the insurance division by the NAIC Insurance Regulatory Information System are confidential as provided in subrule 191—1.3(11), paragraph “c.”

**5.26(5)** The commissioner may suspend, revoke or refuse to renew the certificate of authority of any insurer failing to file its annual statement when due or within any extension of time which the commissioner, for good cause, may have granted.

**5.26(6)** Electronic filing. The annual financial statement filings required of domestic insurers pursuant to Iowa Code sections 508.11 and 515.63 and the quarterly statement filings required pursuant to rule 191—5.3(507,508,515) must be filed electronically with the National Association of Insurance Commissioners. Electronic filing shall include filing via the Internet or by diskette. The electronic filing must be prepared in accordance with the NAIC Directive to Companies, Coding Conventions, Field Names and Definitions, Data Elements, and Reporting Requirements for Annual/Quarterly Statement Submission on Diskettes. Electronic filings are in addition to and due at the time of the filing of the annual/quarterly financial statement blank with the National Association of Insurance Commissioners. Diskette filings do not need to be filed with the insurance division unless the insurer is directed by the insurance commissioner to submit the filing(s) on diskette. This diskette filing requirement does not apply to entities organized pursuant to Iowa Code chapters 512A, 512B, 514, 514B, 518, and 518A.

This rule is intended to implement Iowa Code sections 508.11 and 515.63.

#### **191—5.27(508,515,520) Asset valuation.**

**5.27(1)** All bonds or other evidences of debt having a fixed term and rate of interest held by an insurer may, if amply secured and not in default as to principal or interest, be valued as follows:

- a. If purchased at par, at the par value.
- b. If purchased above or below par, on the basis of the purchase price adjusted so as to bring the value to par at maturity and so as to yield in the meantime the effective rate of interest at which the purchase was made or, in lieu of such method, according to such accepted method of valuation as is approved by the division.
- c. Purchase price shall in no case be taken at a higher figure than the actual market value at the time of purchase, plus actual brokerage, transfer, postage or express charges paid in the acquisition of such securities.

**5.27(2)** The division shall have full discretion in determining the method of calculating values according to the procedures set forth in this rule, but no such method or valuation shall be inconsistent with any applicable valuation or method used by insurers in general, or any method formulated or approved by the National Association of Insurance Commissioners or its successor organization.

**5.27(3)** Securities, other than those referred to in subrule 5.27(1), held by an insurer shall be valued, in the discretion of the division, at their market value, or at their appraised value, or at prices determined by it as representing their fair market value.

**5.27(4)** Preferred or guaranteed stocks or shares while paying full dividends may be carried at a fixed value in lieu of market value, at the discretion of the division and in accordance with such method of valuation as it may approve.

**5.27(5)** Stock of a subsidiary corporation of an insurer shall not be valued at an amount in excess of the net value of the subsidiary as based upon only those assets of the subsidiary which would be eligible under Iowa Code section 521A.2 had investment of the funds of the insurer been made directly.

**5.27(6)** No valuations under this rule shall be inconsistent with any applicable valuation or method formulated or approved by the National Association of Insurance Commissioners.

**191—5.28(508,515,520) Risk-based capital and surplus.** Capital and surplus requirements in Iowa Code chapters 508, 518 and 520 are minimums. The commissioner retains the discretion to require greater amounts than set forth in those chapters when the risk-based circumstances of a particular insurer, including the type, nature and volume of business being written, require it.

**191—5.29(508,515) Actuarial certification of reserves.** An opinion on life and health policy and claim reserves and property and casualty loss and loss adjustment expense reserves by a qualified actuary is required in the annual statement blank for all domestic insurers under the terms and conditions contained in the annual statement instructions handbook of the National Association of Insurance Commissioners. All other provisions of the handbook shall be applicable to annual and quarterly financial statements filed with the division.

These rules are intended to implement Iowa Code sections 508.5, 508.9, 508.10, 508.11, 515.8, 515.10, 515.12 and 515.63.

**191—5.30(515) Single maximum risk—fidelity and surety risks.** No insurance company is permitted under the limitations of Iowa Code section 515.49 to expose itself to any risk on a fidelity or surety bond in excess of 10 percent of its surplus to policyholders, unless such excess shall be reinsured in accordance with the provisions of the statute.

**191—5.31(515) Reinsurance contracts.** No credit will be given the ceding insurer for reinsurance made, ceded, or renewed unless the reinsurance agreements (treaty, facultative or otherwise) substantially provide, or are amended by a supplemental contract to read in substance as follows:

In consideration of the continuing benefits to accrue hereunder to the assuming insurer, the assuming insurer hereby agrees that, as to all reinsurance made, ceded, or renewed the reinsurance shall be payable by the assuming insurer on the basis of the liability of the ceding insurer under the contract or contracts reinsured without diminution because of the insolvency of the ceding insurer.

**191—5.32(511,515) Investments in medium grade and lower grade obligations.**

**5.32(1) Reason for promulgation.** The insurance division is concerned that changes in economic conditions and other market variables could adversely affect domestic insurers having a high concentration of these investments. Accordingly, the division has concluded that a limitation on the percentage of total admitted assets that a domestic insurer may prudently invest in such obligations is reasonable, necessary and required in order to carry out the division's responsibilities under relevant statutory law.

The division understands that medium grade and lower grade obligations can have a place in a well diversified portfolio. However, it is also understood that the special risks associated with these investments require a high degree of management even when they are held within an aggregate limit. While this rule will leave all domestic insurers with authority to invest a substantial portion of their assets in medium grade and lower grade obligations, the prudent management of the attendant risk will remain an essential element of such investing.

**5.32(2) Purposes.** The purposes of this rule are:

*a.* To protect the interests of the insurance-buying public by establishing limitations on the concentration of medium grade and lower grade obligations in which a domestic insurer can invest;

*b.* To regulate the acts and practices of domestic insurers with respect to the concentration of investments in medium grade and lower grade obligations. An insurer's obligations of these classifications shall not exceed the greater of those allowed in subrule 5.10(2) or Iowa Code section 515.35(4)"e," whichever is applicable, or this rule.

**5.32(3) Definitions.** As used in this rule:

"Admitted assets" means the amount thereof as of the last day of the most recently concluded annual statement year, computed in accordance with rule 191—5.6(505,515,520).

"Aggregate amount" of medium grade and lower grade obligations means the aggregate statutory statement value thereof.

"Institution" means a corporation, a joint-stock company, an association, a trust, a business partnership, a business joint venture or similar entity.

"Lower grade obligations" means obligations which are rated four, five or six by the Securities Valuation Office of the National Association of Insurance Commissioners.

"Medium grade obligations" means obligations which are rated three by the Securities Valuation Office of the National Association of Insurance Commissioners.

**5.32(4) Provisions.**

*a.* No domestic insurer shall acquire, directly or indirectly, any medium grade or lower grade obligation of any institution if, after giving effect to any such acquisition, the aggregate amount of all medium grade and lower grade obligations then held by the domestic insurer would exceed 20 percent of its admitted assets provided that:

(1) No more than 10 percent of its admitted assets consists of obligations rated four, five or six by the Securities Valuation Office;

(2) No more than 3 percent of its admitted assets consists of obligations rated five or six by the Securities Valuation Office;

(3) No more than 1 percent of its admitted assets consists of obligations rated six by the Securities Valuation Office. Attaining or exceeding the limit of any one category shall not preclude an insurer from acquiring obligations in other categories subject to the specific and multicategory limits.

*b.* No domestic insurer may invest more than an aggregate of 1 percent of its admitted assets in medium grade obligations issued, guaranteed or insured by any one institution, nor may it invest more than one-half of 1 percent of its admitted assets in lower grade obligations issued, guaranteed or insured by any one institution. In no event, however, may a domestic insurer invest more than 1 percent of its admitted assets in any medium or lower grade obligations issued, guaranteed or insured by any one institution.

*c.* Nothing contained in this rule shall prohibit a domestic insurer from acquiring any obligations which it has committed to acquire if the insurer would have been permitted to acquire that obligation pursuant to this rule on the date on which such insurer committed to purchase that obligation.

*d.* Notwithstanding the foregoing, a domestic insurer may acquire an obligation of an institution in which the insurer already has one or more obligations if the obligation is acquired in order to protect an investment previously made in the obligations of the institution, provided that all such acquired obligations shall not exceed one-half of 1 percent of the insurer's admitted assets.

*e.* Nothing contained in this rule shall prohibit a domestic insurer from acquiring an obligation as a result of a restructuring of a medium or lower grade obligation already held.

*f.* Nothing contained in this rule shall require a domestic insurer to sell or otherwise dispose of any obligation legally acquired prior to January 29, 1991.



g. The board of directors of any domestic insurance company which acquires or invests, directly or indirectly, more than 2 percent of its admitted assets in medium grade and lower grade obligations of any institution shall adopt a written plan for the making of such investments. The plan, in addition to guidelines with respect to the quality of the issues invested in, shall contain diversification standards including, but not limited to, standards for issuer, industry, duration, liquidity and geographic location. This rule is intended to implement Iowa Code sections 511.8 and 515.35.

#### 191—5.33(510) Credit for reinsurance.

5.33(1) *Purpose.* The purpose of this rule is to set forth the procedural requirements which the insurance commissioner deems necessary to carry out the provisions of Iowa Code sections 521B.1 to 521B.5. The actions and information required by this rule are hereby declared to be necessary and appropriate to the public interest and for the protection of the ceding insurers in this state.

5.33(2) *Applicability.* This rule shall have no applicability to reinsurance ceded and assumed pursuant to a pooling arrangement among insurers in the same holding company system.

5.33(3) *Reinsurer licensed in this state.* The commissioner shall allow credit for reinsurance ceded by a domestic insurer to assuming insurers which were licensed in this state as of the date of the ceding insurer's statutory financial statement.

##### 5.33(4) Accredited reinsurers.

a. The commissioner shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer which is accredited as a reinsurer in this state as of the date of the ceding insurer's statutory financial statement. An accredited reinsurer is one which:

(1) Files a properly executed Form AR-1\* as evidence of its submission to this state's jurisdiction and to this state's authority to examine its books and records;

(2) Files with the commissioner a certified copy of a letter or a certificate of authority or of compliance as evidence that it is licensed to transact insurance or reinsurance in at least one state, or, in the case of a United States branch of an alien assuming insurer, is entered through and licensed to transact insurance or reinsurance in at least one state;

(3) Files annually with the commissioner a copy of its annual statement filed with the insurance department of its state of domicile or, in the case of an alien assuming insurer, with the state through which it is entered and in which it is licensed to transact insurance or reinsurance, and a copy of its most recent audited financial statement;

(4) Maintains a surplus as regards policyholders in an amount not less than \$20 million and whose accreditation has not been denied by the commissioner within 90 days of its submission or, in the case of companies with a surplus as regards policyholders of less than \$20 million, whose accreditation has been approved by the commissioner.

b. If the commissioner determines that the assuming insurer has failed to meet or maintain any of these qualifications, the commissioner may upon written notice and hearing revoke the accreditation. No credit shall be allowed a domestic ceding insurer with respect to reinsurance ceded after January 1, 1990, if the assuming insurer's accreditation has been denied or revoked by the commissioner after notice and hearing.

##### 5.33(5) Reinsurer domiciled and licensed in another state.

a. The commissioner shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer which as of the date of the ceding insurer's statutory financial statement:

(1) Is domiciled and licensed in (or, in the case of a United States branch of an alien assuming insurer, is entered through and licensed in) a state which employs standards regarding credit for reinsurance substantially similar to those applicable in this state;

(2) Maintains a surplus as regards policyholders in an amount not less than \$20 million;

(3) Files a properly executed Form AR-1\* with the commissioner as evidence of its submission to this state's authority to examine its books and records.

\*Available from Insurance Division

b. The provisions of this subrule relating to surplus as regards policyholders shall not apply to reinsurance ceded and assumed pursuant to pooling arrangements among insurers in the same holding company system. As used herein, "substantially similar standards" means credit for reinsurance standards which the commissioner determines equal or exceed the standards of this state.

**5.33(6) Reinsurers maintaining trust funds.**

a. The commissioner shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer which, as of the date of the ceding insurer's statutory financial statement, maintains a trust fund in an amount prescribed below in a qualified United States financial institution, as determined by the commissioner, for the payment of the valid claims of its United States policyholders and ceding insurers, their assigns and successors in interests. The assuming insurer shall report annually to the commissioner substantially the same information as that required to be reported on the NAIC annual statement form by licensed insurers, to enable the commissioner to determine the sufficiency of the trust fund.

b. The following requirements apply to the following categories of assuming insurer:

(1) The trust fund for a single assuming insurer shall consist of funds in trust in an amount not less than the assuming insurer's liabilities attributable to business written in the United States and, in addition, a trustee surplus of not less than \$20 million.

(2) The trust fund for a group of individual unincorporated underwriters shall consist of funds in trust in an amount not less than the group's aggregate liabilities attributable to business written in the United States and, in addition, the group shall maintain a trustee surplus of which \$100 million shall be held jointly for the benefit of the United States ceding insurers of any member of the group. The group shall make available to the commissioner annual certifications by the group's domiciliary regulator and its independent public accountants of the solvency of each underwriter member of the group.

(3) The trust fund for a group of incorporated insurers under common administration, whose members possess aggregate policyholder surplus of \$10 billion (calculated and reported in substantially the same manner as prescribed by the annual statement instructions and Accounting Practices and Procedures Manual of the National Association of Insurance Commissioners) and which has continuously transacted an insurance business outside the United States for at least three years immediately prior to making application for accreditation, shall consist of funds in trust in an amount not less than the assuming insurers' liabilities attributable to business ceded by United States ceding insurers to any members of the group pursuant to reinsurance contracts issued in the name of such group and, in addition, the group shall maintain a joint trustee surplus of which \$100 million shall be held jointly for the benefit of United States ceding insurers of any member of the group. The group shall file a properly executed Form AR-1 as evidence of the submission to this state's authority to examine the books and records of any of its members and shall certify that any member examined will bear the expense of any such examination. The group shall make available to the commissioner annual certifications by the members' domiciliary regulators and their independent public accountants of the solvency of each member of the group.

c. The trust shall be established in a form approved by the commissioner. The trust instrument shall provide that:

(1) Contested claims shall be valid and enforceable out of funds in trust to the extent remaining unsatisfied 30 days after entry of the final order of any court of competent jurisdiction in the United States.

(2) Legal title to the assets of the trust shall be vested in the trustee for the benefit of the grantor's United States policyholders and ceding insurers, their assigns and successors in trust.

(3) The trust shall be subject to examination as determined by the commissioner.

(4) The trust shall remain in effect for as long as the assuming insurer, or any member or former member of a group of insurers, shall have outstanding obligations under reinsurance agreements subject to the trust.

(5) No later than February 28 of each year the trustees of the trust shall report to the commissioner in writing setting forth the balance in the trust and listing the trust's investments at the preceding year end, and shall certify the date of termination of the trust, if so planned, or certify that the trust shall not expire prior to the next following December 31.

(6) No amendment to the trust shall be effective unless reviewed and approved in advance by the commissioner.

**5.33(7) Credit for reinsurance required by law.** The commissioner shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer not meeting the requirements of this state, but only with respect to the insurance of risks located in jurisdictions where such reinsurance is required by the applicable law or regulation of that jurisdiction. As used in this subrule, "jurisdiction" means any state, district or territory of the United States and any lawful national government.

**5.33(8) Reduction from liability for reinsurance ceded to an unauthorized assuming insurer.** The commissioner shall allow a reduction from liability for reinsurance ceded by a domestic insurer to an assuming insurer not meeting the requirements of this state in an amount not exceeding the liabilities carried by the ceding insurer. Such reduction shall be in the amount of funds held by or on behalf of the ceding insurer, including funds held in trust for the exclusive benefit of the ceding insurer, under a reinsurance contract with such assuming insurer as security for the payment of obligations thereunder. Such security must be held in the United States subject to withdrawal solely by, and under the exclusive control of, the ceding insurer or, in the case of a trust, held in a qualified United States financial institution. This security may be in the form of any of the following:

a. Cash.

b. Securities listed by the Securities Valuation Office of the National Association of Insurance Commissioners and qualifying as admitted assets.

c. Clean, irrevocable, unconditional and "evergreen" letters of credit issued or confirmed by a qualified United States institution, as determined by the commissioner, effective no later than December 31 of the year for which filing is being made, and in the possession of the ceding company on or before the filing date of its annual statement. Letters of credit meeting applicable standards of issuer acceptability as of the dates of their issuance (or confirmation) shall, notwithstanding the issuing (or confirming) institution's subsequent failure to meet applicable standards of issuer acceptability, continue to be acceptable as security until their expiration, extension, renewal, modification or amendment, whichever first occurs.

d. Any other form of security acceptable to the commissioner. An admitted asset or a reduction from liability for reinsurance ceded to an unauthorized assuming insurer shall be allowed only when the requirements of this rule are met, as determined by the commissioner.

**5.33(9) Trust agreements qualified under subrule 5.33(8).**

a. *Definitions.* As used in this rule:

"Beneficiary" means the entity for whose sole benefit the trust has been established and any successor of the beneficiary by operation of law. If a court of law appoints a successor in interest to the named beneficiary, then the named beneficiary includes and is limited to the court-appointed domiciliary receiver (including conservator, rehabilitator or liquidator).

"Grantor" means the entity that has established a trust for the sole benefit of the beneficiary. When established in conjunction with a reinsurance agreement, the grantor is the unlicensed, unaccredited assuming insurer.

**“Obligations” means:**

1. Reinsured losses and allocated loss expenses paid by the ceding company, but not recovered from the assuming insurer;
2. Reserves for reinsured losses reported and outstanding;
3. Reserves for reinsured losses incurred but not reported;
4. Reserves for allocated reinsured loss expenses and unearned premiums.

**“Qualified United States financial institution” means an institution meeting the requirements of rule 191—32.4(508), except as permitted otherwise by the commissioner.**

**b. Required conditions:**

(1) The trust agreement shall be entered into between the beneficiary, the grantor and a trustee which shall be a qualified United States financial institution as determined by the commissioner.

(2) The trust agreement shall create a trust account into which assets shall be deposited.

(3) All assets in the trust account shall be held by the trustee at the trustee’s office in the United States, except that a bank may apply for the commissioner’s permission to use a foreign branch office of such bank as trustee for trust agreements established pursuant to this subrule. If the commissioner approves the use of such foreign branch office as trustee, then its use must be approved by the beneficiary in writing and the trust agreement must provide that the written notice described in subparagraph 5.33(9)“b”(4) must also be presentable, as a matter of legal right, at the trustee’s principal office in the United States.

(4) The trust agreement shall provide that:

1. The beneficiary shall have the right to withdraw assets from the trust account at any time, without notice to the grantor, subject only to written notice from the beneficiary to the trustee;

2. No other statement or document is required to be presented in order to withdraw assets, except that the beneficiary may be required to acknowledge receipt of withdrawn assets;

3. It is not subject to any conditions or qualifications outside of the trust agreement;

4. It shall not contain references to any other agreements or documents except as provided for under subparagraph 5.33(9)“b”(11).

(5) The trust agreement shall be established for the sole benefit of the beneficiary.

(6) The trust agreement shall require the trustee to:

1. Receive assets and hold all assets in a safe place;

2. Determine that all assets are in such form that the beneficiary, or the trustee upon direction by the beneficiary, may whenever necessary negotiate any such assets, without consent or signature from the grantor or any other person or entity;

3. Furnish to the grantor and the beneficiary a statement of all assets in the trust account upon its inception and at intervals no less frequent than the end of each calendar quarter;

4. Notify the grantor and the beneficiary, within ten days, of any deposits to or withdrawals from the trust account;

5. Upon written demand of the beneficiary, immediately take any and all steps necessary to transfer absolutely and unequivocally all right, title and interest in the assets held in the trust account to the beneficiary and deliver physical custody of the assets to the beneficiary;

6. Allow no substitutions or withdrawals of assets from the trust account, except on written instructions from the beneficiary, except that the trustee may, without the consent of but with notice to the beneficiary, upon call or maturity of any trust asset, withdraw such asset upon condition that the proceeds are paid into the trust account.

(7) The trust agreement shall provide that at least 30 days, but not more than 45 days, prior to termination of the trust account, written notification of termination shall be delivered by the trustee to the beneficiary.

(8) The trust agreement shall be made subject to and governed by the laws of the state in which the trust is established.

(9) The trust agreement shall prohibit invasion of the trust corpus for the purpose of paying compensation to, or reimbursing the expenses of, the trustee.

(10) The trust agreement shall provide that the trustee shall be liable for its own negligence, willful misconduct or lack of good faith.

(11) Notwithstanding other provisions of this rule, when a trust agreement is established in conjunction with a reinsurance agreement covering risks other than life, annuities and accident and health, where it is customary practice to provide a trust agreement for a specific purpose, such a trust agreement may, notwithstanding any other conditions in this rule, provide that the ceding insurer shall undertake to use and apply amounts drawn upon the trust account, without diminution because of the insolvency of the ceding insurer or the assuming insurer, for the following purposes:

1. To pay or reimburse the ceding insurer for the assuming insurer's share under the specific reinsurance agreement regarding any losses and allocated loss expenses paid by the ceding insurer, but not recovered from the assuming insurer, or for unearned premiums due to the ceding insurer if not otherwise paid by the assuming insurer;

2. To make payment to the assuming insurer of any amounts held in the trust account that exceed 102 percent of the actual amount required to fund the assuming insurer's obligations under the specific reinsurance agreement;

3. Where the ceding insurer has received notification of termination of the trust account and where the assuming insurer's entire obligations under the specific reinsurance agreement remain unliquidated and undischarged ten days prior to the termination date, to withdraw amounts equal to the obligations and deposit those amounts in a separate account, in the name of the ceding insurer, in any qualified United States financial institution apart from its general assets, in trust for such uses and purposes specified in subparagraph 5.33(9)"d"(1) as may remain executory after such withdrawal and for any period after the termination date.

(12) The reinsurance agreement entered into in conjunction with the trust agreement may, but need not, contain the provisions required by subparagraph 5.33(9)"d"(1) so long as these required conditions are included in the trust agreement.

*c. Permitted conditions.*

(1) The trust agreement may provide that the trustee may resign upon delivery of a written notice of resignation, effective not less than 90 days after receipt by the beneficiary and grantor of the notice, and that the trustee may be removed by the grantor by delivery to the trustee and the beneficiary of a written notice of removal, effective not less than 90 days after receipt by the trustee and the beneficiary of the notice, provided that no such resignation or removal shall be effective until a successor trustee has been duly appointed and approved by the beneficiary and the grantor and all assets in the trust have been duly transferred to the new trustee.

(2) The grantor may have the full and unqualified right to vote any shares of stock in the trust account and to receive from time to time payments of any dividends or interest upon any shares of stock or obligations included in the trust account. Any such interest or dividends shall be either forwarded promptly upon receipt to the grantor or deposited in a separate account established in the grantor's name.

(3) The trustee may be given authority to invest, and accept substitutions of, any funds in the account, provided that no investment or substitution shall be made without prior approval of the beneficiary, unless the trust agreement specifies categories of investments acceptable to the beneficiary and authorizes the trustee to invest funds and to accept substitutions which the trustee determines are at least equal in market value to the assets withdrawn and that are consistent with the restrictions in 5.33(9)"d"(1)"2."

(4) The trust agreement may provide that the beneficiary may at any time designate a party to which all or part of the trust assets are to be transferred. Such transfer may be conditioned upon the trustee receiving, prior to or simultaneously, other specified assets.

(5) The trust agreement may provide that, upon termination of the trust account, all assets not previously withdrawn by the beneficiary shall, with written approval by the beneficiary, be delivered over to the grantor.

*d. Additional conditions applicable to reinsurance agreements.*

(1) A reinsurance agreement, which is entered into in conjunction with a trust agreement and the establishment of a trust account, may contain provisions that:

1. Require the assuming insurer to enter into a trust agreement and to establish a trust account for the benefit of the ceding insurer, and specifying what the agreement is to cover;

2. Stipulate that assets deposited in the trust account shall be valued according to their current fair market value and shall consist only of cash (United States legal tender), certificates of deposit (issued by a United States bank and payable in United States legal tender), and investments of the types permitted by the laws of this state for domestic insurers, or any combination of the above provided that such investments are issued by an institution that is not the parent, subsidiary or affiliate of either the grantor or the beneficiary. The reinsurance agreement may further specify the types of investments to be deposited. Where a trust agreement is entered into in conjunction with a reinsurance agreement covering risks other than life, annuities, and accident and health, then the trust agreement may contain the provisions required by this paragraph in lieu of including such provisions in the reinsurance agreement;

3. Require the assuming insurer, prior to depositing assets with the trustee, to execute assignments or endorsements in blank, or to transfer legal title to the trustee of all shares, obligations, or any assets requiring assignments, in order that the ceding insurer, or the trustee upon the direction of the ceding insurer, may whenever necessary negotiate these assets without consent or signature from the assuming insurer or any other entity;

4. Require that all settlements of account between the ceding insurer and the assuming insurer be made in cash or its equivalent;

5. Stipulate that the assuming insurer and the ceding insurer agree that the assets in the trust account, established pursuant to the provisions of the reinsurance agreement, may be withdrawn by the ceding insurer at any time, notwithstanding any other provisions in the reinsurance agreement, and shall be utilized and applied by the ceding insurer or its successors in interest by operation of law, including without limitation any liquidator, rehabilitator, receiver or conservator of such company, without diminution because of insolvency on the part of the ceding insurer or the assuming insurer, only for the following purposes:

- To reimburse the ceding insurer for the assuming insurer's share of premiums returned to the owners of policies reinsured under the reinsurance agreement because of cancellations of such policies;

- To reimburse the ceding insurer for the assuming insurer's share of surrenders and benefits or losses paid by the ceding insurer pursuant to the provisions of the policies reinsured under the reinsurance agreement;

- To fund an account with the ceding insurer in an amount at least equal to the deduction, for reinsurance ceded, from the ceding insurer liabilities for policies ceded under the agreement. The account shall include, but not be limited to, amounts for policy reserves, claims and losses incurred (including losses incurred but not reported), loss adjustment expenses and unearned premium reserves;

- To pay any other amounts the ceding insurer claims are due under the reinsurance agreement.
- (2) The reinsurance agreement may also contain provisions that:

1. Give the assuming insurer the right to seek approval from the ceding insurer to withdraw from the trust account all or any part of the trust assets and transfer those assets to the assuming insurer, provided:

- The assuming insurer shall, at the time of withdrawal, replace the withdrawn assets with other qualified assets having a market value equal to the market value of the assets withdrawn so as to maintain at all times the deposit in the required amount, or

- After withdrawal and transfer, the market value of the trust account is not less than 102 percent of the required amount.

The ceding insurer shall not unreasonably or arbitrarily withhold its approval.

2. Provide for:

- The return of any amount withdrawn in excess of the actual amounts required to comply with 5.33(9)“d”(1)“5,” first three unnumbered paragraphs, or in the case of 5.33(9)“d”(1)“5,” last unnumbered paragraph, any amounts that are subsequently determined not to be due; and

- Interest payments, at a rate not in excess of the prime rate of interest, on the amounts held pursuant to 5.33(9)“d”(1)“5,” third unnumbered paragraph.

3. Permit the award by any arbitration panel or court of competent jurisdiction of:

- Interest at a rate different from that provided in 5.33(9)“d”(2)“2”;

- Court of arbitration costs;

- Attorney’s fees;

- Any other reasonable expenses.

(3) Financial reporting. A trust agreement may be used to reduce any liability for reinsurance ceded to an unauthorized assuming insurer in financial statements required to be filed with this division in compliance with the provision of this rule when established on or before the date of filing of the financial statement of the ceding insurer. Further, the reduction for the existence of an acceptable trust account may be up to the current fair market value of acceptable assets available to be withdrawn from the trust account at that time, but such reduction shall be no greater than the specific obligations under the reinsurance agreement that the trust account was established to secure.

(4) Existing agreements. Any trust agreement or underlying reinsurance agreement in existence prior to January 1, 1992, will continue to be acceptable until January 1, 1993, at which time the agreements will have to be in full compliance with this rule for the trust agreement to be acceptable.

(5) The failure of any trust agreement to specifically identify the beneficiary as defined in subparagraph 5.33(9)“a”(1) shall not be construed to affect any actions or rights which the commissioner may take or possess pursuant to the provisions of the laws of this state.

**5.33(10) Letters of credit qualified under subrule 5.33(8).**

a. The letter of credit must be clean, irrevocable and unconditional and issued or confirmed by a qualified United States financial institution. The letter of credit shall contain an issue date and date of expiration and shall stipulate that the beneficiary need only draw a sight draft under the letter of credit and present it to obtain funds and that no other document need be presented. The letter of credit shall also indicate that it is not subject to any condition or qualifications outside of the letter of credit. In addition, the letter of credit itself shall not contain reference to any other agreements, documents or entities, except as provided in subparagraph 5.33(10)“i”(1). As used in this paragraph, “beneficiary” means the domestic insurer for whose benefit the letter of credit has been established and any successor of the beneficiary by operation of law. If a court of law appoints a successor in interest to the named beneficiary, then the named beneficiary includes and is limited to the court-appointed domiciliary receiver (including conservator, rehabilitator or liquidator).

b. The heading of the letter of credit may include a boxed section which contains the name of the applicant and other appropriate notations to provide a reference for the letter of credit. The boxed section shall be clearly marked to indicate that such information is for internal identification purposes only.

c. The letter of credit shall contain a statement to the effect that the obligation of the qualified United States financial institution under the letter of credit is in no way contingent upon reimbursement with respect thereto.

d. The term of the letter of credit shall be for at least one year and shall contain an "evergreen clause" which prevents the expiration of the letter of credit without due notice from the issuer. The "evergreen clause" shall provide for a period of no less than 30 days' notice prior to expiry date or nonrenewal.

e. The letter of credit shall state whether it is subject to and governed by the laws of this state or the Uniform Customs and Practice for Documentary Credits of the International Chamber of Commerce (Publication 400), and all drafts drawn thereunder shall be presentable at an office in the United States of a qualified United States financial institution.

f. If the letter of credit is made subject to the Uniform Customs and Practice for Documentary Credits of the International Chamber of Commerce (Publication 400), then the letter of credit shall specifically address and make provision for an extension of time to draw against the letter of credit in the event that one or more of the occurrences specified in Article 19 of Publication 400 occur.

g. The letter of credit shall be issued or confirmed by a qualified United States financial institution authorized pursuant to the organic laws of its chartering jurisdiction to issue letters of credit.

h. If the letter of credit is not issued by a qualified United States financial institution authorized to issue letters of credit, the following additional requirements shall be met:

(1) The issuing United States financial institution shall formally designate a qualified United States financial institution as its agent for the receipt and payment of the drafts;

(2) The "evergreen clause" shall provide for 30 days' notice prior to expiry date for nonrenewal.

i. Reinsurance agreement provisions.

(1) The reinsurance agreement in conjunction with which the letter of credit is obtained may contain provisions which:

1. Require the assuming insurer to provide letters of credit to the ceding insurer and specify what they are to cover;

2. Stipulate that the assuming insurer and ceding insurer agree that the letter of credit provided by the assuming insurer pursuant to the provisions of the reinsurance agreement may be drawn upon at any time, notwithstanding any other provisions in the agreement, and shall be utilized by the ceding insurer or its successors in interest only for one or more of the following reasons:

- To reimburse the ceding insurer for the assuming insurer's share of premiums returned to the owners of policies reinsured under the reinsurance agreement on account of cancellations of such policies;

- To reimburse the ceding insurer for the assuming insurer's share of surrenders and benefits or losses paid by the ceding insurer under the terms and provisions of the policies reinsured under the reinsurance agreement;

- To fund an account with the ceding insurer in an amount at least equal to the deduction, for reinsurance ceded, from the ceding insurer's liabilities for policies ceded under the agreement (such amount shall include, but not be limited to, amounts for policy reserves, claims and losses incurred and unearned premium reserves);



• To pay any other amounts the ceding insurer claims are due under the reinsurance agreement.

3. All of the provisions required by paragraph 5.33(10)“i” should be applied without diminution because of insolvency on the part of the ceding insurer or assuming insurer.

(2) Nothing contained in this paragraph shall preclude the ceding insurer and assuming insurer from providing for:

1. An interest payment, at a rate not in excess of the prime rate of interest, on the amounts held pursuant to 5.33(10)“i”(1)“2,” third unnumbered paragraph.

2. The return of any amounts drawn down on the letters of credit in excess of the actual amounts required for the above or, in the event 5.33(10)“i”(1)“3,” fourth unnumbered paragraph, is applicable, any amounts that are subsequently determined not to be due.

(3) When a letter of credit is obtained in conjunction with a reinsurance agreement covering risks other than life, annuities and health, where it is customary practice to provide a letter of credit for a specific purpose, then the reinsurance agreement may, in lieu of 5.33(10)“i”(1)“2,” require that the parties enter into a “Trust Agreement” which may be incorporated into the reinsurance agreement or be a separate document.

j. A letter of credit may not be used to reduce any liability for reinsurance ceded to an unauthorized assuming insurer in financial statements required to be filed with this division unless an acceptable letter of credit with the filing ceding insurer as beneficiary has been issued on or before the date of filing of the financial statement. Further, the reduction for the letter of credit may be up to the amount available under the letter of credit but no greater than the specific obligation under the reinsurance agreement which the letter of credit was intended to secure.

**5.33(11) Other security.** A ceding insurer may take credit for unencumbered funds withheld by the ceding insurer in the United States subject to withdrawal solely by the ceding insurer and under its exclusive control.

**5.33(12) Reinsurance contract.** Credit will not be granted to a ceding insurer for reinsurance effected with assuming insurers meeting the requirements of subrules 5.33(4), 5.33(5), 5.33(6), 5.33(7), or 5.33(9) after the adoption of this rule unless the reinsurance agreement:

a. Includes a proper insolvency clause pursuant to Iowa Code section 507C.32; and

b. Includes a provision whereby the assuming insurer, if an unauthorized assuming insurer, has submitted to the jurisdiction of an alternative dispute resolution panel or court of competent jurisdiction within the United States, has agreed to comply with all requirements necessary to give such court or panel jurisdiction, has designated an agent upon whom service of process may be effected, and has agreed to abide by the final decision of such court or panel.

**5.33(13) Contracts affected.** All new and renewal reinsurance transactions entered into after January 1, 1992, shall conform to the requirements of this rule if credit is to be given to the ceding insurer for such reinsurance.

This rule is intended to implement Iowa Code chapter 521B.

#### 191—5.34(508) Actuarial opinion and memorandum.

**5.34(1) Purpose and effective date.** The purpose of this rule is to prescribe:

a. Guidelines and standards for statements of actuarial opinion which are to be submitted in accordance with Iowa Code section 508.36 and for memoranda in support thereof;

b. Guidelines and standards for statements of actuarial opinion which are to be submitted when a company is exempt from Iowa Code section 508.36; and

c. Rules applicable to the appointment of an appointed actuary.

**5.34(2) Authority.** This rule is issued pursuant to the authority vested in the commissioner of insurance under Iowa Code section 508.36. This rule will take effect for annual statements for the year 1996.

**5.34(3) Scope.** This rule shall apply to all life insurance companies and fraternal benefit societies doing business in this state and to all life insurance companies and fraternal benefit societies which are authorized to reinsure life insurance, annuities or accident and health insurance business in this state.

This rule shall be applicable to all annual statements filed with the office of the commissioner after the effective date of this rule. Except with respect to companies which are exempted pursuant to subrule 5.34(6), a statement of opinion on the adequacy of the reserves and related actuarial items based on an asset adequacy analysis in accordance with subrule 5.34(8), and a memorandum in support thereof in accordance with subrule 5.34(9), shall be required each year. Any company so exempted must file a statement of actuarial opinion pursuant to subrule 5.34(7).

Notwithstanding the foregoing, the commissioner may require any company otherwise exempt pursuant to this rule to submit a statement of actuarial opinion and to prepare a memorandum in support thereof in accordance with subrules 5.34(8) and 5.34(9) if, in the opinion of the commissioner, an asset analysis is necessary with respect to the company.

**5.34(4) Definitions.** As used in this rule:

*"Actuarial opinion"* means:

1. With respect to subrules 5.34(8) to 5.34(10), the opinion of an appointed actuary regarding the adequacy of the reserves and related actuarial items based on an asset adequacy test in accordance with 5.34(8) and with presently accepted actuarial standards;

2. With respect to subrule 5.34(7), the opinion of an appointed actuary regarding the calculation of reserves and related items, in accordance with 5.34(7) and with those presently accepted actuarial standards which specifically relate to this opinion.

*"Actuarial Standards Board"* is the board established by the American Academy of Actuaries to develop and promulgate standards of actuarial practice.

*"Annual statement"* means that statement required by Iowa Code section 508.11 to be filed annually by the company with the office of the commissioner.

*"Appointed actuary"* means any individual who is appointed or retained in accordance with the requirements set forth in 5.34(5) "c" to provide the actuarial opinion and supporting memorandum as required by Iowa Code section 508.36.

*"Asset adequacy analysis"* means an analysis that meets the standards and other requirements referred to in 5.34(5) "d." It may take many forms, including, but not limited to, cash flow testing, sensitivity testing or applications of risk theory.

*"Commissioner"* means the insurance commissioner of this state.

*"Company"* means a life insurance company, fraternal benefit society or reinsurer subject to the provisions of this rule.

*"Non-investment grade bonds"* are those designated as classes 3, 4, 5 or 6 by the NAIC Securities Valuation Office.

*"Qualified actuary"* means any individual who meets the requirements set forth in 5.34(5) "b."

**5.34(5) General requirements.**

*a. Submission of statement of actuarial opinion.*

(1) There is to be included on or attached to page 1 of the annual statement for each year beginning with the year in which this rule becomes effective the statement of an appointed actuary, entitled "Statement of Actuarial Opinion," setting forth an opinion relating to reserves and related actuarial items held in support of policies and contracts, in accordance with 5.34(8); provided, however, that any company exempted pursuant to 5.34(6) from submitting a statement of actuarial opinion in accordance with 5.34(8) shall include on or attach to page 1 of the annual statement a statement of actuarial opinion rendered by an appointed actuary in accordance with 5.34(7).

(2) If in the previous year a company provided a statement of actuarial opinion in accordance with 5.34(7), and in the current year fails the exemption criteria of 5.34(6) "c," subparagraphs (1), (2) or (5), to again provide an actuarial opinion in accordance with 5.34(7), the statement of actuarial opinion in accordance with 5.34(8) shall not be required until August 1 following the date of the annual statement. In this instance, the company shall provide a statement of actuarial opinion in accordance with 5.34(7) with appropriate qualification noting the intent to subsequently provide a statement of actuarial opinion in accordance with 5.34(8).

(3) In the case of a statement of actuarial opinion required to be submitted by a foreign or alien company, the commissioner may accept the statement of actuarial opinion filed by such company with the insurance supervisory regulator of another state if the commissioner determines that the opinion reasonably meets the requirements applicable to a company domiciled in this state.

(4) Upon written request by the company, the commissioner may grant an extension of the date for submission of the statement of actuarial opinion.

b. *Qualified actuary.* A "qualified actuary" is an individual who:

- (1) Is a member in good standing of the American Academy of Actuaries;
- (2) Is qualified to sign statements of actuarial opinion for life and health insurance company annual statements in accordance with the American Academy of Actuaries qualification standards for actuaries signing such statements;
- (3) Is familiar with the valuation requirements applicable to life and health insurance companies;
- (4) Has not been found by the commissioner (or if so found has subsequently been reinstated as a qualified actuary), following appropriate notice and hearing to have:
  1. Violated any provision of, or any obligation imposed by, the insurance code or other law in the course of dealing as a qualified actuary;
  2. Been found guilty of fraudulent or dishonest practices;
  3. Demonstrated incompetency, lack of cooperation, untrustworthiness to act as a qualified actuary;
  4. Submitted to the commissioner during the past five years, pursuant to this rule, an actuarial opinion or memorandum that the commissioner rejected because it did not meet the provisions of this rule including standards set by the Actuarial Standards Board;
  5. Resigned or been removed as an actuary within the past five years as a result of acts or omissions indicated in any adverse report on examination or as a result of failure to adhere to generally acceptable actuarial standards;
- (5) Has not failed to notify the commissioner of any action taken by any commissioner of any other state similar to that under 5.34(5) "b"(4).

c. *Appointed actuary.* An "appointed actuary" is a qualified actuary who is appointed or retained to prepare the Statement of Actuarial Opinion required by this rule, either directly by or by the authority of the board of directors through an executive officer of the company. The company shall give the commissioner timely written notice of the name, title (and, in the case of a consulting actuary, the name of the firm) and manner of appointment or retention of each person appointed or retained by the company as an appointed actuary and shall state in such notice that the person meets the requirements set forth in 5.34(5) "b." Once notice is furnished, no further notice is required with respect to this person, provided that the company shall give the commissioner timely written notice in the event the actuary ceases to be appointed or retained as an appointed actuary or to meet the requirements set forth in 5.34(5) "b." If any person appointed or retained as an appointed actuary replaces a previously appointed actuary, the notice shall so state and give the reasons for replacement.

*d. Standards for asset adequacy analysis.* The asset adequacy analysis required by this rule shall:

(1) Conform to the standards of practice as promulgated from time to time by the Actuarial Standards Board and on any additional standards under this rule, which standards are to form the basis of the statement of actuarial opinion in accordance with 5.34(8);

(2) Be based on methods of analysis as are deemed appropriate for such purposes by the Actuarial Standards Board.

*e. Liabilities to be covered.*

(1) Under authority of Iowa Code section 508.36, the statement of actuarial opinion shall apply to all in-force business on the statement date regardless of when or where issued, e.g., reserves of Exhibits 8, 9, and 10, and claim liabilities in Exhibit 11, part 1, and equivalent items in the separate account statement or statements.

(2) If the appointed actuary determines as the result of asset adequacy analysis that a reserve should be held in addition to the aggregate reserve held by the company and calculated in accordance with methods set forth in Iowa Code section 508.36, the company shall establish such additional reserve.

(3) For years ending prior to December 31, 1998, the company may, in lieu of establishing the full amount of the additional reserve in the annual statement for that year, set up an additional reserve in an amount not less than the following:

December 31, 1996, the additional reserve divided by three.

December 31, 1997, two times the additional reserve divided by three.

(4) Additional reserves established under 5.34(5) "e," subparagraphs (2) or (3), and deemed not necessary in subsequent years may be released. Any amounts released must be disclosed in the actuarial opinion for the applicable year. The release of such reserves would not be deemed an adoption of a lower standard of valuation.

**5.34(6) Required opinions.**

*a. General.* In accordance with Iowa Code section 508.36, every company doing business in this state shall annually submit the opinion of an appointed actuary as provided for by this rule. The type of opinion submitted shall be determined by the provisions set forth in this subrule and shall be in accordance with the applicable provisions in this rule.

*b. Company categories.* For purposes of this rule, companies shall be classified as follows based on the admitted assets as of the end of the calendar year for which the actuarial opinion is applicable:

(1) Category A shall consist of those companies whose admitted assets do not exceed \$20 million;

(2) Category B shall consist of those companies whose admitted assets exceed \$20 million but do not exceed \$100 million;

(3) Category C shall consist of those companies whose admitted assets exceed \$100 million but do not exceed \$500 million;

(4) Category D shall consist of those companies whose admitted assets exceed \$500 million.

*c. Exemption eligibility tests.*

(1) Any category A company that, for any year beginning with the year in which this rule becomes effective, meets all of the following criteria shall be eligible for exemption from submission of a statement of actuarial opinion in accordance with 5.34(8) for the year in which these criteria are met. The ratios shown below shall be calculated based on amounts as of the end of the calendar year for which the actuarial opinion is applicable.

1. The ratio of the sum of capital and surplus to the sum of cash and invested assets is at least equal to .10.

2. The ratio of the sum of the reserves and liabilities for annuities and deposits to the total admitted assets is less than .30.

3. The ratio of the book value of the non-investment grade bonds to the sum of capital and surplus is less than .50.

4. The examiner team for the National Association of Insurance Commissioners (NAIC) has not designated the company as a first priority company in any of the two calendar years preceding the calendar year for which the actuarial opinion is applicable, or a second priority company in each of the two calendar years preceding the calendar year for which the actuarial opinion is applicable, or the company has resolved the first or second priority status to the satisfaction of the commissioner of the state of domicile and the commissioner has so notified the chair of the NAIC Life and Health Actuarial Task Force and the NAIC Staff and Support Office.

(2) Any category B company that, for any year beginning with the year in which this rule becomes effective, meets all of the following criteria shall be eligible for exemption from submission of a statement of actuarial opinion in accordance with 5.34(8) for the year in which the criteria are met. The ratios shown below shall be calculated based on amounts as of the end of the calendar year for which the actuarial opinion is applicable.

1. The ratio of the sum of capital and surplus to the sum of cash and invested assets is at least equal to .07.

2. The ratio of the sum of the reserves and liabilities for annuities and deposits to the total admitted assets is less than .40.

3. The ratio of the book value of the non-investment grade bonds to the sum of capital and surplus is less than .50.

4. The examiner team for the NAIC has not designated the company as a first priority company in any of the two calendar years preceding the calendar year for which the actuarial opinion is applicable, or a second priority company in each of the two calendar years preceding the calendar year for which the actuarial opinion is applicable, or the company has resolved the first or second priority status to the satisfaction of the commissioner of the state of domicile and the commissioner has so notified the chair of the NAIC Life and Health Actuarial Task Force and the NAIC Staff and Support Office.

(3) Any category A or category B company that meets all of the criteria set forth in 5.34(6) "c," subparagraph (1) or (2), whichever is applicable, is exempted from submission of a statement of actuarial opinion in accordance with 5.34(8) unless the commissioner specifically indicates to the company that the exemption is not to be taken.

(4) Any category A or category B company that, for any year beginning with the year in which this rule becomes effective, is not exempted under 5.34(6) "c" (3) shall be required to submit a statement of actuarial opinion in accordance with 5.34(8) for the year for which it is not exempt.

(5) Any category C company that, after submitting an opinion in accordance with 5.34(8), meets all of the following criteria shall not be required, unless required in accordance with 5.34(6) "c" (6), to submit a statement of actuarial opinion in accordance with 5.34(8) more frequently than every third year. Any category C company which fails to meet all of the following criteria for any year shall submit a statement of actuarial opinion in accordance with 5.34(8) for that year. The ratios shown below shall be calculated based on amounts as of the end of the calendar year for which the actuarial opinion is applicable.

1. The ratio of the sum of capital and surplus to the sum of cash and invested assets is at least equal to .05.

2. The ratio of the sum of the reserves and liabilities for annuities and deposits to the total admitted assets is less than .50.

3. The ratio of the book value of the non-investment grade bonds to the sum of the capital and surplus is less than .50.

4. The examiner team for the NAIC has not designated the company as a first priority company in any of the two calendar years preceding the calendar year for which the actuarial opinion is applicable, or a second priority company in each of the two calendar years preceding the calendar year for which the actuarial opinion is applicable, or the company has resolved the first or second priority status to the satisfaction of the commissioner of the state of domicile and the commissioner has so notified the chair of the NAIC Life and Health Actuarial Task Force and the NAIC Staff and Support Office.

(6) Any company which is not required by this subrule to submit a statement of actuarial opinion in accordance with 5.34(8) for any year shall submit a statement of actuarial opinion in accordance with 5.34(7) for that year unless, as provided for by the second paragraph of subrule 5.34(3), the commissioner requires a statement of actuarial opinion in accordance with 5.34(8).

d. *Large companies.* Every category D company shall submit a statement of actuarial opinion in accordance with 5.34(8) for each year beginning with the year in which this rule becomes effective.

**5.34(7) Statement of actuarial opinion not including an asset adequacy analysis.**

a. *General description.* The statement of actuarial opinion required by this subrule shall consist of a paragraph identifying the appointed actuary and that actuary's qualifications; a regulatory authority paragraph stating that the company is exempt pursuant to this rule from submitting a statement of actuarial opinion based on an asset adequacy analysis and that the opinion, which is not based on an asset adequacy analysis, is rendered in accordance with 5.34(7); a scope paragraph identifying the subjects on which the opinion is to be expressed and describing the scope of the appointed actuary's opinion as required by Iowa Code section 508.36.

b. *Recommended language.* The following language provided is that which in typical circumstances would be included in a statement of actuarial opinion in accordance with this subrule. The language may be modified as needed to meet the circumstances of a particular case, but the appointed actuary should use language which clearly expresses the actuary's professional judgment. However, in any event the opinion shall retain all pertinent aspects of the language provided in 5.34(7).

(1) The opening paragraph should indicate the appointed actuary's relationship to the company. For a company actuary, the opening paragraph of the actuarial opinion should read as follows:

"I, [name of actuary], am [title] of [name of company] and a member of the American Academy of Actuaries. I was appointed by, or by the authority of, the board of directors of said insurer to render this opinion as stated in the letter to the commissioner dated [insert date]. I meet the Academy qualification standards for rendering the opinion and am familiar with the valuation requirements applicable to life and health insurance companies."

For a consulting actuary, the opening paragraph of the actuarial opinion should contain a sentence such as:

"I, [name and title of actuary], a member of the American Academy of Actuaries, am associated with the firm of [insert name of consulting firm]. I have been appointed by, or by the authority of, the board of directors of [name of company] to render this opinion as stated in the letter to the commissioner dated [insert date]. I meet the Academy qualification standards for rendering the opinion and am familiar with the valuation requirements applicable to life and health insurance companies."

(2) The regulatory authority paragraph should include a statement such as the following: "Said company is exempt pursuant to rule 191 IAC 5.34(508) of the Iowa insurance division from submitting a statement of actuarial opinion based on an asset adequacy analysis. This opinion, which is not based on an asset adequacy analysis, is rendered in accordance with 5.34(7)."

(3) The scope paragraph should contain a sentence such as the following: "I have examined the actuarial assumptions and actuarial methods used in determining reserves and related actuarial items listed below, as shown in the annual statement of the company, as prepared for filing with state regulatory officials, as of December 31, 19\_\_."

The paragraph should list items and amounts with respect to which the appointed actuary is expressing an opinion. The list should include but not necessarily be limited to:

1. Aggregate reserve and deposit funds for policies and contracts included in Exhibit 8;
2. Aggregate reserve and deposit funds for policies and contracts included in Exhibit 9;
3. Deposit funds, premiums, dividend and coupon accumulations and supplementary contracts not involving life contingencies included in Exhibit 10;
4. Policy and contract claims—liability end of current year included in Exhibit 11, Part 1.

(4) If the appointed actuary has examined the underlying records, the scope paragraph should also include the following: "My examination included such review of the actuarial assumptions and actuarial methods and of the underlying basic records and such tests of the actuarial calculations as I considered necessary."

(5) If the appointed actuary has not examined the underlying records, but has relied upon listings and summaries of policies in force prepared by the company or a third party, the scope paragraph should include a sentence such as one of the following:

"I have relied upon listings and summaries of policies and contracts and other liabilities in force prepared by [name and title of company officer certifying in-force records] as certified in the attached statement. (See accompanying affidavit by a company officer.) In other respects my examination included review of the actuarial assumptions and actuarial methods and such tests of the actuarial calculations as I considered necessary."

or

"I have relied upon [name of accounting firm] for the substantial accuracy of the in-force records inventory and information concerning other liabilities, as certified in the attached statement. In other respects my examination included review of the actuarial assumptions and actuarial methods and such tests of the actuarial calculations as I considered necessary."

The statement of the person certifying shall follow the form indicated by 5.34(7) "b"(10).

(6) The opinion paragraph should include the following:

"In my opinion the amounts carried in the balance sheet on account of the actuarial items identified above:

"1. Are computed in accordance with those presently accepted actuarial standards which specifically relate to the opinion required under this subrule;

"2. Are based on actuarial assumptions which produce reserves at least as great as those called for in any contract provision as to reserve basis and method, and are in accordance with all other contract provisions;

"3. Meet the requirements of the insurance code and rules of [state of domicile] and are at least as great as the minimum aggregate amounts required by the state in which this statement is filed;

"4. Are computed on the basis of assumptions consistent with those used in computing the corresponding items in the annual statement of the preceding year-end with any exceptions as noted below;

"5. Include provision for all actuarial reserves and related statement items which ought to be established.

"The actuarial methods, considerations and analyses used in forming my opinion conform to the appropriate compliance guidelines as promulgated by the Actuarial Standards Board, which guidelines form the basis of this statement of opinion."

(7) The concluding paragraph should document the eligibility for the company to provide an opinion as provided by this subrule. It shall include the following:

"This opinion is provided in accordance with 191 IAC 5.34(7). As such it does not include an opinion regarding the adequacy of reserves and related actuarial items when considered in light of the assets which support them.

“Eligibility for 5.34(7) is confirmed as follows:

“1. The ratio of the sum of capital and surplus to the sum of cash and invested assets is [insert amount], which equals or exceeds the applicable criterion based on the admitted assets of the company (5.34(6)“c”).

“2. The ratio of the sum of the reserves and liabilities for annuities and deposits to the total admitted assets is [insert amount], which is less than the applicable criteria based on the admitted assets of the company (5.34(6)“c”).

“3. The ratio of the book value of the non-investment grade bonds to the sum of capital and surplus is [insert amount], which is less than the applicable criteria of .50.

“4. To my knowledge, the NAIC examiner team has not designated the company as a first priority company in any of the two calendar years preceding the calendar year for which the actuarial opinion is applicable, or a second priority company in each of the two calendar years preceding the calendar year for which the actuarial opinion is applicable or the company has resolved the first or second priority status to the satisfaction of the commissioner of the state of domicile.

“5. To my knowledge there is not a specific request from any commissioner requiring an asset adequacy analysis opinion.

\_\_\_\_\_  
Signature of Appointed Actuary

\_\_\_\_\_  
Address of Appointed Actuary

\_\_\_\_\_  
Telephone Number of Appointed Actuary”

(8) If there has been any change in the actuarial assumptions from those previously employed, that change should be described in the annual statement or in a paragraph of the statement of actuarial opinion, and the reference to consistency in 5.34(7)“b”(6), numbered paragraph 4, should read as follows:

“...with the exception of the change described on page [ ] of the annual statement (or in the preceding paragraph).”

The adoption for new issues or new claims or other new liabilities of an actuarial assumption which differs from a corresponding assumption used for prior new issues or new claims or other new liabilities is not a change in actuarial assumptions within the meaning of this paragraph.

(9) If the appointed actuary is unable to form an opinion, the actuary shall refuse to issue a statement of actuarial opinion. If the appointed actuary’s opinion is adverse or qualified, the actuary shall issue an adverse or qualified actuarial opinion explicitly stating the reason(s) for such opinion. This statement should follow the scope paragraph and precede the opinion paragraph.

(10) If the appointed actuary does not express an opinion as to the accuracy and completeness of the listings and summaries of policies in force, there should be attached to the opinion the statement of a company officer or accounting firm who prepared such underlying data similar to the following:



"I, [name of officer], [title] of [name and address of company or accounting firm], hereby affirm that the listings and summaries of policies and contracts in force as of December 31, 19\_\_\_\_, prepared for and submitted to [name of appointed actuary], were prepared under my direction and, to the best of my knowledge and belief, are substantially accurate and complete.

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Signature of the Officer of the Company  
or Accounting Firm

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Address of the Officer of the Company  
or Accounting Firm

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Telephone Number of the Officer of the  
Company or Accounting Firm"

**5.34(8) Statement of actuarial opinion based on an asset adequacy analysis.**

*a. General description.* The statement of actuarial opinion submitted in accordance with this subrule shall consist of:

(1) A paragraph identifying the appointed actuary and the actuary's qualifications (see 5.34(8)"b"(1));

(2) A scope paragraph identifying the subjects on which an opinion is to be expressed and describing the scope of the appointed actuary's work, including a tabulation delineating the reserves and related actuarial items which have been analyzed for asset adequacy and the method of analysis (see 5.34(8)"b"(2)), and identifying the reserves and related actuarial items covered by the opinion which have not been so analyzed;

(3) A reliance paragraph describing those areas, if any, where the appointed actuary has deferred to other experts in developing data, procedures or assumptions (e.g., anticipated cash flows from currently owned assets, including variation in cash flows according to economic scenarios (see 5.34(8)"b"(3)), supported by a statement of each such expert in the form prescribed by 5.34(8)"e";

(4) An opinion paragraph expressing the appointed actuary's opinion with respect to the adequacy of the supporting assets to mature the liabilities (see 5.34(8)"b"(6)).

(5) One or more additional paragraphs will be needed in individual company cases as follows:

1. If the appointed actuary considers it necessary to state a qualification of opinion;

2. If the appointed actuary must disclose the method of aggregation for reserves of different products or lines of business for asset adequacy analysis;

3. If the appointed actuary must disclose reliance upon any portion of the assets supporting the asset valuation reserve (AVR), interest maintenance reserve (IMR) or other mandatory or voluntary statement of reserves for asset adequacy analysis;

4. If the appointed actuary must disclose an inconsistency in the method of analysis or basis of asset allocation used at the prior opinion date with that used for this opinion;

5. If the appointed actuary must disclose whether additional reserves of the prior opinion date are released as of this opinion date, and the extent of the release;

6. If the appointed actuary chooses to add a paragraph briefly describing the assumptions which form the basis for the actuarial opinion.

*b. Recommended language.* The following paragraphs are to be included in the statement of actuarial opinion in accordance with this subrule. Language is that which in typical circumstances should be included in a statement of actuarial opinion. The language may be modified as needed to meet the circumstances of a particular case, but the appointed actuary should use language which clearly expresses the actuary's professional judgment. However, in any event the opinion shall retain all pertinent aspects of the language provided in this subrule.

(1) The opening paragraph should generally indicate the appointed actuary's relationship to the company and qualifications to sign the opinion. For a company actuary, the opening paragraph of the actuarial opinion should read as follows:

"I, [name], am [title] of [insurance company name] and a member of the American Academy of Actuaries. I was appointed by, or by the authority of, the board of directors of said insurer to render this opinion as stated in the letter to the commissioner dated [insert date]. I meet the Academy qualification standards for rendering the opinion and am familiar with the valuation requirements applicable to life and health insurance companies."

For a consulting actuary, the opening paragraph should contain a sentence such as:

"I, [name], a member of the American Academy of Actuaries, am associated with the firm of [name of consulting firm]. I have been appointed by, or by the authority of, the board of directors of [name of company] to render this opinion as stated in the letter to the commissioner dated [insert date]. I meet the Academy qualification standards for rendering the opinion and am familiar with the valuation requirements applicable to life and health insurance companies."

(2) The scope paragraph should include a statement such as the following:

"I have examined the actuarial assumptions and actuarial methods used in determining reserves and related actuarial items listed below, as shown in the annual statement of the company, as prepared for filing with state regulatory officials, as of December 31, 19\_\_\_. Tabulated below are those reserves and related actuarial items which have been subjected to asset adequacy analysis."

Statement Item	Asset Adequacy Tested Amounts			Reserves and Liabilities	
	Formula Reserves (1)	Additional Actuarial Reserves (a) (2)	Analysis Method(b)	Other Amount (3)	Total Amount (1)+(2)+(3) (4)
<b>Exhibit 8</b>					
A	Life Insurance				
B	Annuities				
C	Supplementary Contracts Involving Life Contingencies				
D	Accidental Death Benefit				
E	Disability—Active				
F	Disability—Disabled				
G	Miscellaneous				
	Total (Exhibit 8 Item 1, Page 3)				
<b>Exhibit 9</b>					
A	Active Life Reserve				
B	Claim Reserve				
	Total (Exhibit 9 Item 2, Page 3)				
<b>Exhibit 10</b>					
1	Premiums and Other Deposit Funds				

Statement Item	Asset Adequacy Tested Amounts			Reserves and Liabilities	
	Formula Reserves (1)	Additional Actuarial Reserves (a) (2)	Analysis Method(b)	Other Amount (3)	Total Amount (1)+(2)+(3) (4)
1.1 Policyholder Premiums (Page 3, Line 10.1)					
1.2 Guaranteed Interest Contracts (Page 3, Line 10.2)					
1.3 Other Contract Deposit Funds (Page 3, Line 10.3)					
2 Supplementary Contracts Not Involving Life Contingencies (Page 3, Line 3)					
3 Dividend and Coupon Accumulations (Page 3, Line 5)					
Total Exhibit 10					
<u>Exhibit 11, Part 1</u>					
1 Life (Page 3, Line 4.1)					
2 Health (Page 3, Line 4.2)					
Total Exhibit 11, Part 1					
Separate Accounts (Page 3, Line 27)					
<b>TOTAL RESERVES</b>					
IMR (Page _____ Line _____)					
AVR (Page _____ Line _____)					
			(c)		

Notes:

- (a) The additional actuarial reserves are the reserves established under subparagraphs (2) or (3) of 5.34(5) "e."
- (b) The appointed actuary should indicate the method of analysis, determined in accordance with the standards for asset adequacy analysis referred to in paragraph 5.34(5) "d," by means of symbols which should be defined in footnotes to the table.
- (c) Allocated amount.

(3) If the appointed actuary has relied on other experts to develop certain portions of the analysis, the reliance paragraph should include a statement such as the following:

"I have relied on [name], [title] for [e.g., anticipated cash flows from currently owned assets, including variations in cash flows according to economic scenarios] and, as certified in the attached statement, . . ."

or

"I have relied on personnel as cited in the supporting memorandum for certain critical aspects of the analysis in reference to the accompanying statement."

Such a statement of reliance on other experts should be accompanied by a statement by each of such experts of the form prescribed by 5.34(8) "e."

(4) If the appointed actuary has examined the underlying asset and liability records, the reliance paragraph should also include the following:

"My examination included such review of the actuarial assumptions and actuarial methods and of the underlying basic asset and liability records and such tests of the actuarial calculations as I considered necessary."

(5) If the appointed actuary has not examined the underlying records, but has relied upon listings and summaries of policies in force or asset records prepared by the company or a third party, the reliance paragraph should include a sentence such as:

"I have relied upon listings and summaries [of policies and contracts, of asset records] prepared by [name and title of company officer certifying in-force records] as certified in the attached statement. In other respects my examination included such review of the actuarial assumptions and actuarial methods and such tests of the actuarial calculations as I considered necessary."

or

"I have relied upon [name of accounting firm] for the substantial accuracy of the in-force records inventory and information concerning other liabilities, as certified in the attached statement. In other respects my examination included review of the actuarial assumptions and actuarial methods and tests of the actuarial calculations as I considered necessary."

Such a section must be accompanied by a statement by each person relied upon of the form prescribed by 5.34(8) "e."

(6) The opinion paragraph should include the following:

"In my opinion the reserves and related actuarial values concerning the statement items identified above:

"1. Are computed in accordance with presently accepted actuarial standards consistently applied and are fairly stated, in accordance with sound actuarial principles;

"2. Are based on actuarial assumptions which produce reserves at least as great as those called for in any contract provision as to reserve basis and method, and are in accordance with all other contract provisions;

"3. Meet the requirements of the insurance law and rules of the state of [state of domicile] and are at least as great as the minimum aggregate amounts required by the state in which this statement is filed.

"4. Are computed on the basis of assumptions consistent with those used in computing the corresponding items in the annual statement of the preceding year-end (with any exceptions noted below);

"5. Include provision for all actuarial reserves and related statement items which ought to be established.

"The reserves and related items, when considered in light of the assets held by the company with respect to such reserves and related actuarial items including, but not limited to, the investment earnings on such assets, and the considerations anticipated to be received and retained under such policies and contracts, make adequate provision, according to presently accepted actuarial standards of practice, for the anticipated cash flows required by the contractual obligations and related expenses of the company.

“The actuarial methods, considerations and analyses used in forming my opinion conform to the appropriate Standards of Practice as promulgated by the Actuarial Standards Board, which standards form the basis of this statement of opinion.

“The following material change(s) which occurred between the date of the statement for which this opinion is applicable and the date of this opinion should be considered in reviewing this opinion: (Describe the change or changes.)

“The impact of unanticipated events subsequent to the date of this opinion is beyond the scope of this opinion. The analysis of asset adequacy portion of this opinion should be viewed recognizing that the company’s future experience may not follow all the assumptions used in the analysis.

\_\_\_\_\_  
Signature of Appointed Actuary

\_\_\_\_\_  
Address of Appointed Actuary

\_\_\_\_\_  
Telephone Number of Appointed Actuary”

c. *Assumptions for new issues.* The adoption for new issues or new claims or other new liabilities of an actuarial assumption which differs from a corresponding assumption used for prior new issues or new claims or other new liabilities is not a change in actuarial assumptions within the meaning of this subrule.

d. *Adverse opinion.* If the appointed actuary is unable to form an opinion, then the actuary shall refuse to issue a statement of actuarial opinion. If the appointed actuary’s opinion is adverse or qualified, then the actuary shall issue an adverse or qualified actuarial opinion explicitly stating the reason(s) for such opinion. This statement should follow the scope paragraph and precede the opinion paragraph.

e. *Reliance on data furnished by other persons.* If the appointed actuary does not express an opinion as to the accuracy and completeness of the listings and summaries of policies in force and asset oriented information, there shall be attached to the opinion the statement of a company officer or accounting firm who prepared such underlying data similar to the following:

“I, [name of officer], [title], of [name of company or accounting firm], hereby affirm that the listings and summaries of policies and contracts in force as of December 31, 19\_\_\_, and other liabilities prepared for and submitted to [name of appointed actuary] were prepared under my direction and, to the best of my knowledge and belief, are substantially accurate and complete.

\_\_\_\_\_  
Signature of the Officer of the Company  
or Accounting Firm

\_\_\_\_\_  
Address of the Officer of the Company  
or Accounting Firm

\_\_\_\_\_  
Telephone Number of the Officer of the  
Company or Accounting Firm”

or

"I, [name of officer], [title] of [name of company, accounting firm, or security analyst], hereby affirm that the listings, summaries and analyses relating to data prepared for and submitted to [name of appointed actuary] in support of the asset-oriented aspects of the opinion were prepared under my direction and, to the best of my knowledge and belief, are substantially accurate and complete.

\_\_\_\_\_  
Signature of the Officer of the Company,  
Accounting Firm or the Security Analyst

\_\_\_\_\_  
Address of the Officer of the Company,  
Accounting Firm or the Security Analyst

\_\_\_\_\_  
Telephone Number of the Officer of the  
Company, Accounting Firm or Security Analyst"

**5.34(9) Description of actuarial memorandum including an asset adequacy analysis.**

*a. General.*

(1) In accordance with Iowa Code section 508.36, the appointed actuary shall prepare a memorandum to the company describing the analysis done in support of the opinion regarding the reserves under a 5.34(8) opinion. The memorandum shall be made available for examination by the commissioner upon request but shall be returned to the company after such examination and shall not be considered a record of the insurance division or subject to automatic filing with the commissioner.

(2) In preparing the memorandum, the appointed actuary may rely on, and include as a part of the actuary's own memorandum, memoranda, prepared and signed by other actuaries who are qualified within the meaning of 5.34(5) "b" with respect to the areas covered in such memoranda, and so state in their memoranda.

(3) If the commissioner requests a memorandum and no such memorandum exists or if the commissioner finds that the analysis described in the memorandum fails to meet the standards of the Actuarial Standards Board or the standards and requirements of this rule, the commissioner may designate a qualified actuary to review the opinion and prepare such supporting memorandum as is required for review. The reasonable and necessary expense of the independent review shall be paid by the company but shall be directed and controlled by the commissioner.

(4) The reviewing actuary shall have the same status as an examiner for purposes of obtaining data from the company and the work papers and documentation of the reviewing actuary shall be retained by the commissioner; provided, however, that any information provided by the company to the reviewing actuary and included in the work papers shall be considered as material provided by the company to the commissioner and shall be kept confidential to the same extent as is prescribed by law with respect to other material provided by the company to the commissioner pursuant to the statute governing this rule. The reviewing actuary shall not be an employee or a consulting firm involved with the preparation of any prior memorandum or opinion for the insurer pursuant to this regulation for any one of the current year or the preceding three years.

b. *Details of the memorandum section documenting asset adequacy analysis (5.34(8)).* When an actuarial opinion under 5.34(8) is provided, the memorandum shall demonstrate that the analysis has been done in accordance with the standards for asset adequacy referred to in 5.34(8) "d" and any additional standards under this rule. It shall specify:

(1) For reserves:

1. Product descriptions including market description, underwriting and other aspects of a risk profile and the specific risks the appointed actuary deems significant;
2. Source of liability in force;
3. Reserve method and basis;
4. Investment reserves;
5. Reinsurance arrangements.

(2) For assets:

1. Portfolio descriptions, including a risk profile disclosing the quality, distribution and types of assets;

2. Investment and disinvestment assumptions;
3. Source of asset data;
4. Asset valuation bases.

(3) Analysis basis:

1. Methodology;
2. Rationale for inclusion/exclusion of different blocks of business and how pertinent risks were analyzed;
3. Rationale for degree of rigor in analyzing different blocks of business;
4. Criteria for determining asset adequacy;
5. Effect of federal income taxes, reinsurance and other relevant factors.

(4) Summary of results.

(5) Conclusion(s).

c. *Conformity to standards of practice.* The memorandum shall include a statement: "Actuarial methods, considerations and analyses used in the preparation of this memorandum conform to the appropriate standards of practice as promulgated by the Actuarial Standards Board, which standards form the basis for this memorandum."

**5.34(10) Additional considerations for analysis.**

a. *Aggregation.* For the asset adequacy analysis for the statement of actuarial opinion provided in accordance with 5.34(8), reserves and assets may be aggregated by either of the following methods:

(1) Aggregate the reserves and related actuarial items, and the supporting assets, for different products or lines of business, before analyzing the adequacy of the combined assets to mature the combined liabilities. The appointed actuary must be satisfied that the assets held in support of the reserves and related actuarial items so aggregated are managed in such a manner that the cash flows from the aggregated assets are available to help mature the liabilities from the blocks of business that have been aggregated.

(2) Aggregate the results of asset adequacy analysis of one or more products or lines of business, the reserves for which prove through analysis to be redundant, with the results of one or more products or lines of business, the reserves for which prove through analysis to be deficient. The appointed actuary must be satisfied that the asset adequacy results for the various products or lines of business for which the results are so aggregated:

1. Are developed using consistent economic scenarios, or
2. Are subject to mutually independent risks, i.e., the likelihood of events impacting the adequacy of the assets supporting the redundant reserves is completely unrelated to the likelihood of events impacting the adequacy of the assets supporting the deficient reserves.

In the event of any aggregation, the actuary must disclose in the actuarial opinion that such reserves were aggregated on the basis of one of the methods outlined in subparagraph (1) or (2) above, whichever is applicable, and describe the aggregation in the supporting memorandum.

*b. Selection of assets for analysis.* The appointed actuary shall analyze only those assets held in support of the reserves which are the subject for specific analysis, hereafter called "specified reserves." A particular asset or portion thereof supporting a group of specified reserves cannot support any other group of specified reserves. An asset may be allocated over several groups of specified reserves. The annual statement value of the assets held in support of the reserves shall not exceed the annual statement value of the specified reserves, except as provided in paragraph "c" of this subrule. If the method of asset allocation is not consistent from year to year, the extent of its inconsistency should be described in the supporting memorandum.

*c. Use of assets supporting the interest maintenance reserve and the asset valuation reserve.* An appropriate allocation of assets in the amount of the interest maintenance reserve (IMR), whether positive or negative, must be used in any asset adequacy analysis. Analysis of risks regarding asset default may include an appropriate allocation of assets supporting the asset valuation reserve (AVR); these AVR assets may not be applied for any other risks with respect to reserve adequacy. Analysis of these and other risks may include assets supporting other mandatory or voluntary reserves available to the extent not used for risk analysis and reserve support.

The amount of assets used for the AVR must be disclosed in the Table of Reserves and Liabilities of the opinion and in the memorandum. The method used for selecting particular assets or allocated portions of assets must be disclosed in the memorandum.

*d. Required interest scenarios.* For the purpose of performing the asset adequacy analysis required by this rule, the qualified actuary is expected to follow standards adopted by the Actuarial Standards Board; nevertheless, the appointed actuary must consider in the analysis the effect of at least the following interest rate scenarios:

- (1) Level with no deviation;
- (2) Uniformly increasing over ten years at  $\frac{1}{2}$  percent per year and then level;
- (3) Uniformly increasing at 1 percent per year over five years and then uniformly decreasing at 1 percent per year to the original level at the end of ten years and then level;
- (4) An immediate increase of 3 percent and then level;
- (5) Uniformly decreasing over ten years at  $\frac{1}{2}$  percent per year and then level;
- (6) Uniformly decreasing at 1 percent per year over five years and then uniformly increasing at 1 percent per year to the original level at the end of ten years and then level;
- (7) An immediate decrease of 3 percent and then level.

For these and other scenarios which may be used, projected interest rates for a five-year treasury note need not be reduced beyond the point where the five-year treasury note yield would be at 50 percent of its initial level.

The beginning interest rates may be based on interest rates for new investments as of the valuation date similar to recent investments allocated to support the product being tested or be based on an outside index, such as treasury yields, of assets of the appropriate length on a date close to the valuation date. Whatever method is used to determine the beginning yield curve and associated interest rates should be specifically defined. The beginning yield curve and associated interest rates should be consistent for all interest rate scenarios.

*e. Documentation.* The appointed actuary shall retain on file, for at least seven years, sufficient documentation so that it will be possible to determine the procedures followed, the analyses performed, the bases for assumptions and the results obtained.



191—5.35 to 5.39 Reserved.

**191—5.40(515) Premium tax.** The fact that the companies choose to call a stipulated amount a “policy fee” and do not include it under the term of “premium” would not have the effect of exempting this income from taxation. It is most assuredly a part of the premium or income received from policyholders for business done in Iowa and thus subject to taxation.

**191—5.41(508) Tax on gross premiums—life companies.** In determining the gross amount of premiums to be taxed hereunder, there shall be excluded:

1. All premiums returned to policyholders or annuitants during the preceding calendar year, except cash surrender values.

2. All dividends that, during said year, have been paid in cash or applied in reduction of premiums or left to accumulate to the credit of policyholders or annuitants.

**191—5.42(515) Capital stock requirements for writing multiple lines.** Rescinded IAB 3/24/99, effective 4/28/99.

**191—5.43(510) Managing general agents.**

**5.43(1)** The requirement that a domestic insurer submit its contracts with managing general agents for approval of the commissioner of insurance set forth in Iowa Code section 510.2 remains in effect after July 1, 1991.

**5.43(2)** A managing general agent shall at all times maintain a surety bond in the amount of \$50,000 issued by an insurer licensed to transact business in this state for the benefit of each domestic insurer with which the managing general agent has contracted.

**5.43(3)** A managing general agent shall maintain an errors and omissions policy in the face amount of \$250,000.

**5.43(4)** A third-party administrator subject to Iowa Code chapter 510 shall not be deemed to be a managing general agent.

**5.43(5)** The amount of claims in excess of which a person is authorized to adjust or pay for purposes of the definition of “managing general agent” in Iowa Code section 510.2A(4) “a”(3) “a” is \$15,000 per claim.

#### DISCLOSURE OF MORTGAGE LOAN APPLICATIONS

191—5.44 to 5.49 Reserved.

**191—5.50(535A) Purpose.** These rules are adopted for the purpose of enforcing Iowa Code sections 535A.2 and 535A.4.

**191—5.51(535A) Definitions.**

**5.51(1)** “*Reporting financial institution*” means a person which holds a certificate of authority to act as an insurer pursuant to any provision of Title XX, Iowa Code, if the person:

a. At the beginning of a reporting period possessed assets in excess of \$10 million; and

b. During a reporting period received applications for mortgage loans on residential property situated in any Iowa city with a population in excess of 50,000, as determined in the most recent census, or in any standard metropolitan statistical area.

**5.51(2)** "*Application*" means an oral or written request for an extension of credit that is made in accordance with procedures established by a financial institution for the type of credit requested.

**5.51(3)** "*Reporting period*" means the calendar year beginning January 1, 1979, and each calendar year thereafter.

**5.51(4)** "*Mortgage loan*" means a mortgage loan as defined in Iowa Code section 535A.1, which is secured by a primary or secondary lien against residential property located in this state.

**5.51(5)** "*Residential property*" means real property used or to be used for residential purposes, including single family homes, dwellings for from two to four families and individual units of condominiums and townhouses.

**5.51(6)** "*Residential mortgage loan*" means a mortgage loan other than a construction loan, a home improvement loan or a rehabilitation loan.

**5.51(7)** "*Construction loan*" means a loan for a maximum of two years for the purpose of construction.

**5.51(8)** "*Interest rate*" means the rate stated on the indenture.

**5.51(9)** "*Standard metropolitan statistical area*" means an area located wholly or partly in the state of Iowa which is designated a standard metropolitan statistical area by the United States Department of Commerce.

#### **191—5.52(535A) Filing of reports.**

**5.52(1)** Every reporting financial institution shall file the reports required by rule 191—5.53(535A) with the director of the Iowa housing finance authority, Des Moines, Iowa 50319, and with the commissioner of insurance, Des Moines, Iowa 50319, on or before January 15, 1980, and each year thereafter by January 15, and shall maintain a copy of each report at the office where its principal financial records are maintained for a period of five years after it is filed.

**5.52(2)** Reporting financial institutions shall file a report which complies with the Federal Home Mortgage Act of 1975, 12 U.S.C. 2801 to 2809, and regulations promulgated under that Act. Reporting financial institutions shall also report additional information required by rule 191—5.54(535A).

#### **191—5.53(535A) Form and content of reports.**

**5.53(1)** Reports required by rule 191—5.53(535A) shall be filed on Disclosure Form A\* or a form similar thereto.

**5.53(2)** Financial institutions may submit computer printouts in lieu of the specimen form if the computer printouts contain the same information in the same sequence as on the specimen form.

**5.53(3)** Every report filed shall disclose the following information:

a. Name and address of the reporting financial institution.

b. Name, address and telephone number of the officer designated by the reporting financial institution to file the report.

c. Reporting period.

d. The principal amount of a loan shall be disclosed with respect to construction loan applications, home improvement loan applications, total mortgage loan applications, and residential mortgage loan applications, and the requested amount shall be disclosed with respect to construction loan applications not approved, home improvement loan applications not approved, total mortgage loan applications not approved and residential mortgage loan applications not approved. The principal and requested amount disclosures required above shall be reported separately for each census tract or zip code area.

**5.53(4)** Each report shall also indicate the number of persons requesting to examine the disclosure report for the previous reporting period.

\*Form omitted under Iowa Code section 17A.6(3). They are available upon request from the agency.

**191—5.54(535A) Additional information required.**

5.54(1) Reporting financial institutions shall file with the commissioner of insurance on or before March 15 of each year Disclosure Form B or a form similar thereto the following additional information with respect to loans for the purchase of residential property made during the preceding year:

a. The number of loans approved at each of the following percentages of the appraised value of the property used as security for the loan:

- (1) Less than 60 percent
- (2) 60 percent to 69 percent
- (3) 70 percent to 79 percent
- (4) 80 percent to 89 percent
- (5) 90 percent or more

b. The number of loans approved for each of the following amortization periods:

- (1) Less than 10 years
- (2) 10 to 14 years
- (3) 15 to 19 years
- (4) 20 to 24 years
- (5) 25 to 29 years
- (6) 30 or more

c. The number of loans made at each interest rate charged.

5.54(2) Reporting financial institutions are not required to file the additional information required by subrule 5.54(1) for any loan guaranteed in whole or part under any program of the United States or any of its agencies or instrumentalities, if:

a. The reporting financial institution made a written loan commitment for the loan at the maximum rate of interest permitted under the program at the time of the commitment, and

b. The amortization period for a loan is the maximum period permitted under the program or a shorter period established in response to a request initiated solely by the borrower, and

c. The loan is made at the maximum percentage of appraised value of the property permitted under the program or for the total amount which the borrower desired to borrow, and

d. The reporting financial institution files with the commissioner of insurance on or before March 15 of each year its verified statement, signed by an officer of the reporting financial institution, that it has made loans under such a program and that it has filed the report required by rule 5.54(2) for each such loan not exempted by this rule.

**191—5.55(535A) Written complaints.** Any person who has reason to believe that a financial institution has failed to comply with the provisions of Iowa Code chapter 535A or these rules may file a written complaint with the insurance division, Des Moines, Iowa 50319, or bring an action in the district court in accordance with Iowa Code chapter 535A.

These rules are intended to implement Iowa Code sections 535A.2 and 535A.4.

**191—5.56 to 5.89** Reserved.

**191—5.90(145) Implementation of health data commission directives.**

5.90(1) *Uniform hospital billing form.* All insurers, health maintenance organizations, and non-profit health service corporations shall accept the uniform hospital billing form (Form UB-82 HCFA 1450) when processing claims for inpatient or outpatient hospital services in accordance with health data commission rule 465—5.4(145).

**5.90(2) Data submission.** All insurers, health maintenance organizations, and nonprofit health service corporations shall submit data to the health data commission in accordance with 465—Chapter 6.

This rule is intended to implement Iowa Code section 145.3(3) “a” and “b.”

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[Filed 3/5/99, Notice 11/4/98—published 3/24/99, effective 4/28/99]

e. Prohibit insurers from applying suitability standards which include income as a factor in the sale of any life insurance or annuity products;

f. Prohibit insurers from establishing maximum or minimum amounts of insurance that will be issued to individuals so long as this is pursuant to a preexisting specialized marketing strategy which the insurer can demonstrate is related to the financial capacity of the insurer to write business or to bona fide transaction costs.

**15.11(4) Domestic abuse.** A contract shall not be denied to a person based solely on the fact such person has been or is believed to have been a victim of domestic abuse as defined in Iowa Code section 236.2.

**191—15.12(507B) Testing restrictions of insurance applications for the human immunodeficiency virus.**

**15.12(1) Written release.** No insurer shall obtain a test of any person in connection with an application for insurance for the presence of an antibody to the human immunodeficiency virus unless the person to be tested provides a written release on a form which contains the following information:

a. A statement of the purpose, content, use, and meaning of the test.

b. A statement regarding disclosure of the test results including information explaining the effect of releasing the information to an insurer.

c. A statement of the purpose for which test results may be used.

**15.12(2) Form.** A preapproved form is provided in Appendix III. An insurer wishing to utilize a form which deviates from the language in the appendix to these rules shall submit the form to the insurance division for approval. Any form containing, but not limited to, the language in the appendix shall be deemed approved.

**191—15.13(507B) Records maintenance.**

**15.13(1) Complaint and business records.**

a. An insurer shall maintain its books, records, documents and other business records in such an order that data regarding complaints, claims, rating, underwriting and marketing are accessible and retrievable for examination by the insurance commissioner.

b. An insurer shall maintain a complete record of all the complaints received since the date of its last examination by the insurer's state of domicile or port-of-entry state. This record shall indicate the total number of complaints, their classification by line of insurance, the nature of each complaint, the disposition of each complaint, and the time it took to process each complaint. Appendix IV sets forth the minimum information required to be contained in the complaint record.

**15.13(2) Insurer's control over advertisements.** Every insurer shall establish and at all times maintain a system of control over the content, form, and method of dissemination of all advertisements which explain a particular policy. All such advertisements, whether written, created, designed or presented by the insurer or its appointed producer, shall be the responsibility of the insurer whose particular policies are so advertised. As part of this requirement, each insurer shall maintain at its home or principal office a complete file containing a specimen copy of every printed, published or prepared advertisement of its policies, with a notation indicating the manner and extent of distribution and the form number of any policy advertised. Such file shall be subject to inspection by the insurance division. All such advertisements shall be maintained for a period of either four years or until the filing of the next regular report on examination of the insurer, whichever is the longer period of time.

**191—15.14(507B) Enforcement section—cease and desist and penalty orders.** If, after hearing, the commissioner finds that an insurer or producer has engaged in an unfair trade practice in violation of these rules or unfair competition or unfair and deceptive acts or practices in violation of Iowa Code chapter 507B, the commissioner shall reduce the findings to writing and shall issue and cause to be

served upon the insurer or producer charged with the violation a copy of the findings in an order requiring the insurer or producer to cease and desist from engaging in the act or practice. The commissioner also may order one or more of the following:

1. Payment of a monetary penalty of not more than \$1,000 for each violation, but not to exceed an aggregate penalty of \$10,000. If the insurer or producer knew or reasonably should have known that its actions were in violation of these rules, the penalty shall be not more than \$5,000 for each violation but not to exceed an aggregate penalty of \$50,000;
  2. Suspension or revocation of the insurer's certificate of authority or the producer's license if the insurer or producer knew or reasonably should have known that it was in violation of this rule;
  3. Full disclosure by the insurer of all terms and conditions of the policy to the policyowner;
  4. Payment of the costs of the investigation and administrative expenses related to any violation.
- These rules are intended to implement Iowa Code chapter 507B.

### Appendix I LIFE INSURANCE COST AND BENEFIT DISCLOSURE

#### Definitions.

"Annual premium" for a basic policy or rider, for which the company reserves the right to change the premium, shall be the maximum annual premium.

"Cash dividend" means dividends which can be applied toward payment of gross premiums which comply with the illustrated scale.

"Equivalent level annual dividend" is calculated by applying the following steps:

1. Accumulate the annual cash dividends at 5 percent interest compounded annually to the end of the tenth and twentieth policy years.

2. Divide each accumulation of paragraph "1" by an interest factor that converts it into one equivalent level annual amount that, if paid at the beginning of each year, would accrue to the values in paragraph "1" over the respective periods stipulated in paragraph "1." If the period is 10 years, the factor is 13.207 and if the period is 20 years, the factor is 34.719.

3. Divide the results of paragraph "2" by the number of thousands of the equivalent level death benefit to arrive at the equivalent level annual dividend.

"Equivalent level death benefit" of a policy or term life insurance rider is an amount calculated as follows:

1. Accumulate the guaranteed amount payable upon death, regardless of the cause of death other than suicide, or other specifically enumerated exclusions, at the beginning of each policy year for 10 and 20 years at 5 percent interest compounded annually to the end of the tenth and twentieth policy years respectively.

2. Divide each accumulation of paragraph "1" by an interest factor that converts it into one equivalent level annual amount that, if paid at the beginning of each year, would accrue to the value in paragraph "1" over the respective periods stipulated in paragraph "1." If the period is 10 years, the factor is 13.207 and if the period is 20 years, the factor is 34.719.

"Generic name" means a short title which is descriptive of the premium and benefit patterns of a policy or a rider.

"Life insurance net payment cost index." The life insurance net payment cost index is calculated in the same manner as the comparable life insurance cost index except that the cash surrender value and any terminal dividend are set at zero.

"Life insurance surrender cost index." The life insurance surrender cost index is calculated by applying the following steps:

1. Determine the guaranteed cash surrender value, if any, available at the end of the tenth and twentieth policy years.

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◇◇ Two ARCs

The first part of the report discusses the general situation of the country and the progress of the work done during the year. It then goes on to describe the various projects which have been carried out and the results of these projects. The report concludes with a summary of the work done and a list of the names of the persons who have been engaged in the work.



**19.23(3)** Upon a determination by the insurance division that the seller continues to meet the requirements of Iowa Code chapters 523A and 523E, the division shall issue a renewal certificate. The administrator may, pursuant to Iowa Code chapter 17A, suspend any permit if the seller does not file for renewal of the certificate of authority with the insurance division within 30 days of the certificate of authority's expiration date.

**191—19.24(261) Denial, suspension or revocation of sales permit for failure to pay debts owed to or collected by the college student aid commission.**

**19.24(1) Issuance of notice.** Upon receipt from the college student aid commission of a certificate of noncompliance for defaults on debts owed to or collected by the commission, the administrator shall issue a notice to a salesperson that the pending application for sales permit or current sales permit will be denied, suspended or revoked. The notice shall be served by restricted certified mail, return receipt requested, or by personal service in accordance with the Iowa Rules of Civil Procedure, unless the salesperson accepts service personally or through authorized counsel.

**19.24(2) Notice contents.** The notice referred to in subrule 19.24(1) shall state all of the following:

a. The administrator intends to deny, suspend, or revoke an application or sales permit in 30 days due to the receipt of a certificate of noncompliance from the college student aid commission.

b. The salesperson must contact the college student aid commission to schedule a conference or to otherwise obtain a withdrawal of a certificate of noncompliance.

c. Unless the college student aid commission furnishes to the administrator a withdrawal of a certificate of noncompliance within 30 days of issuance of the notice, the salesperson's application, request for renewal or current sales permit shall be denied, revoked or suspended.

d. The salesperson served shall not have a right to a hearing before the administrator but may request a court hearing pursuant to Iowa Code section 261.127 within 30 days of the provision of notice.

**19.24(3) Automatic stay.** The filing of an application for hearing with the district court pursuant to Iowa Code section 261.127 shall automatically stay action of the administrator until the administrator is notified of the resolution of the application.

**19.24(4) Effective date of action.** If the administrator does not receive a withdrawal of the certificate of noncompliance from the college student aid commission or a notice that an application for district court hearing has been filed, the administrator shall deny, suspend or revoke the application or sales permit 30 days after the notice prescribed in subrule 19.24(2) is issued.

**19.24(5) Withdrawal of certificate.** If the administrator receives a withdrawal of the certificate of noncompliance from the college student aid commission, the administrator shall immediately halt action to deny, suspend or revoke an application or sales permit. The salesperson shall be notified that action has been halted. If an application or sales permit has already been denied, suspended or revoked, the salesperson shall reapply for a sales permit and the application shall be granted if the individual is otherwise in compliance with applicable laws, rules, regulations or orders.

**19.24(6) Application fees.** All application fees must be paid by the salesperson before a sales permit will be issued, after the administrator has denied, suspended or revoked a sales permit pursuant to Iowa Code sections 261.121 to 261.127.

**19.24(7) Sharing of information.** Notwithstanding any statutory confidentiality provision, the administrator may share information with the college student aid commission for the sole purpose of identifying salespersons subject to enforcement under Iowa Code sections 261.121 to 261.127.

**191—19.25(252J) Denial, suspension or revocation of sales permit for failure to pay child support.**

**19.25(1)** Upon receipt of a certificate of noncompliance from the child support recovery unit (CSRU), the commissioner shall issue a notice to the salesperson that the salesperson's pending application, pending request for renewal, or current sales permit will be denied, suspended or revoked 30 days after the date of the notice. Notice shall be sent to the salesperson's last-known address by certified mail.

**19.25(2)** The notice shall contain the following items:

- a. A statement that the commissioner intends to deny, suspend or revoke the salesperson's sales permit in 30 days;
- b. A statement that the salesperson must contact the CSRU to request a withdrawal of the certificate of noncompliance;
- c. A statement that the salesperson's application, request for renewal or current sales permit will be denied, suspended or revoked if the certificate of noncompliance is not withdrawn;
- d. A statement that the salesperson does not have a right to a hearing before the division, but the salesperson may file an application for a hearing in district court pursuant to Iowa Code section 252J.9 within 30 days of the provision of the notice;
- e. A statement that the filing of an application with the district court will stay the proceedings of the division;
- f. A copy of the certificate of noncompliance.

**19.25(3)** The filing of an application for hearing with the district court will stay all proceedings until the commissioner is notified of the resolution of the application.

**19.25(4)** If the commissioner does not receive a withdrawal of the certificate of noncompliance from the CSRU or a notice that an application for hearing has been filed, the commissioner shall deny, suspend or revoke the current sales permit 30 days after the notice is issued.

**19.25(5)** Upon receipt of a withdrawal of the certificate of noncompliance from the CSRU, pending proceedings shall halt and the named salesperson shall be notified that the proceedings have been halted. If the salesperson's permit has already been suspended or revoked, the salesperson shall reapply for a permit and the application shall be granted if the applicant is otherwise in compliance with the division's rules.

**19.25(6)** All application fees must be paid by the applicant before a sales permit will be issued, renewed or reinstated after the commissioner has denied, suspended or revoked a sales permit pursuant to Iowa Code chapter 252J.

This rule is intended to implement Iowa Code section 252J.8.

**191—19.26 to 19.29 Reserved.**

**191—19.30(523A,523E) Termination of business—records.** An establishment permit holder discontinuing business shall maintain records for a period of five years from the date of discontinuing the business, unless a release from this provision is given by the administrator.

**191—19.31(523A,523E) Records.**

**19.31(1)** All establishments and trustees shall keep accurate accounts, books, and records concerning transactions regulated under the Acts.

**19.31(2)** An establishment's accounts, books, and records shall include:

- a. Copies of all contracts;
- b. The name and address of each purchaser;
- c. The name of the contract beneficiary of each preneed contract;
- d. The name and address of the trustee holding the trust funds received under each contract;
- e. The dates and amounts of all receipts (including interest or earnings received or reported to the establishment) and expenditures for each purchaser; and
- f. The dates and amounts of any disbursements relating to funds held in trust.

**19.31(3)** A financial institution's accounts, books, and records shall include:

- a. The name of the establishment;
- b. The names of the contract beneficiaries;
- c. The amount and date of receipt of all funds received from the establishment; and
- d. A record of the amount and date of interest or income deposited in trust and all disbursements.

**19.31(4)** An establishment shall retain all required accounts, books, and records pertaining to each prearranged funeral contract for at least two years after the date of performance or termination, unless a release from this provision is given by the administrator.

**19.31(5)** Inspection.

a. The accounts, books, and records pertaining to a purchaser's prearranged funeral contract shall be available for inspection by purchasers during normal business hours at the establishment's place of business upon request. If the accounts, books and records are not maintained at the establishment, the information shall be made available at the establishment within not less than ten business days.

b. All establishments and trustees shall make all accounts, books, and records concerning transactions regulated under the Acts available to the administrator or the attorney general upon request for the purpose of examination.

**191—19.32(523A,523E) Annual reports.**

**19.32(1)** All holders of an establishment permit, trustees, and financial institutions shall, no later than March 1 of each year, file an annual report with the administrator on the forms prescribed by the administrator. Any person holding more than one establishment permit, as the result of multiple locations, may elect to file only one annual report.

**19.32(2)** Every establishment filing an annual report shall pay a filing fee of \$10 per prearranged funeral contract sold during the year covered by the report. The fee does not apply:

- a. For an agreement where the beneficiary dies in the same year the agreement was sold;
- b. To any modifications or additions, such as payments, involving an existing agreement sold in a previous year;
- c. To an additional agreement purchased by a purchaser already reported to the insurance division; or
- d. To any agreement canceled or revoked in the same year the agreement was sold. However, all these changes must be reported.

**19.32(3)** During 1996 and 1997, every establishment filing an annual report shall also pay a special assessment for the insurance division's regulatory fund of \$2 per prearranged funeral contract sold during the year covered by the report. The assessment does not apply:

- a. For an agreement where the beneficiary dies in the same year the agreement was sold;
- b. To any modifications or additions, such as payments, involving an existing agreement sold in a previous year;

1. The first part of the document discusses the importance of maintaining accurate records of all transactions. It emphasizes that proper record-keeping is essential for the integrity of the financial system and for the ability to detect and prevent fraud. The text notes that without reliable records, it would be difficult to track the flow of funds and identify any irregularities.

2. The second part of the document outlines the specific procedures for recording transactions. It details the steps involved in entering data into the system, including the use of standardized codes and formats. The text also discusses the importance of regular audits and reconciliations to ensure that the records are accurate and up-to-date. It mentions that any discrepancies should be investigated and resolved promptly.

3. The third part of the document addresses the security of the records. It describes the measures taken to protect the data from unauthorized access, loss, or destruction. This includes the use of secure storage facilities, access controls, and backup procedures. The text also highlights the need for staff to be trained in security protocols and to report any suspicious activity immediately.

4. The fourth part of the document discusses the role of the records in the overall financial management process. It explains how the data is used for budgeting, forecasting, and reporting. The text notes that accurate records are crucial for making informed decisions and for ensuring that the organization is operating within its financial constraints.

5. The fifth part of the document provides a summary of the key points discussed. It reiterates the importance of accurate record-keeping, the need for strict security measures, and the role of the records in financial management. The text concludes by stating that these practices are essential for the long-term success and stability of the organization.

6. The final part of the document contains a list of references and a bibliography. It includes citations to various sources used in the document, such as textbooks, articles, and reports. The text also provides information on how to access these resources and how to cite them properly.

“*Seller*” means any person located or doing business in this jurisdiction who sells, promotes, or offers cemetery merchandise to one or more purchasers.

“*Storage facility*” means any person other than the seller, such as a warehouse keeper, manufacturer, or supplier, who stores cemetery merchandise.

“*Substantially complete*” means, for a bronze memorial, a marker that has been tooled, edged, chased and is ready for color and finish.

**19.71(3) Application for approval.**

*a. Forms.* Applications for approval of a storage facility warehousing cemetery merchandise shall be made on forms provided by the administrator and shall be delivered through the mails or otherwise to the administrator’s office.

*b. Complete answers and certifications.* Applications shall not be processed until all questions appearing on the application are fully completed, certified as accurate, and sworn to before a notary public, and all required documents are received by the administrator.

*c. Determination of approval and standards for review.* The administrator shall provide the applicant with its determination within 60 days after receipt of the completed application and required documents. The administrator shall approve a storage facility’s application upon satisfaction of the following conditions:

(1) Insurance coverage and financial condition. As a condition of approval, the applicant must demonstrate that adequate insurance against loss and damage has been purchased and that the applicant’s financial condition is commensurate with any financial obligations assumed in the operation of the storage facility. Proof of the applicant’s financial condition shall include submission of audited financial statements completed in accordance with generally accepted accounting principles, which shall include a balance sheet prepared as of a date within 120 days prior to the application and a profit and loss statement and changes in financial position for each of the three fiscal years preceding the date of the balance sheet, or for the period of their existence, if less than three years.

(2) Record-keeping system. As a condition of approval, the applicant must demonstrate that the applicant has an adequate record-keeping system that allows identification and a description of each item in storage, the ownership of each item in storage, the seller’s name and address, an order number, the order date, the storage date, and aggregate listing and numerical totals for the entire storage facility and for each jurisdiction.

(3) Title. As a condition of approval, the storage facility must undertake to deliver a minimum of two copies of some form of title certificate to the seller, with at least one copy marked as the seller’s copy and at least one copy marked as the purchaser’s copy. Each seller shall be required to deliver at least one copy to the purchaser and to retain one copy in the seller’s records. Certificates of ownership should not be issued until the merchandise is physically stored in substantially complete condition.

(4) Delivery requirements.

1. As a condition of approval, the applicant must undertake to require the purchaser’s signature, or the signature of the purchaser’s legal representative, prior to the delivery of the cemetery merchandise.

2. As a condition of approval, the storage facility must undertake not to accept prepayment of delivery expenses or charges. Unless an adequate surety bond has been filed with the administrator for that purpose, each seller shall be required to hold funds in trust equal to the estimated delivery costs at the time of sale, which funds and any accrued interest or income shall be and remain trust funds until the cemetery merchandise has been delivered to the purchaser. Appropriate written disclosure shall be provided to the seller that delivery costs will be billed to the seller at the time of delivery.

(5) Storage requirements. As a condition of approval, the storage facility must demonstrate that the applicant has an adequate storage system that provides both accessibility and protection against damage. The storage facility must undertake that all cemetery merchandise will be substantially complete prior to storage.

(6) Consent to audits and inspections. As a condition of approval, the applicant must file a written consent authorizing audits and inspections by the administrator, its personnel, and its representatives.

(7) Statutory compliance with other state or provincial laws. As a condition of approval, the applicant shall be in compliance with all applicable laws regulating the applicant's activities as a warehouse keeper, manufacturer, supplier, or seller of cemetery merchandise.

(8) Identification or personalization of merchandise. All cemetery merchandise must be appropriately marked, identified, and described in a manner that it can be distinguished from other similar items of merchandise, unless waived by the administrator by order upon a showing of just cause for the waiver. A waiver application must demonstrate that the storage facility has filed a surety bond with the administrator (in a form and amount deemed sufficient by the administrator) or that the storage facility is in compliance with the following conditions:

1. The storage facility's storage system allows visual inspection and counting.
2. The merchandise is stored by type or style.
3. The record-keeping system identifies the location of the item by a bin system or reasonable alternative.
4. The record-keeping system keeps totals for each type of merchandise in storage.

(9) Payment of accounts receivable. As a condition of approval, the applicant shall undertake to require payment of all applicable accounts receivable within 90 days of the purchase of the cemetery merchandise.

(10) Audits and reports. The administrator shall have the right to examine or cause to be examined the books, papers, records, memoranda or documents of a storage facility for the purpose of verifying compliance with Iowa Code chapter 523E and this chapter. For purposes of an audit, the division may request a report containing the following information:

1. A description of the storage facility, including the name, address of the principal business office, state or province of organization, date of organization, type of entity (e.g., corporation or partnership), and the location of all storage facilities.

2. A description of the storage program.
3. A detailed description of all merchandise currently in storage, which shall include all of the following:

- The date the merchandise was first placed in storage.
- The surname of the purchaser or the person on whose behalf the merchandise was purchased.
- The location of the merchandise, which shall include the location within the facility utilizing a numbering system that provides the exact location of each item of merchandise, for example, by row, shelf, bin, or box.

- The name and address of the seller.
- The total number of items, by category, in storage at the facility for sellers located in this state.
- The total number of items, by category, in storage at the facility.

Unless waived by the administrator, the transportation and lodging expenses of the audit shall be reimbursed by the storage facility.

These rules are intended to implement Iowa Code chapters 252J, 523A and 523E.

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[Filed 3/5/99, Notice 12/16/98—published 3/24/99, effective 4/28/99]

CHAPTER 21  
SURPLUS LINES REQUIREMENTS

[Prior to 10/22/86, Insurance Department[510]]

**191—21.1(515) Definitions.**

**21.1(1) “Producer”** when used herein is defined to be that person who ultimately delivers the policy to the policyholder or the person who places the policy with the insurance company. The producer may be either a resident or nonresident of this state and must be licensed in Iowa to sell insurance classified as excess and surplus lines.

**21.1(2) “Surplus lines carrier”** when used herein is defined to be certain nonadmitted insurers qualified to provide surplus lines coverage as set out in Iowa Code section 515.147, but in no event shall the term include those insurers described in Iowa Code section 515.148.

**191—21.2(515) Nonadmitted insurer’s duties.**

**21.2(1) *Insurer liable.*** Where, pursuant to section 515.147, coverage is placed with a nonadmitted insurer, such insurer shall be liable for the premium tax required by section 515.147.

**21.2(2) *How premium tax quoted.*** A nonadmitted insurer or broker therefor is authorized to quote a premium which includes tax as is required by section 515.147 and thereafter no additional tax amount may be charged or collected. Premium tax may be stated in the contract of insurance as a separate component of the total premium only when the premium is not based upon rates or premiums which included a premium tax component when promulgated. Policy fees collected from residents of this state are considered part of the premium and thus are subject to taxation.

**191—21.3(515) Producers’ duties.**

**21.3(1) *Producer collection of tax.*** A licensed producer who procures or places insurance in nonadmitted insurers shall collect premium tax from the nonadmitted insurer by withholding 2 percent of the premiums for such tax.

**21.3(2) *Affidavits required.*** A producer who places insurance shall within 30 days subsequent to the date of delivery of a policy issued by a nonadmitted insurer cause to be filed with the commissioner of insurance a sworn statement on Form No. SL163A. In lieu of filing affidavits for each policy issued by a nonadmitted insurer, the producer may file a diskette with the commissioner on a monthly basis for multiple affidavit filings. The producer shall include with the diskette filed with the commissioner a sworn statement on Form No. SL163B. Copies of Form SL163A and Form SL163B are on file in the insurance division office and the division’s Web site, <http://www.state.ia.us/government/com/ins/ins.htm>.

**21.3(3) *Annual report.*** On or before March 1 of each year, every producer who has placed insurance in nonadmitted insurers during the preceding calendar year shall file with the commissioner of insurance a sworn report of all such business written during the preceding calendar year. Said report shall be accompanied by a remittance to cover the taxes due on said business and shall be filed on Form No. SL263. Failure to file said return or pay the taxes imposed by Iowa Code sections 515.147 et seq., will be deemed grounds for the revocation of producer’s license by the insurance division.

**191—21.4(515) Producers’ duty to insured; evidence of coverage.** Each producer placing coverage in nonadmitted insurers as defined herein shall deliver to the insured, within 30 days of the date of delivery of the policy, one of the following:

1. Language which states as follows: “This policy is issued, pursuant to Iowa Code section 515.147, by a nonadmitted company in Iowa and as such is not covered by the Iowa Insurance Guaranty Association.” Such requirement may be complied with by typing or stamping a verbatim copy of this language in a clear and conspicuous place on the policy;
2. A copy of the affidavit filed with the division.

**191—21.5(515) Procedures for qualification as a nonadmitted insurer.** Any insurer who wishes to qualify under Iowa Code section 515.147 as a nonadmitted insurer shall make an application. The application shall contain the following information:

1. A certificate of compliance from the state of domicile.
2. An executed power of attorney. This document shall be in a form which is found in the appendix to this chapter.
3. A biographical affidavit of directors and principal officers. This document shall be in a form which is found in the appendix to this chapter.
4. A copy of the insurer's annual statement for the last preceding calendar year. Applications received between November 1 and December 31 will not be examined until an annual statement for the current calendar year is available.
5. The insurer's most recent calendar year quarterly financial statement.
6. A certified copy of the most recent state of domicile examination report.
7. A current certified public accountant audit report.
8. A marketing plan of operation.
9. A designation of a licensed Iowa resident producer qualified to write excess and surplus lines insurance.

10. Remittance of a \$50 filing fee.

In addition to the above requirements, the insurer shall have minimum capital and surplus of \$5 million and have been actively in operation for at least three years without significant changes in ownership or management during the three-year period. These financial and management requirements may be waived by the commissioner upon a finding that the insurer will be offering coverage in a line of insurance for which there is an unavailability of capacity and an extraordinary need for coverage in this state. The commissioner may require other information as deemed necessary.

**191—21.6(515) Risk retention groups.** A risk retention group as defined in Iowa Code chapter 515E may utilize its producers to report and pay premium taxes or may pay the taxes directly. If producers are utilized, they shall follow the procedure set forth in subrule 21.3(2). In the event that the group desires to pay the premium tax directly, it shall file with the commissioner a sworn statement on Form No. SL264. A copy of Form SL264 is on file in the insurance division office.

Rules 21.1(515) to 21.6(515) are intended to implement Iowa Code sections 515.147 to 515.149.

[Filed 8/1/63]

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[Filed 3/5/99, Notice 11/4/98—published 3/24/99, effective 4/28/99]

Note: See forms on following pages



# POWER OF ATTORNEY

**KNOW ALL MEN BY THESE PRESENTS:**

That the \_\_\_\_\_  
 a corporation organized and existing under the laws of the State of \_\_\_\_\_, and pursuant to a resolution passed by the Board of Directors of said corporation, on the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_, does hereby constitute and appoint the Commissioner of Insurance of the State of Iowa as its true and lawful attorney for it and in its name and stead, and does hereby authorize the said Commissioner of Insurance or his deputy for and on behalf of said corporation to accept and acknowledge service of notice or process of any kind, whether mesne or final, in any action or proceeding against said corporation, in any of the courts, State and Federal, in the said State of Iowa, and it is hereby admitted and agreed that such service made upon the Commissioner of Insurance of the State of Iowa or his deputy shall be taken and held to be as valid, binding and effective for all purposes as if served upon said corporation according to the laws and practice of said state or any other state, and every claim or right of error by reason of such acknowledgement or service is hereby expressly waived and relinquished, granting unto its said attorney full power and authority to do and perform every act and thing requisite and necessary or proper to be done in the premises, the said corporation hereby ratifying and confirming all that said attorney shall lawfully do or cause to be done by virtue hereof.

It is further resolved by said corporation that the Commissioner of Insurance of the State of Iowa or his deputy, shall forward such acknowledged copy of notice or process to the following designated person or corporation: \_\_\_\_\_ at the address of \_\_\_\_\_ in the city of \_\_\_\_\_ state of \_\_\_\_\_ zip code of \_\_\_\_\_, and it is hereby admitted and agreed that the forwarding to said designee shall be taken and held to be as valid, binding and effective for all purposes as if forwarded to said corporation.

IN WITNESS WHEREOF, the said \_\_\_\_\_ has hereunto caused its corporate name to be signed by its president and its corporate seal to be affixed and attested by its secretary, all being done in the city of \_\_\_\_\_ state of \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_.

By \_\_\_\_\_  
 PRESIDENT

(SEAL)

**ATTEST:**

\_\_\_\_\_  
 SECRETARY

STATE OF \_\_\_\_\_  
 COUNTY OF \_\_\_\_\_ } ss.

On this \_\_\_\_\_ day of \_\_\_\_\_, A.D., 19 \_\_\_\_\_, before me, a notary public in and for said county, personally appeared \_\_\_\_\_ and \_\_\_\_\_ to me personally known, who being by me duly sworn did say that they are \_\_\_\_\_ and \_\_\_\_\_ respectively of said corporation, that the seal affixed to said instrument is the seal of said corporation and that said instrument was signed and sealed on behalf of the said corporation by authority of its Board of Directors, and the said \_\_\_\_\_ and \_\_\_\_\_ acknowledged the execution of said instrument to be the voluntary act and deed of said corporation by it voluntarily executed.

My commission expires:

\_\_\_\_\_  
 NOTARY PUBLIC

### COPY OF RESOLUTION

I, \_\_\_\_\_  
 Secretary of the \_\_\_\_\_  
 a corporation existing under the laws of the State of \_\_\_\_\_, do hereby certify that the following is a true and correct copy, from the corporate records of said corporation, of a resolution duly adopted by the governing body thereof, at an annual or special meeting of said body, a quorum thereof present and acting, on the \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_, to wit:

"Resolved that the President or Vice President, and Secretary or Assistant Secretary of this corporation be and they are hereby authorized and directed to execute to the Commissioner of Insurance of the State of Iowa, a Power of Attorney, substantially as follows:

**KNOW ALL MEN BY THESE PRESENTS:**

That the \_\_\_\_\_  
 a corporation organized and existing under the laws of the State of \_\_\_\_\_, and pursuant to a resolution passed by the Board of Directors of said corporation, on the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_, does hereby constitute and appoint the Commissioner of Insurance of the State of Iowa as its true and lawful attorney for it and in its name and stead, and does hereby authorize the said Commissioner of Insurance or his deputy for and on behalf of said corporation to accept and acknowledge service of notice or process of any kind, whether mesne or final, in any action or proceeding against said corporation, in any of the courts, State and Federal, in the said State of Iowa, and it is hereby admitted and agreed that such service made upon the Commissioner of Insurance of the State of Iowa or his deputy shall be taken and held to be as valid, binding and effective for all purposes as if served upon said corporation according to the laws and practice of said state or any other state, and every claim or right of error by reason of such acknowledgement or service is hereby expressly waived and relinquished, granting unto its said attorney full power and authority to do and perform every act and thing requisite and necessary or proper to be done in the premises, the said corporation hereby ratifying and confirming all that said attorney shall lawfully do or cause to be done by virtue hereof.

It is further resolved by said corporation that the Commissioner of Insurance of the State of Iowa or his deputy, shall forward such acknowledged copy of notice or process to the following designated person or corporation: \_\_\_\_\_  
 \_\_\_\_\_ at the address of \_\_\_\_\_ in the city of \_\_\_\_\_ state of \_\_\_\_\_, and it is hereby admitted and agreed that the forwarding to said designee shall be taken and held to be as valid, binding and effective for all purposes as if forwarding to said corporation."

And I do further certify that the said resolution has never been rescinded or reconsidered and still remains in force.

**GIVEN AND CERTIFIED**, at the principal office of said corporation, city of \_\_\_\_\_  
 State of \_\_\_\_\_, with the corporate seal thereof hereto affixed by the undersigned, having custody of the same as Secretary of said corporation, this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_.

\_\_\_\_\_  
 SECRETARY

BIOGRAPHICAL AFFIDAVIT  
(Print or Type)

Full Name and Address of Company (Do Not Use Group Names). \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

In connection with the above-named company, I herewith make representations and supply information about myself as hereinafter set forth. (Attach addendum or separate sheet if space hereon is insufficient to answer any question fully.) IF ANSWER IS "NO" OR "NONE", SO STATE.

1. Affiant's Full Name (Initials Not Acceptable). \_\_\_\_\_  
\_\_\_\_\_

2. a. Have you ever had your name changed? \_\_\_\_\_ If yes, give the reason for the change. \_\_\_\_\_  
\_\_\_\_\_

b. Other names used at any time. \_\_\_\_\_  
\_\_\_\_\_

3. Affiant's Social Security Number. \_\_\_\_\_

4. Date and Place of Birth. \_\_\_\_\_  
\_\_\_\_\_

5. Affiant's Business Address. \_\_\_\_\_  
Business Telephone. \_\_\_\_\_

6. List your residences for the last ten (10) years starting with your current address, giving:  
DATE                      ADDRESS                      CITY and STATE

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

7. Education: Dates, Names, Locations and Degrees.  
College \_\_\_\_\_  
\_\_\_\_\_

Graduate Studies \_\_\_\_\_  
\_\_\_\_\_

Others \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

8. List memberships in Professional Societies and Associations. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

9. Present or Proposed Position with the Applicant Company. \_\_\_\_\_  
\_\_\_\_\_

10. List complete employment record (up to and including present jobs, positions, directorates or officerships) for the past twenty (20) years, giving:

<u>DATES</u>	<u>EMPLOYER AND ADDRESS</u>	<u>TITLE</u>
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11. Present employer may be contacted.	Yes	No	(Circle One)
Former employers may be contacted.	Yes	No	(Circle One)

12. a. Have you ever been in a position which required a fidelity bond? \_\_\_\_\_  
If any claims were made on the bond, give details. \_\_\_\_\_

b. Have you ever been denied an individual or position schedule fidelity bond, or had a bond cancelled or revoked? \_\_\_\_\_ If yes, give details. \_\_\_\_\_

13. List any professional, occupational, and vocational licenses issued by any public or governmental licensing agency or regulatory authority which you presently hold or have held in the past (state date license issued, issuer of license, date terminated, reason for termination). \_\_\_\_\_

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14. During the last ten (10) years, have you ever been refused a professional, occupational, or vocational license by any public or governmental licensing agency or regulatory authority, or has any such license held by you ever been suspended or revoked? \_\_\_\_\_ If yes, give details.

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15. List any insurers in which you control directly or indirectly or own legally or beneficially 10% or more of the outstanding stock (in voting power). \_\_\_\_\_

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If any of the stock is pledged or hypothecated in any way, give details. \_\_\_\_\_

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16. Will you or members of your immediate family subscribe to or own, beneficially or of record, shares of stock of the applicant insurance company or its affiliates? \_\_\_\_\_

If any of the shares of stock are pledged or hypothecated in any way, give details. \_\_\_\_\_

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17. Have you ever been adjudged a bankrupt? \_\_\_\_\_

18. a. Have you ever been convicted or had a sentence imposed or suspended or had pronouncement of a sentence suspended or been pardoned for conviction of or pleaded guilty or nolo contendere to an information or indictment charging any felony, or charging a misdemeanor involving embezzlement, theft, larceny, or mail fraud, or charging a violation of any corporate securities statute or any insurance law, or have you been the subject of any disciplinary proceedings of any federal or state regulatory agency? \_\_\_\_\_

If yes, give details. \_\_\_\_\_

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b. Has any company been so charged, allegedly as a result of any action or conduct on your part? \_\_\_\_\_ If yes, give details. \_\_\_\_\_

19. Have you ever been an officer, director, trustee, investment committee member, key employee, or controlling stockholder of any insurer which, while you occupied any such position or capacity with respect to it, became insolvent or was placed under supervision or in receivership, rehabilitation, liquidation or conservatorship? \_\_\_\_\_

20. Has the certificate of authority or license to do business of any insurance company of which you were an officer or director or key management person ever been suspended or revoked while you occupied such position? \_\_\_\_\_ If yes, give details. \_\_\_\_\_

Dated and signed this \_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_  
\_\_\_\_\_. I hereby certify under penalty of perjury that I am acting on my own behalf, and that the foregoing statements are true and correct to the best of my knowledge and belief.

\_\_\_\_\_  
(Signature of Affiant)

State of \_\_\_\_\_

County of \_\_\_\_\_

Personally appeared before me the above named \_\_\_\_\_, personally known to me, who, being duly sworn, deposes and says that he executed the above instrument and that the statements and answers contained therein are true and correct to the best of his knowledge and belief.

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_.

(SEAL)

\_\_\_\_\_  
Notary Public

My Commission Expires \_\_\_\_\_



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CHAPTER 31  
LIFE INSURANCE COMPANIES—VARIABLE ANNUITIES CONTRACTS

[Appeared as Ch 3, 1973 IDR]  
[Prior to 10/22/86, Insurance Department[510]]

**191—31.1(508) Definitions.** When used in this regulation:

“*Commissioner*” shall mean the insurance commissioner of Iowa.

“*Contracts on a variable basis*” or “*Variable contract*” shall mean any (group or individual) policy or contract issued by an insurance company which provides for insurance or annuity benefits which may vary according to the investment experience of any separate or segregated account or accounts maintained by the insurer as to such policy or contract, as provided for in Iowa Code sections 508.31 and 508.32.

**191—31.2(508) Insurance company qualifications.**

**31.2(1)** No company shall deliver or issue for delivery variable contracts within this state unless it is licensed under Iowa Code chapter 508 entitled “Life Insurance Companies,” to do a life insurance or annuity business in this state; and the commissioner is satisfied that its condition or method of operation in connection with the issuance of such contracts will not render its operation hazardous to the public or its policyholders in this state. To this end the commissioner shall consider among other things:

- a. The history and financial condition of the company,
- b. The character, responsibility and fitness of the officers and directors of the company, and
- c. The law and regulation under which the company is authorized in the state of domicile to issue variable contracts.

**31.2(2)** If the company is licensed and is a subsidiary of an admitted life insurance company, or affiliated with such company by common management or ownership, it may be deemed by the commissioner to have satisfied the aforementioned provisions.

**31.2(3)** Before any company shall deliver or issue for delivery variable contracts within this state, it shall submit to the commissioner:

- a. A general description of the kinds of variable contracts it intends to issue,
- b. If requested by the commissioner, a copy of the statutes and regulations of its state of domicile under which it is authorized to issue variable contracts, and
- c. If requested, biographical data with respect to officers and directors of the company.

**191—31.3(508) Filing, policy forms and provision.**

**31.3(1)** No contract on a variable basis or certificates evidencing variable benefits issued pursuant to any such contract shall be issued or delivered to any person in this state until a copy of the form of the same has been filed with and approved by the commissioner.

**31.3(2)** The commissioner shall disapprove or withdraw approval of any such contract form or certificate if:

- a. Such contract or certificate contains provisions which are unjust, unfair, inequitable, ambiguous, misleading, likely to result in misrepresentation or contrary to law, or
- b. Sales of such contracts are being solicited by any means of advertising, communication or dissemination of information which involves misleading or inadequate description of the provisions of the contract.
- c. The contract or certificate does not comply with the filing requirements and provisions set forth in 191—subrules 30.5(1) to (8).

**31.3(3)** Any variable contract delivered or issued for delivery in this state and any certificates evidencing variable benefits issued pursuant to any such contract on a group basis shall contain a statement of the essential features of the procedures to be followed by the insurance company in determining the dollar amount of such variable benefits and shall state that such dollar amounts will vary to reflect investment experience and shall contain on its first page a clear and prominently placed statement to the effect that the benefits thereunder are on a variable basis.

**31.3(4)** Illustrations of benefits payable under any contract providing benefits payable in variable amounts shall not include projections of past investment experience into the future or attempted predictions of future investment experience. Hypothetical illustrations of rates to possible levels of annuity payments may be used if submitted to and not disapproved by the commissioner.

**31.3(5)** No individual variable annuity contract calling for the payment of periodic stipulated payments shall be delivered or issued for delivery in this state unless it contains in substance the following provision or provisions which in the opinion of the commissioner are more favorable to the holders of such contracts:

*a.* A provision that there shall be a period of grace of 30 days or of one month, within which any stipulated payment to the insurer falling due after the first payment may be made, during which period of grace the contract shall continue in force. The contract may include a statement of the basis for determining the date as of which any such payment received during the period of grace shall be applied to produce the values under the contract arising therefrom.

*b.* A provision that at any time within one year from the date of default, in making periodic stipulated payments to the insurer during the life of the annuitant and unless the cash surrender value has been paid, the contract may be reinstated upon payment to the insurer of such overdue payments as required by the contract and of all indebtedness to the insurer on the contract, including interest. The contract may include a statement of the basis for determining the date as of which the amount to cover such overdue payments and indebtedness shall be applied to produce the values under the contract arising therefrom.

*c.* A provision specifying the option available in the event of default in a periodic stipulated payment. Such options may include an option to surrender the contract for a cash value as determined by the contract and shall include an option to receive a paid-up annuity if the contract is not surrendered for cash, the amount of such paid-up annuity being determined by applying the value of the contract at the annuity commencement date in accordance with the terms of the contract.

**31.3(6)** Any variable contract evidencing variable benefits delivered or issued for delivery in this state shall stipulate the expense, mortality and investment increment factors to be used in computing the dollar amount of variable benefits or other contractual payments or values thereunder, and shall guarantee that expenses will not adversely affect such dollar amounts. In computing the dollar amount of variable benefits or other contractual payments or values under any variable contract, the annual net investment increment assumption shall not exceed 5 percent, except with the approval of the commissioner. "Expenses" as used in this paragraph may exclude some or all taxes, as stipulated in the contract.

**31.3(7)** To the extent that the level of benefits may be affected by mortality results, the mortality factor shall be determined from the Annuity Mortality Table for 1949, Ultimate, or any modification of that table not having a higher mortality rate at any age, or, if approved by the commissioner, from another table.

**31.3(8)** The reserve liability for variable annuities shall be established pursuant to the requirements of the standard valuation law in accordance with actuarial procedure that would recognize the variable nature of the benefits provided.



**191—31.4(508) Separate account or accounts and investments.** Any domestic life insurance company issuing variable contracts shall establish one or more separate or segregated accounts as provided in Iowa Code section 508.32 to invest and reinvest all or any of the amounts received in connection with such variable contracts subject to the following limitations.

**31.4(1)** Except as hereinafter provided, amounts allocated to any separate or segregated account and accumulation thereon may be invested and reinvested without regard to any requirements or limitations prescribed by the laws of this state governing the investments of life insurance companies; provided, that to the extent that the company's reserve liability with regard to benefits guaranteed as to dollar amount and duration and funds guaranteed as to principal amount or stated rate of interest is maintained in any separate or segregated account, a portion of the assets of such separate or segregated account at least equal to such reserve liability shall be, except as the commissioner may otherwise approve, invested in accordance with laws of this state governing the investments of life insurance companies. The investments in such separate or segregated account or accounts shall not be taken into account in applying the investment limitations applicable to the investments of the company.

**31.4(2)** With respect to 75 percent of the market value of the total assets in a separate or segregated account, no such company shall purchase or otherwise acquire the securities of any issuer, other than securities issued or guaranteed as to principal and interest by the United States, if immediately after such purchase or acquisition the market value of such investment, together with prior investments of such separate or segregated account in such security taken at market, would exceed 5 percent of the market value of the assets of said separate or segregated account; provided, however, that the commissioner may waive such limitation if in the commissioner's opinion such waiver will not render the operation of such separate or segregated account hazardous to the public or the policyholders in this state.

**31.4(3)** The separate or segregated account shall not invest in the voting securities of a single issuer in an amount in excess of 10 percent of the total issued and outstanding voting securities of such issuer. The foregoing shall not apply with respect to securities held in separate or segregated accounts, the voting rights in which are exercisable only in accordance with instructions from persons having interests in such accounts.

**31.4(4)** The limitations in 31.4(2) and 31.4(3) shall not apply to the investments of a separate or segregated account in the securities of an investment company registered under the investment company Act of 1940, provided the investments of such investment companies comply in substance with 31.4(2) and 31.4(3) hereof.

**31.4(5)** Unless otherwise approved by the commissioner, assets allocated to a separate or segregated account shall be valued at their market value on the date of valuation or, if there is no readily available market, then as provided under the terms of the contract or the rules or other written agreement applicable to such separate or segregated account; provided, that the portion of the assets of such separate or segregated account equal to the company's reserve liability with regard to the benefits and funds referred to in 31.4(1), if any, shall be valued in accordance with the rules otherwise applicable to the company's assets.

**31.4(6)** The provisions of Iowa Code section 508.8 and any regulations applicable to the officers and directors of insurance companies with respect to conflicts of interest shall also apply to members of any separate or segregated account's committee, board or other similar body. No officer or director of such company nor any member of the committee, board or body of a separate or segregated account shall receive directly or indirectly any commission or any other compensation with respect to the purchase or sale of assets of such separate or segregated account.

**31.4(7)** All contracts on a variable basis shall state that the portion of the assets of any such separate or segregated accounts equal to the reserves and other contract liabilities with respect to such account shall not be chargeable with liabilities arising out of any other business the company may conduct.

**31.4(8)** Notwithstanding any other provisions in these rules, a company may:

a. With respect to any separate or segregated account registered with the Securities and Exchange Commission as a unit investment trust exercise voting rights in connection with any securities of a regulated investment company registered under the Investment Company Act of 1940 and held in such separate or segregated account in accordance with instructions from persons having interests in such accounts ratably as determined by the company, or

b. With respect to any separate or segregated account registered with the Securities and Exchange Commission as a management investment company, establish for such account a committee, board or other body, the members of which may or may not be otherwise affiliated with such company and may be elected to such membership by the vote of persons having interests in such account ratably as determined by the company. Such committee, board or other body may have the power, exercisable alone or in conjunction with others, to manage such account or accounts and the investment of its assets.

A company, committee, board or other body may make such other provisions in respect to any such separate or segregated account as may be deemed appropriate to facilitate compliance with requirements of any federal or state law now or hereafter in effect; provided that the commissioner approves such provisions as not hazardous to the public or the company's policyholders in this state.

**31.4(9)** No sale, exchange or other transfer of assets may be made by a company between any of its separate or segregated accounts or between any other investment account and one or more of its separate or segregated accounts unless, in case of a transfer into a separate or segregated account, the transfer is made solely to establish the account or to support the operation of the contracts with respect to the account to which the transfer is made and unless the transfer, whether into or from an account or accounts, is made by a transfer of cash or by a transfer of securities having a valuation which could be readily determined in the market place, and further provided that the transfer of securities must have been approved by the commissioner. The commissioner may authorize other transfers among such accounts if, in the commissioner's opinion, such transfers would not be inequitable.

**31.4(10)** The company shall maintain in each such separate or segregated account assets with a value at least equal to the reserves and other contract liabilities with respect to such accounts, except as may otherwise be approved by the commissioner.

This rule is intended to implement Iowa Code sections 505.8 and 508.32.

**191—31.5(508) Required reports.** Any company issuing individual variable contracts providing benefits in variable amounts shall mail to the contract holder, at least once in each contract year after the first, at the contract holder's last address known to the company, a statement or statements reporting the investments held in the separate or segregated account and, in the case of contracts under which payments have not yet commenced, a statement reporting as of a date not more than four months previous to the date of mailing the number of accumulation units credited to such contracts and the dollar value of a unit or the value of the contract holder's account.

An insurer issuing contracts on a variable basis shall annually on or before March 1 submit to the commissioner an annual statement for the business of its separate or segregated accounts. This statement shall be on such form as may be prescribed by the National Association of Insurance Commissioners and shall include details as to all of the income, disbursements, assets and liability items associated with such account or accounts and such other information as the commissioner of insurance may reasonably require.

**191—31.6(508) Examination of agents and other persons.** Rescinded IAB 3/24/99, effective 4/28/99.

**191—31.7(508) Foreign companies.** If the law or regulation in the place of domicile of a foreign company provides a degree of protection to the policyholders and the public which is substantially equal to that provided by these regulations, the commissioner, to the extent deemed appropriate by the commissioner, may consider compliance with such law or regulation as compliance with these regulations.

[Filed December 17, 1968]

[Filed 7/11/86, Notice 6/4/86—published 7/30/86, effective 9/3/86]\*

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[Filed 3/5/99, Notice 11/4/98—published 3/24/99, effective 4/28/99]

\*See IAB Insurance Division



CHAPTER 32  
DEPOSITS BY A DOMESTIC LIFE COMPANY IN A  
CUSTODIAN BANK OR CLEARING CORPORATION

[Prior to 10/22/86, Insurance Department[510]]

**191—32.1(508) Purpose.** These rules implement the authority of insurance companies organized under Iowa Code chapter 508 to make deposits of securities in custodian banks or clearing corporations in order to satisfy the legal reserve requirement imposed on those companies. These rules place requirements on such deposits which are for the protection of policyholders in the state.

**191—32.2(508) Definitions.** As used in this chapter:

**32.2(1)** “*Commissioner*” means the commissioner of insurance of the state of Iowa.

**32.2(2)** “*Company*” means a company organized under Iowa Code chapter 508.

**32.2(3)** “*Custodial account*” means an account established by agreement between a company and a custodian pursuant to Iowa Code section 511.8, subsection 20, and these rules.

**32.2(4)** “*Custodial agreement*” means an agreement entered into between a company and a custodian pursuant to these rules.

**32.2(5)** “*Custodian*” means an institution meeting the requirements of rule 32.4(508) which has entered into a custodial agreement with a company.

**32.2(6)** “*Custodied securities*” means securities held by or through a custodian when held directly by the custodian or held for the account of the custodian in an authorized clearing corporation or in the federal reserve book entry system.

**32.2(7)** “*Authorized clearing corporations*” means the following organizations, which are hereby recognized by the commissioner as authorized clearing corporations for purposes of Iowa Code section 511.8, subsection 20, paragraph “b,” subparagraph (2), and such other corporations as the commissioner may from time to time designate:

- a. Depository Trust Company.
- b. Midwest Securities Trust Company.
- c. Pacific Securities Depository Trust Company.
- d. Philadelphia Depository Trust Company.
- e. Euroclear Clearance Ltd.

**191—32.3(508) Requirements upon custodial account and custodial agreement.** Custodied securities may be used to meet the legal reserve deposit requirements of Iowa Code section 511.8, subsection 16, provided such securities are held under written agreement with a custodian which provides:

**32.3(1)** That the custodial account is to be titled as follows: “\_\_\_\_\_ Insurance Company Account No. \_\_\_\_\_ in custody for and to vest in the Commissioner of Insurance of the State of Iowa in accordance with Iowa Code sections 507C.18 and 508.19”.

**32.3(2)** The commissioner shall notify the custodian, in writing, that a "Minimum Aggregate Value of Securities" must be held in the custodial account at all times. The commissioner's notice remains in full force and effect until amended or revoked in writing by the commissioner. The company shall, on or before the fifteenth day of each month certify to the commissioner on a form provided by the commissioner that the aggregate value (determined as provided by Iowa Code section 511.8, subsection 17) of securities on deposit with the commissioner in the manner specified by Iowa Code section 511.8, subsection 16, and in the custodial account as of the last day of the preceding month was at least equal to the company's legal reserve (as defined in Iowa Code section 511.8) as of the last day of the preceding year. In the event the company fails or refuses to make the certification provided in this subrule, or in the event the commissioner is authorized or directed by reason of any determination, appointment, or order pursuant to Iowa Code section 507C.18, 508.17, 508.18, or 508.22, the commissioner may acquire custody or otherwise assume control of the custodied securities, and may order re-registration, delivery, or other disposition which the commissioner deems appropriate under the circumstances. In addition, if the commissioner has reason to believe that a company may be insolvent, or that its condition is such as to render its further continuance in business hazardous to the public or holders of its policies, or that continued trading by the company in custodied securities may create a hazard to the public or policyholders, the commissioner may order the company to cease trading in custodied securities pending examination as provided in Iowa Code section 508.16. The company may from time to time deposit or withdraw securities from the custodial account, subject to the stated "Minimum Aggregate Value of Securities" on deposit.

**32.3(3)** That securities held in a fungible bulk by the custodian and securities in a clearing corporation or in the federal reserve book entry system shall be separately identified on the custodian's official records as being owned by the company. The custodian's records shall identify which custodied securities are held by the custodian and which securities are in a clearing corporation or in the federal reserve book entry system. If the securities are in a clearing corporation, such records shall also identify the name of the clearing corporation, the location of the securities, and, if held through an agent, the name of the agent.

**32.3(4)** That all custodied securities that are registered must be registered in the name of the company, in the name of a nominee of a company, in the name of the custodian or its nominee, in the name of an agent of the custodian or its nominee, or, if held in a clearing corporation, in the name of the clearing corporation or its nominee.

**32.3(5)** That during the course of the custodian's regular business hours, the commissioner or the commissioner's representative and authorized employees and representatives of the company, shall be entitled to examine on the premises of the custodian the custodian's records relating to custodied securities of the company.

**32.3(6)** That the custodian or its agents shall be required to submit to the commissioner, at least annually, or more often as the commissioner may from time to time request, the opinion(s) of an auditor who shall be satisfactory to the commissioner specifically addressing the respective systems of internal account control and record keeping of the custodian or its agents.

**32.3(7)** That the custodian shall maintain records sufficient to determine and verify information relating to custodied securities that may be reported in the company's annual statement and supporting schedules as filed with various regulatory authorities and in connection with any audit of the financial statements of the company. Copies of these records shall be delivered to the commissioner upon written request to the custodian.

**32.3(8)** That the custodian is obligated to indemnify the company for any loss of securities while in its custody occasioned by negligence or dishonesty of the custodian's officers or employees, or burglary, robbery, holdup, theft, extortion, or mysterious disappearance, including loss by damage or destruction.

32.3(9) That, in the event there is a loss of the securities for which the custodian is obligated to indemnify the company, the custodian shall promptly replace the same, or the value thereof, and the value of any loss of rights or privileges resulting from said loss of securities and the custodian shall make available to the company for inspection any and all securities or value amounts so replaced.

32.3(10) That minimum levels of deposits of securities at face values totaling \$100,000 shall be maintained at all times.

32.3(11) The custodial agreement may contain additional specific operating instructions, controls and provisions concerning the operation of the custodial account provided such operating instructions, controls and provisions are not in conflict with these rules.

32.3(12) Custodial agreements shall be submitted by a company to the commissioner for the commissioner's review prior to execution to ensure compliance with these rules.

32.3(13) That the custodial agreement may be amended or terminated only with the prior approval of the commissioner.

This rule is intended to implement Iowa Code section 511.8(20).

**191—32.4(508) Requirements upon custodians.** The custodian shall be a bank or trust company having its principal place of business in the United States, selected by the company to act as the custodian under an agreement authorized by Iowa Code section 511.8, subsection 20, and shall possess the following qualifications:

32.4(1) The custodian shall be audited annually by independent public accountants whose audit report, together with the related financial statements, and opinion on internal controls shall be made available to the company and the commissioner.

32.4(2) The laws governing the custodian shall recognize that the custodied securities remain the specific property of the company, and are not subject to the claim of any third parties arising out of the third party's claim against the custodian.

32.4(3) The custodian shall maintain blanket bond coverage relating to its custodial functions with limits satisfactory to the commissioner.

32.4(4) The custodian's capital and surplus funds shall at all times equal or exceed \$25 million and the custodian shall at all times have assets in excess of \$500 million, unless the commissioner finds that a particular custodian with less than that amount of funds or assets would possess the requisite stability and soundness to perform the custodial functions without detriment to a company's policyholders.

This rule is intended to implement Iowa Code section 511.8, subsection 20, paragraph "b."

**191—32.5(508,511) Deposit of securities.** Banks or trust companies meeting the requirements of rule 32.4(508) are hereby designated by the commissioner as places for the deposits under Iowa Code sections 508.6 and 511.8(16). Securities required to be deposited under these Iowa Code sections shall no longer be deposited with the commissioner.

This rule is intended to implement Iowa Code sections 508.6 and 511.8, subsection 16.

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[Filed emergency 6/3/85—published 6/19/85, effective 7/1/85]

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[Editorially transferred from [510] to [191], IAC Supp. 10/22/86; see IAB 7/30/86]

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CHAPTER 33  
VARIABLE LIFE INSURANCE MODEL REGULATION

[Prior to 10/22/86, Insurance Department[510]]

**191—33.1(508A) Authority.**

33.1(1) This chapter, applicable to variable life insurance policies, is promulgated under the authority of Iowa Code sections 505.8 and 508A.4.

33.1(2) This chapter is supplementary to 191—Chapter 31, which remains in effect except that, with respect to any variable life insurance policy issued on or after the effective date of this chapter, this chapter shall control to the extent there is any conflict.

**191—33.2(508A) Definitions.** As used in this chapter:

33.2(1) “*Affiliate*” of an insurer means any person, directly or indirectly, controlling, controlled by, or under common control with such insurer; any person who regularly furnishes investment advice to such insurer with respect to its separate accounts for which a specific fee or commission is charged; or any director, officer, partner, or employee of any such insurer, controlling or controlled person, or person providing investment advice or any member of the immediate family of such person.

33.2(2) Rescinded IAB 3/24/99, effective 4/28/99.

33.2(3) “*Assumed investment rate*” means the rate of investment return which would be required to be credited to a variable life insurance policy, after deduction of charges for taxes, investment expenses, and mortality and expense guarantees to maintain the variable death benefit equal at all times to the amount of death benefit, other than incidental insurance benefits, which would be payable under the plan of insurance if the death benefit did not vary according to the investment experience of the separate account.

33.2(4) “*Benefit base*” means the amount to which the net investment return is applied.

33.2(5) “*Commissioner*” means the insurance commissioner of the state of Iowa.

33.2(6) “*Control*” (including the terms “controlling,” “controlled by” and “under common control with”) means the possession, direct or indirect, of the power to direct or cause the direction of the management of policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of an official position with or corporate office held by the person. Control shall be presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing more than 10 percent of the voting securities of any other person. This presumption may be rebutted by a showing made to the satisfaction of the commissioner that control does not exist in fact. The commissioner may determine, after furnishing all persons in interest notice and opportunity to be heard and making specific findings of fact to support such determination, that control exists in fact, notwithstanding the absence of a presumption to that effect.

33.2(7) “*Flexible premium policy*” means any variable life insurance policy other than a scheduled premium policy as specified in subrule 33.2(15).

33.2(8) “*General account*” means all assets of the insurer other than assets in separate accounts established pursuant to Iowa Code section 508A.1 or pursuant to the corresponding section of the insurance laws of the state of domicile of a foreign or alien insurer, whether or not for variable life insurance.

33.2(9) “*Incidental insurance benefit*” means all insurance benefits in a variable life insurance policy, other than the variable death benefit and the minimum death benefit, including but not limited to accidental death and dismemberment benefits, disability benefits, guaranteed insurability options, family income, or term riders.

33.2(10) “*May*” is permissive.

33.2(11) “*Minimum death benefit*” means the amount of the guaranteed death benefit, other than incidental insurance benefits, payable under a variable life insurance policy regardless of the investment performance of the separate account.

33.2(12) "*Net investment return*" means the rate of investment return in a separate account to be applied to the benefit base.

33.2(13) "*Person*" means an individual, corporation, partnership, association, trust, or fund.

33.2(14) "*Policy processing day*" means the day on which charges authorized in the policy are deducted from the policy's cash value.

33.2(15) "*Scheduled premium policy*" means any variable life insurance policy under which both the amount and timing of premium payments are fixed by the insurer.

33.2(16) "*Separate account*" means a separate account established pursuant to Iowa Code section 508A.1 or pursuant to the corresponding section of the insurance laws of the state of domicile of a foreign or alien insurer.

33.2(17) "*Shall*" is mandatory.

33.2(18) "*Variable death benefit*" means the amount of death benefit, other than incidental insurance benefits, payable under a variable life insurance policy dependent on the investment performance of the separate account, which the insurer would have to pay in the absence of any minimum death benefit.

33.2(19) "*Variable life insurance policy*" means any individual policy which provides for life insurance the amount or duration of which varies according to the investment experience of any separate account or accounts established and maintained by the insurer as to such policy, pursuant to Iowa Code section 508A.1 or pursuant to the corresponding section of the insurance laws of the state of domicile of a foreign or alien insurer.

**191—33.3(508A) Qualification of insurer to issue variable life insurance.** The following requirements are applicable to all insurers either seeking authority to issue variable life insurance in this state or having authority to issue variable life insurance in this state.

33.3(1) *Licensing and approval to do business in this state.* An insurer shall not deliver or issue for delivery in this state any variable life insurance policy unless the insurer is licensed or organized to do a life insurance business in this state, and the insurer has obtained the written approval of the commissioner for the issuance of variable life insurance policies in this state. The commissioner shall grant such written approval only after the commissioner has found that:

a. The plan of operation for the issuance of variable life insurance policies is not unsound;  
b. The general character, reputation, and experience of the management and those persons or firms proposed to supply consulting, investment, administrative, or custodial services to the insurer are such as to reasonably ensure competent operation of the variable life insurance business of the insurer in this state; and

c. The present and foreseeable future financial condition of the insurer and its method of operation in connection with the issuance of such policies is not likely to render its operation hazardous to the public or its policyholders in this state. The commissioner shall consider, among other things:

(1) The history of operation and financial condition of the insurer;  
(2) The qualifications, fitness, character, responsibility, reputation, and experience of the officers and directors and other management of the insurer and those persons or firms proposed to supply consulting, investment, administrative, or custodial services to the insurer;

(3) The applicable law and regulations under which the insurer is authorized in its state of domicile to issue variable life insurance policies. The state of entry of an alien insurer shall be deemed its state of domicile for this purpose; and

(4) If the insurer is a subsidiary of, or is affiliated by common management or ownership with another company, its relationship to such other company and the degree to which the requesting insurer, as well as the other company, meet these standards.

**33.3(2) Filing for approval to do business in this state.** The commissioner may, at the commissioner's discretion, require that an insurer, before it delivers or issues for delivery any variable life insurance policy in this state, file with this division the following information for the consideration of the commissioner in making the determination required by subrule 33.3(1):

a. Copies of and a general description of the variable life insurance policies it intends to issue;

b. A general description of the methods of operation of the variable life insurance business of the insurer, including methods of distribution of policies and the names of those persons or firms proposed to supply consulting, investment, administrative, custodial or distribution services to the insurer;

c. With respect to any separate account maintained by an insurer for any variable life insurance policy, a statement of the investment policy the issuer intends to follow for the investment of the assets held in such separate account, and a statement of procedures for changing such investment policy. The statement of investment policy shall include a description of the investment objectives intended for the separate account;

d. A description of any investment advisory services contemplated as required by subrule 33.6(10);

e. A copy of the statutes and regulations of the state of domicile of the insurer under which it is authorized to issue variable life insurance policies;

f. Biographical data with respect to officers and directors of the insurer on the National Association of Insurance Commissioners Uniform Biographical Data Form; and

g. A statement of the insurer's actuary describing the mortality and expense risks which the insurer will bear under the policy.

**33.3(3) Standards of suitability.** Every insurer seeking approval to enter into the variable life insurance business in this state shall establish and maintain a written statement specifying the standards of suitability to be used by the insurer. Such standards of suitability shall specify that no recommendations shall be made to an applicant to purchase a variable life insurance policy and that no variable life insurance policy shall be issued in the absence of reasonable grounds to believe that the purchase of such policy is not unsuitable for such applicant on the basis of information furnished after reasonable inquiry of such applicant concerning the applicant's insurance and investment objectives, financial situation and needs, and any other information known to the insurer or to the agent making the recommendation.

**33.3(4) Use of sales materials.** An insurer authorized to transact variable life insurance business in this state shall not use any sales material, advertising material, or descriptive literature or other materials of any kind in connection with its variable life insurance business in this state which is false, misleading, deceptive, or inaccurate. Variable life insurance sales material, advertising material, and descriptive literature shall be subject to the additional requirements of 191—Chapter 15.

**33.3(5) Requirements applicable to contractual services.** Any material contract between an insurer and suppliers of consulting, investment, administrative, sales, marketing, custodial, or other services with respect to variable life insurance operations shall be in writing and provide that the supplier of such services shall furnish the commissioner with any information or reports in connection with such services which the commissioner may request in order to ascertain whether the variable life insurance operations of the insurer are being conducted in a manner consistent with this chapter and any other applicable law or regulations.

**33.3(6) Reports to the commissioner.**

a. Any insurer authorized to transact the business of variable life insurance in this state shall submit to the commissioner, in addition to any other materials which may be required by this chapter or any other applicable laws or regulations:

(1) An annual statement of the business of its separate account or accounts in such form as may be prescribed by the National Association of Insurance Commissioners;

(2) Prior to the use in this state any information furnished to applicants as provided for in rule 33.7(508A);

(3) Prior to the use in this state the form of any of the reports to policyholders as provided for in rule 33.9(508A); and

(4) Such additional information concerning its variable life insurance operations or its separate accounts as the commissioner shall deem necessary.

b. Any material submitted to the commissioner under this subrule shall be disapproved if it is found to be false, misleading, deceptive, or inaccurate in any material respect and, if previously distributed, the commissioner shall require the distribution of amended material.

33.3(7) *Authority of commissioner to disapprove.* Any material required to be filed with and approved by the commissioner shall be subject to disapproval if at any time it is found by the commissioner not to comply with the standards established in this chapter.

**191—33.4(508A) Insurance policy requirements.** The commissioner shall not approve any variable life insurance form filed pursuant to this chapter unless it conforms to the requirements of this rule.

33.4(1) *Filing of variable life insurance policies.* All variable life insurance policies, and all riders, endorsements, applications and other documents which are to be attached or made a part of the policy and which relate to the variable nature of the policy, shall be filed with the commissioner and approved by the commissioner prior to delivery or issuance for delivery in this state.

a. The procedures and requirements for such filing and approval shall be, to the extent appropriate and not inconsistent with this chapter, the same as those otherwise applicable to other life insurance policies.

b. The commissioner may approve variable life insurance policies and related forms with provisions the commissioner deems to be not less favorable to the policyholder and the beneficiary than those required by this chapter.

c. A filing which has not been previously approved, disapproved or questioned shall be deemed approved on or after 30 days from its receipt by the division.

33.4(2) *Mandatory policy benefit and design requirements.* Variable life insurance policies delivered or issued for delivery in this state shall comply with the following minimum requirements:

a. Mortality and expense risks shall be borne by the insurer. The mortality and expense charges shall be subject to the maximums stated in the contract.

b. For scheduled premium policies, a minimum death benefit shall be provided in an amount at least equal to the initial face amount of the policy so long as premiums are duly paid (subject to the provisions of subrule 33.4(4), paragraph "b").

c. The policy shall reflect the investment experience of one or more separate accounts established and maintained by the insurer. The insurer must demonstrate that the reflection of investment experience in the variable life insurance policy is actuarially sound.

d. Each variable life insurance policy shall be credited with the full amount of the net investment return applied to the benefit base.

e. Any changes in variable death benefits of each variable life insurance policy shall be determined at least annually.

f. The cash value of each variable life insurance policy shall be determined at least monthly. The method of computation of cash values and other nonforfeiture benefits, as described either in the policy or in a statement filed with the commissioner of the state in which the policy is delivered, or issued for delivery, shall be in accordance with actuarial procedures that recognize the variable nature of the policy. The method of computation must be such that, if the net investment return credited to the policy at all times from the date of issue should be equal to the assumed investment rate with premiums and benefits determined accordingly under the terms of the policy, then the resulting cash values to the minimum values required by Iowa Code section 508.37 (Standard Nonforfeiture Law) for a general account policy with such premiums and benefits. The assumed investment rate shall not exceed the maximum interest rate permitted under the Standard Nonforfeiture Law of this state. If the policy does not contain an assumed investment rate this demonstration shall be based on the maximum interest rate permitted under the Standard Nonforfeiture Law. The method of computation may disregard incidental minimum guarantees as to the dollar amounts payable. Incidental minimum guarantees include, for example, but are not to be limited to, a guarantee that the amount payable at death or maturity shall be at least equal to the amount that otherwise would have been payable if the net investment return credited to the policy at all times from the date of issue had been equal to the assumed investment rate.

g. The computation of values required for each variable life insurance policy may be based upon such reasonable and necessary approximations as are acceptable to the commissioner.

**33.4(3) Mandatory policy provisions.** Every variable life insurance policy filed for approval in this state shall contain at least the following:

a. The cover page or pages corresponding to the cover page of each such policy shall contain:

- (1) A prominent statement in either contrasting color or in bold-faced type that the amount or duration of death benefit may be variable or fixed under specified conditions;
- (2) A prominent statement in either contrasting color or in bold-faced type that cash values may increase or decrease in accordance with the experience of the separate account subject to any specified minimum guarantees;
- (3) A statement describing any minimum death benefit required pursuant to subrule 33.4(2), paragraph "b";
- (4) The method, or a reference to the policy provision which describes the method, for determining the amount of insurance payable at death;
- (5) A captioned provision that the policyholder may return the variable life insurance policy within ten days of receipt of the policy by the policyholder, and receive a refund equal to the sum of:
  1. The difference between the premiums paid including any policy fees or other charges and the amounts allocated to any separate accounts under the policy; and
  2. The value of the amounts allocated to any separate accounts under the policy, on the date the returned policy is received by the insurer or its agent;
- (6) Such other items as are currently required for fixed benefit life insurance policies and which are not inconsistent with this chapter.

b. Grace period.

(1) For scheduled premium policies, a provision for a grace period of not less than 31 days from the premium due date which shall provide that when the premium is paid within the grace period, policy values will be the same, except for the deduction of any overdue premium, as if the premium were paid on or before the due date.

(2) For flexible premium policies, a provision for a grace period beginning on the policy processing day when the total charges authorized by the policy that are necessary to keep the policy in force until the next policy processing day exceed the amount available under the policy to pay such charges in accordance with the terms of the policy. Such grace period shall end on a date not less than 61 days after the mailing date of the report to policyholders required by subrule 33.9(3).

The death benefit payable during the grace period will equal the death benefit in effect immediately prior to such period less any overdue charges. If the policy processing days occur monthly, the insurer may require the payment of not more than three times the charges which were due on the policy processing day on which the amounts available under the policy were insufficient to pay all charges authorized by the policy that are necessary to keep such policy in force until the next policy processing day.

c. For scheduled premium policies, a provision that the policy will be reinstated at any time within two years from the date of default upon the written application of the insured and evidence of insurability, including good health, satisfactory to the insurer, unless the cash surrender value has been paid or the period of extended insurance has expired, upon the payment of any outstanding indebtedness arising subsequent to the end of the grace period following the date of default together with accrued interest thereon to the date of reinstatement and payment of an amount not exceeding the greater of:

(1) All overdue premiums with interest at a rate not exceeding the legally permissible maximum rate of interest compounded annually and any indebtedness in effect at the end of the grace period following the date of default with interest at a rate not exceeding the legally permissible maximum rate of interest compounded annually; or

(2) One hundred ten percent of the increase in cash value resulting from reinstatement plus all overdue premiums for incidental insurance benefits with interest at a rate not exceeding the legally permissible maximum rate of interest compounded annually.

d. A full description of the benefit base and of the method of calculation and application of any factors used to adjust variable benefits under the policy;

e. A provision designating the separate account to be used and stating that:

(1) The assets of such separate account shall be available to cover the liabilities of the general account of the insurer only to the extent that the assets of the separate account exceed the liabilities of the separate account arising under the variable life insurance policies supported by the separate account.

(2) The assets of such separate account shall be valued at least as often as any policy benefits vary but at least monthly.

f. A provision specifying what documents constitute the entire insurance contract under state law;

g. A designation of the officers who are empowered to make an agreement or representation on behalf of the insurer and an indication that statements by the insured, or on behalf of the insured, shall be considered as representations and not warranties;

h. An identification of the owner of the insurance contract;

i. A provision setting forth conditions or requirements as to the designation, or change of designation, of a beneficiary and a provision for disbursement of benefits in the absence of a beneficiary designation;

j. A statement of any conditions or requirements concerning the assignment of the policy;

k. A description of any adjustments in policy values to be made in the event of misstatement of age or sex of the insured;

l. A provision that the policy shall be incontestable by the insurer after it has been in force for two years during the lifetime of the insured, provided, however, that any increase in the amount of the policy's death benefits subsequent to the policy issue date, which increase occurred upon a new application or request of the owner and was subject to satisfactory proof of the insured's insurability, shall be incontestable after any such increase has been in force, during the lifetime of the insured, for two years from the date of issue of such increase;

m. A provision stating that the investment policy of the separate account shall not be changed without the approval of the insurance commissioner of the state of domicile of the insurer, and that the approval process is on file with the commissioner of this state;

n. A provision that payment of variable death benefits in excess of any minimum death benefits, cash values, policy loans, or partial withdrawals (except when used to pay premiums) or partial surrenders may be deferred:

(1) For up to six months from the date of request, if such payments are based on policy values which do not depend on the investment performance of the separate account, or

(2) Otherwise, for any period during which the New York Stock Exchange is closed for trading (except for normal holiday closing) or when the Securities and Exchange Commission has determined that a state of emergency exists which may make such payment impractical.

o. If settlement options are provided, at least one such option shall be provided on a fixed basis only;

p. A description of the basis for computing the cash value and the surrender value under the policy shall be included;

q. Premiums or charges for incidental insurance benefits shall be stated separately;

r. Any other policy provision required by this chapter;

s. Such other items as are currently required for fixed benefit life insurance policies and are not inconsistent with this chapter;

t. A provision for nonforfeiture insurance benefits. The insurer may establish a reasonable minimum cash value below which any nonforfeiture insurance options will not be available.

**33.4(4) Policy loan provisions.** Every variable life insurance policy, other than term insurance policies and pure endowment policies, delivered or issued for delivery in this state shall contain provisions which are not less favorable to the policyholder than the following with respect to policy loans after the policy has been in force for five full years:

a. At least 75 percent of the policy's cash surrender value may be borrowed.

b. The amount borrowed shall bear interest at a rate not to exceed that permitted by state insurance law.

c. Any indebtedness shall be deducted from the proceeds payable on death.

d. Any indebtedness shall be deducted from the cash surrender value upon surrender or in determining any nonforfeiture benefit.

e. For scheduled premium policies, whenever the indebtedness exceeds the cash surrender value, the insurer shall give notice of any intent to cancel the policy if the excess indebtedness is not repaid within 31 days after the date of mailing of such notice. For flexible premium policies, whenever the total charges authorized by the policy that are necessary to keep the policy in force until the next following policy processing day exceed the amounts available under the policy to pay such charges, a report must be sent to the policyholder containing the information specified by subrule 33.9(3).

f. The policy may provide that if, at any time, so long as premiums are duly paid, the variable death benefit is less than it would have been if no loan or withdrawal had ever been made, the policyholder may increase such variable death benefit up to what it would have been if there had been no loan or withdrawal by paying an amount not exceeding 110 percent of the corresponding increase in cash value and by furnishing such evidence of insurability as the insurer may request.

g. The policy may specify a reasonable minimum amount which may be borrowed at any time but such minimum shall not apply to any automatic premium loan provision.

h. No policy loan provision is required if the policy is under an extended insurance nonforfeiture option.

i. The policy loan provisions shall be constructed so that variable life insurance policyholders who have not exercised such provisions are not disadvantaged by the exercise thereof.

j. Amounts paid to the policyholders upon the exercise of any policy loan provision shall be withdrawn from the separate account and shall be returned to the separate account upon repayment except that a stock insurer may provide the amounts for policy loans from the general account.

**33.4(5) Other policy provisions.** The following provision may in substance be included in a variable life insurance policy or related form delivered or issued for delivery in this state:

*a.* An exclusion for suicide within two years of the issue date of the policy; provided, however, that to the extent of the increased death benefits only, the policy may provide an exclusion for suicide within two years of any increase in death benefits which results from an application of the owner subsequent to the policy issue date;

*b.* Incidental insurance benefits may be offered on a fixed or variable basis;

*c.* Policies issued on a participating basis shall offer to pay dividend amounts in cash. In addition, such policies may offer the following dividend options:

(1) The amount of the dividend may be credited against premium payments;

(2) The amount of the dividend may be applied to provide amounts of additional fixed or variable benefit life insurance;

(3) The amount of the dividend may be deposited in the general account at a specified minimum rate of interest;

(4) The amount of the dividend may be applied to provide paid-up amounts of fixed benefit one-year term insurance;

(5) The amount of the dividend may be deposited as a variable deposit in a separate account.

*d.* A provision allowing the policyholder to elect in writing in the application for the policy or thereafter an automatic premium loan on a basis not less favorable than that required of policy loans under subrule 33.4(4), except that a restriction that no more than two consecutive premiums can be paid under this provision may be imposed;

*e.* A provision allowing the policyholder to make partial withdrawals;

*f.* Any other policy provision approved by the commissioner.

**191—33.5(508A) Reserve liabilities for variable life insurance.**

**33.5(1)** Reserve liabilities for variable life insurance policies shall be established under the Standard Valuation Law (Iowa Code section 508.36) in accordance with actuarial procedures that recognize the variable nature of the benefits provided and any mortality guarantees.

**33.5(2)** For scheduled premium policies, reserve liabilities for the guaranteed minimum death benefit shall be the reserve needed to provide for the contingency of death occurring when the guaranteed minimum death benefit exceeds the death benefit that would be paid in the absence of the guarantee, and shall be maintained in the general account of the insurer and shall be not less than the greater of the following minimum reserves:

*a.* The aggregate total of the term costs, if any, covering a period of one full year from the valuation date, of the guarantee on each variable life insurance contract, assuming an immediate one-third depreciation in the current value of the assets of the separate account followed by a net investment return equal to the assumed investment rate; or

*b.* The aggregate total of the "attained age level" reserved on each variable life insurance contract. The "attained age level" reserve on each variable life insurance contract shall not be less than zero and shall equal the "residue," as described in subrule 33.5(2), paragraph "b," subparagraph (1), of the prior year's "attained age level" reserve on the contract, with any such "residue," increased or decreased by a payment computed on an attained age basis as described in subrule 33.5(2), paragraph "b," subparagraph (2).

(1) The "residue" of the prior year's "attained age level" reserve on each variable life insurance contract shall not be less than zero and shall be determined by adding interest in the valuation interest rate to such prior year's reserve, deducting the tabular claims based on the "excess," if any, of the guaranteed minimum death benefit over the death benefit that would be payable in the absence of such guarantee, and dividing the net result by the tabular probability of survival. The "excess" referred to in the preceding sentence shall be based on the actual level of death benefits that would have been in effect during the preceding year in the absence of the guarantee, taking appropriate account of the reserve assumptions regarding the distribution of death claim payments over the year.



(2) The payment referred to in subrule 33.5(2), paragraph “b,” shall be computed so that the present value of a level payment of that amount each year over the future premium paying period of the contract is equal to A minus B minus C, where A is the present value of the future guaranteed minimum death benefits, B is the present value of the future death benefits that would be payable in the absence of such guarantee, and C is any “residuc,” as described in subrule 33.5(2), paragraph “b,” subparagraph (1), of the prior year’s “attained age level” reserve on such variable life insurance contract. If the contract is paid-up, the payment shall equal A minus B minus C. The amounts of future death benefits referred to in B shall be computed assuming a net investment return of the separate account which may differ from the assumed investment rate or the valuation interest but in no event may exceed the maximum interest rate permitted for the valuation of life contracts.

c. The valuation interest rate and mortality table used in computing the two minimum reserves described in subrules 33.5(2), paragraphs “a” and “b,” shall conform to permissible standards for the valuation of life insurance contracts. In determining such minimum reserve, the company may employ suitable approximations and estimates, including but not limited to groupings and averages.

33.5(3) For flexible premium policies, reserve liabilities for any guaranteed minimum death benefit shall be maintained in the general account of the insurer and shall be not less than the aggregate total of the term costs, if any, covering the period provided for in the guarantee not otherwise provided for by the reserves held in the separate account assuming an immediate one-third depreciation in the current value of the assets of the separate account followed by a net investment return equal to the valuation interest rate.

The valuation interest rate and mortality table used in computing this additional reserve, if any, shall conform to permissible standards for the valuation of life insurance contracts. In determining such minimum reserve, the company may employ suitable approximations and estimates, including but not limited to groupings and averages.

33.5(4) Reserve liabilities for all fixed incidental insurance benefits and any guarantees associated with variable incidental insurance benefits shall be maintained in the general account and reserve liabilities for all variable aspects of the variable incidental insurance benefits shall be maintained in a separate account, in amounts determined in accordance with the actuarial procedures appropriate to such benefit.

**191—33.6(508A) Separate accounts.** The following requirements apply to the establishment and administration of variable life insurance separate accounts by any domestic insurer:

33.6(1) *Establishment and administration of separate accounts.* Any domestic insurer issuing variable life insurance shall establish one or more separate accounts pursuant to Iowa Code section 508A.1.

a. If no law or other regulation provides for the custody of separate account assets and if such insurer is not the custodian of such separate account assets, all contracts for custody of such assets shall be in writing and the commissioner shall have authority to review and approve of both the terms of any such contract and the proposed custodian prior to the transfer of custody.

b. Such insurer shall not without prior written approval of the commissioner employ in any material connection with the handling of separate account assets any person who:

(1) Within the last ten years has been convicted of any felony or a misdemeanor arising out of such person’s conduct involving embezzlement, fraudulent conversion, or misappropriation of funds or securities or involving violation of Section 1341, 1342, or 1343 of Title 18, United States Code; or

(2) Within the last ten years has been found by any state regulatory authority to have violated or has acknowledged violation of any provision of any state insurance law involving fraud, deceit, or knowing misrepresentation; or

(3) Within the last ten years has been found by federal or state regulatory authorities to have violated or has acknowledged violation of any provision of federal or state securities laws involving fraud, deceit, or knowing misrepresentation.

c. All persons with access to the cash, securities, or other assets of the separate account shall be under bond in the amount of not less than the greater of the amount required pursuant to Section 17(g) of the Investment Company Act of 1940 or such other amount as the commissioner may deem appropriate.

d. The assets of such separate accounts shall be valued at least as often as variable benefits are determined but in any event at least monthly.

**33.6(2) Amounts in the separate account.** The insurer shall maintain in each separate account assets with a value at least equal to the greater of the valuation reserves for the variable portion of the variable life insurance policies or the benefit base for such policies.

**33.6(3) Investments by the separate account.**

a. No sale, exchange, or other transfer of assets may be made by an insurer or any of its affiliates between any of its separate accounts or between any other investment account and one or more of its separate accounts unless:

(1) In case of a transfer into a separate account, such transfer is made solely to establish the account or to support the operation of the policies with respect to the separate account to which the transfer is made; and

(2) Such transfer, whether into or from a separate account, is made by a transfer of cash; but other assets may be transferred if approved by the commissioner in advance.

b. The separate account shall have sufficient net investment income and readily marketable assets to meet anticipated withdrawals under policies funded by the account.

**33.6(4) Limitations on ownership.**

a. A separate account shall not purchase or otherwise acquire the securities of any issuer, other than securities issued or guaranteed as to principal and interest by the United States, if immediately after the purchase or acquisition the value of such investment, together with prior investments of such account in such security valued as required by this chapter, would exceed 10 percent of the value of the assets of the separate account. The commissioner may waive this limitation in writing if the commissioner believes such waiver will not render the operation of the separate account hazardous to the public or the policyholders in this state.

b. No separate account shall purchase or otherwise acquire the voting securities of any issuer if as a result of such acquisition the insurer and its separate accounts in the aggregate, will own more than 10 percent of the total issued and outstanding voting securities of such issuer. The commissioner may waive this limitation in writing if the commissioner believes the waiver will not render the operation of the separate account hazardous to the public or the policyholders in this state or jeopardize the independent operation of the issuer of such securities.

c. The percentage limitation specified in subrule 33.6(4), paragraph "a," shall not be construed to preclude the investment of the assets of separate accounts in shares of investment companies registered pursuant to the Investment Company Act of 1940 or other pools of investment assets if the investments and investment policies of such investment companies or asset pools comply substantially with the provisions of subrule 33.6(3) and other applicable portions of this chapter.

**33.6(5) Valuation of separate account assets.** Investments of the separate account shall be valued at their market value on the date of valuation, or at amortized cost if it approximates market value.

**33.6(6) Separate account investment policy.** The investment policy of a separate account operated by a domestic insurer filed under subrule 33.3(2), paragraph "c," shall not be changed without first filing such change with the commissioner.

a. Any change filed pursuant to this rule shall be effective 60 days after the date it was filed with the commissioner, unless the commissioner notifies the insurer before the end of such 60-day period of the commissioner's disapproval of the proposed change. At any time the commissioner may, after notice and public hearing, disapprove any change that has become effective pursuant to this subrule.

b. The commissioner may disapprove the change if the commissioner determines that the change would be detrimental to the interests of the policyholders participating in such separate account.

**33.6(7) Charges against separate account.** The insurer must disclose in writing, prior to or contemporaneously with delivery of the policy, all charges that may be made against the separate account, including, but not limited to, the following:

a. Taxes or reserves for taxes attributable to investment gains and income of the separate account;

b. Actual cost of reasonable brokerage fees and similar direct acquisition and sale costs incurred in the purchase or sale of separate account assets;

c. Actuarially determined costs of insurance (tabular costs) and the release of separate account liabilities;

d. Charges for administrative expenses and investment management expenses, including internal costs attributable to the investment management of assets of the separate account;

e. A charge, at rate specified in the policy, for mortality and expense guarantees;

f. Any amounts in excess of those required to be held in the separate accounts;

g. Charges for incidental insurance benefits.

**33.6(8) Standards of conduct.** Every insurer seeking approval to enter into the variable life insurance business in this state shall adopt by formal action of its board of directors a statement specifying the standards of conduct of the insurer, its officers, directors, employees, and affiliates with respect to the purchase or sale of investments of separate accounts. Such standards of conduct shall be binding on the insurer and those to whom it refers. A code or codes of ethics meeting the requirements of Section 17(j) under the Investment Company Act of 1940 and applicable rules and regulations thereunder shall satisfy the provisions of this subrule.

**33.6(9) Conflicts of interest.** Rules under any provision of the insurance laws of this state or any regulation applicable to the officers and directors of insurance companies with respect to conflicts of interest shall also apply to members of any separate account's committee or other similar body.

**33.6(10) Investment advisory services to a separate account.** An insurer shall not enter into a contract under which any person undertakes, for a fee, to regularly furnish investment advice to such insurer with respect to its separate accounts maintained for variable life insurance policies unless:

a. The person providing such advice is registered as an investment advisor under the Investment Advisors Act of 1940; or

b. The person providing such advice is an investment manager under the Employee Retirement Income Security Act of 1974 with respect to the assets of each employee benefit plan allocated to the separate account; or

c. The insurer has filed with the commissioner and continues to file annually the following information and statements concerning the proposed advisor:

(1) The name and form of organization, state of organization, and its principal place of business;

(2) The names and addresses of its partners, officers, directors, and persons performing similar functions or, if such an investment advisor be an individual, of such individual;

(3) A written standard of conduct complying in substance with the requirements of subrule 33.6(8) which has been adopted by the investment advisor and is applicable to the investment advisor, its officers, directors, and affiliates;

(4) A statement provided by the proposed advisor as to whether the advisor or any person associated therewith:

Has been convicted within ten years of any felony or misdemeanor arising out of such person's conduct as an employee, salesperson, officer or director of an insurance company, a banker, an insurance agent, a securities broker, or an investment advisor involving embezzlement, fraudulent conversion, or misappropriation of funds or securities, or involving the violation of Section 1341, 1342, or 1343 of Title 18 of United States Code;

Has been permanently or temporarily enjoined by order, judgment, or decree of any court of competent jurisdiction from acting as an investment advisor, underwriter, broker, or dealer, or as an affiliated person or as an employee of any investment company, bank, or insurance company, or from engaging in or continuing any conduct or practice in connection with any such activity;

Has been found by federal or state regulatory authorities to have willfully violated or have acknowledged willful violation of any provision of federal or state securities laws or state insurance laws or of any rule or regulation under any such laws; or

Has been censured, denied an investment advisor registration, had a registration as an investment advisor revoked or suspended, or been barred or suspended from being associated with an investment advisor by order of federal or state regulatory authorities; and

*d.* Such investment advisory contract shall be in writing and provide that it may be terminated by the insurer without penalty to the insurer or the separate account upon no more than 60 days' written notice to the investment advisor.

The commissioner may, after notice and opportunity for hearing, by order require the investment advisory contract to be terminated if the commissioner deems continued operation thereunder to be hazardous to the public or the insurer's policyholders.

**191—33.7(508A) Information furnished to applicants.** An insurer delivering or issuing for delivery in this state any variable life insurance policies shall deliver to the applicant for the policy, and obtain a written acknowledgment of receipt from such applicant coincident with or prior to the execution of the application, the following information. The requirements of this rule shall be deemed to have been satisfied to the extent that a disclosure containing information required by this rule is delivered, either in the form of (1) a prospectus included in the requirements of the Securities Act of 1933 and which was declared effective by the Securities and Exchange Commission; or (2) all information and reports required by the Employee Retirement Income Security Act of 1974 if the policies are exempted from the registration requirements of the Securities Act of 1933 pursuant to Section 3(a)(2) thereof.

**33.7(1)** A summary explanation, in nontechnical terms, of the principal features of the policy, including a description of the manner in which the variable benefits will reflect the investment experience of the separate account and the factors which affect such variation. Such explanation must include notices of the provision required by subrule 33.4(3), paragraph "a," subparagraph (5), and 33.4(3), paragraph "f."

**33.7(2)** A statement of the investment policy of the separate account, including:

*a.* A description of the investment objectives intended for the separate account and the principal types of investments intended to be made; and

*b.* Any restrictions or limitations on the manner in which the operations of the separate account are intended to be conducted.

**33.7(3)** A statement of the net investment return of the separate account for each of the last ten years or such lesser period as the separate account has been in existence.

**33.7(4)** A statement of the charges levied against the separate account during the previous year.

**33.7(5)** A summary of the method to be used in valuing assets held by the separate account.

**33.7(6)** A summary of the federal income tax aspects of the policy applicable to the insured, the policyholder, and the beneficiary.

33.7(7) Illustrations of benefits payable under the variable life insurance contract. Such illustrations shall be prepared by the insurer and shall not include projections of past investment experience into the future or attempted predictions of future investment experience, provided that nothing contained herein prohibits use of hypothetical assumed rates of return to illustrate possible levels of benefits if it is made clear that such assumed rates are hypothetical only.

**191—33.8(508A) Applications.** The application for a variable life insurance policy shall contain:

33.8(1) A prominent statement that the death benefit may be variable or fixed under specified conditions.

33.8(2) A prominent statement that cash values may increase or decrease in accordance with the experience of the separate account (subject to any specified minimum guarantees).

33.8(3) Questions designed to elicit information which enable the insurer to determine the suitability of variable life insurance for the applicant.

**191—33.9(508A) Reports to policyholders.** Any insurer delivering or issuing for delivery in this state any variable life insurance policies shall mail to each variable life insurance policyholder at the policyholder's last known address the following reports.

33.9(1) Within 30 days after each anniversary of the policy, a statement or statements of the cash surrender value, death benefits, any partial withdrawal or policy loan, any interest charge, any optional payments allowed pursuant to subrule 33.4(4) under the policy computed as of the policy anniversary date. Provided, however, that such statement may be furnished within 30 days after a specified date in each policy year so long as the information contained therein is computed as of a date not more than 60 days prior to the mailing of the notice. This statement shall state that, in accordance with the investment experience of the separate account, the cash values and the variable death benefit may increase or decrease, and shall prominently identify any value described therein which may be recomputed prior to the next statement required by this rule. If the policy guarantees that the variable death benefit on the next policy anniversary date will not be less than the variable death benefit specified in such statement, the statement shall be modified to so indicate. For flexible premium policies, the report must contain a reconciliation of the change since the previous report in cash value and cash surrender value, if different, because of payments made (less deductions for expense charges), withdrawals, investment experience, insurance charges and any other charges made against the cash value. In addition, the report must show the projected cash value and cash surrender value, if different, as of one year from the end of the period covered by the report assuming that: (i) Planned periodic premiums, if any, are paid as scheduled; (ii) guaranteed costs of insurance are deducted; and (iii) the net return is equal to the guaranteed rate or, in the absence of a guaranteed rate, is not greater than zero. If the projected value is less than zero, a warning message must be included that states that the policy may be in danger of terminating without value in the next 12 months unless additional premium is paid.

33.9(2) Annually, a statement or statements including:

a. A summary of the financial statement of the separate account based on the annual statement last filed with the commissioner;

b. The net investment return of the separate account for the last year and, for each year after the first, a comparison of the investment rate of the separate account during the last year with the investment rate during prior years, up to a total of not less than five years when available;

c. A list of investments held by the separate account as of a date not earlier than the end of the last year for which an annual statement was filed with the commissioner;

d. Any charges levied against the separate account during the previous year;

e. A statement of any change, since the last report, in the investment objective and orientation of the separate account, in any investment restriction or material quantitative or qualitative investment requirement applicable to the separate account or in the investment advisor of the separate account.

**33.9(3)** For flexible premium policies, a report must be sent to the policyholder if the amounts available under the policy on any policy processing day to pay the charges authorized by the policy are less than the amount necessary to keep the policy in force until the next following policy processing day. The report must indicate the minimum payment required under the terms of the policy to keep it in force and the length of the grace period for payment of such amount.

**191—33.10(508A) Foreign companies.** If the law or regulation in the place of domicile of a foreign company provides a degree of protection to the policyholders and the public which is substantially similar to that provided by this chapter, the commissioner to the extent deemed appropriate in the commissioner's discretion, may consider compliance with such law or regulation as compliance with this chapter.

**191—33.11(508A) Qualifications of agents for the sale of variable life insurance.** Rescinded IAB 3/24/99, effective 4/28/99.

**191—33.12(508A) Separability article.** If any provision of this chapter or the application thereof to any person or circumstance is for any reason held to be invalid, the remainder of the regulation and the application of such provision to other persons or circumstances shall not be affected thereby.

These rules are intended to implement Iowa Code chapter 508A.

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\*See IAB Insurance Division

CHAPTER 34  
NONPROFIT HEALTH SERVICE CORPORATIONS

[Prior to 10/22/86, Insurance Department[510]]

**191—34.1(514) Purpose.** The purpose of this chapter is to specify those requirements imposed upon health service corporations under Iowa Code chapter 514 and delineate standards for the commissioner's implementation of these requirements.

**191—34.2(514) Definitions.** For purposes of this chapter, the following definitions shall apply:

*"Commissioner"* means the commissioner of insurance for the state of Iowa.

*"Competitor"* means a corporation, business entity, or person engaged in the business of contracting to provide health care services to others, pay indemnity for health care services provided to others, or provide administrative services relevant thereto in the state of Iowa.

*"Division"* means the insurance division of Iowa.

*"Employee"* is as defined by Iowa Code section 85.61.

*"Health care services"* means services included in the furnishing to any individual of medical or dental care, or hospitalization, or incident to the furnishing of such care or hospitalization, as well as the furnishing to any person of all other services for the purposes of preventing, alleviating, curing or healing human illness, injury, or physical disability.

*"Immediate family member"* means an individual within the first degree of consanguinity or affinity who resides in the same household. With respect to determining the immediate family or spouse of a provider, only those providers licensed and practicing in Iowa on a regular basis shall be considered.

*"Material financial interest"* means a vested interest of at least 10 percent of the fair market value of the property or an interest from which at least 10 percent of individual's gross income is derived.

*"Provider"* means any physician, hospital, or person as defined in Iowa Code chapter 4 which is licensed or otherwise authorized in the state of Iowa to furnish health care services.

*"Related industry"* means a commercial enterprise whose goods or services are by design or function primarily for use in the health care services industry. Related industry does not include commercial enterprises whose goods and services are generic to business in general, such as, but not limited to, utilities, food, cleaning, financial, or legal services.

*"Subscriber"* means an individual who enters into a contract for hospital services, medical or surgical services, dental services, pharmaceutical services, or optometric services with a corporation subject to Iowa Code chapter 514. With respect to contracts providing benefits to more than one individual, subscriber shall include each individual entitled to receive benefits who has reached the legal age of majority. Subscriber also includes all individuals entitled to receive services or payment for services from a corporation subject to Iowa Code chapter 514 pursuant to the terms of a contract or certificate issued by the corporation to an employer or group. Subscriber also includes any individual eligible for medical assistance or additional medical assistance as defined by Iowa Code chapter 249A and with respect to whom the department of human services has entered into a contract with the corporation subject to Iowa Code chapter 514.

*"Subscriber director"* means a subscriber who is a member of the board of directors of a corporation subject to Iowa Code chapter 514 and who is not a provider, the spouse or an immediate family member of a provider. Subscriber director includes only those individuals nominated pursuant to subrule 34.7(2). Subscriber director does not include any individual who has a material financial interest or fiduciary interest in the delivery of health care services or a related industry, an employee of an institution which provides health care services, or the spouse or an immediate family member of such an individual. A subscriber director of a hospital or medical service corporation shall be a subscriber of the services of that corporation. Proof of compliance with the requirements of this paragraph shall be by affidavit.

**191—34.3(514) Annual report requirements.** Each corporation subject to Iowa Code chapter 514 shall file an annual statement on the National Association of Insurance Commissioner's annual statement blank.

This rule is intended to implement Iowa Code section 514.9.

**191—34.4(514) Arbitration.** Parties defined in Iowa Code section 514.13 may submit covered disputes to the commissioner. The following procedures shall be followed when covered disputes are submitted to the commissioner.

**34.4(1)** The party seeking arbitration shall file a petition for arbitration requesting arbitration by the commissioner and setting forth the facts which are the basis for the dispute, together with a statement of the factual or legal issue(s), and the party's position on the issue(s), and serve a copy of the petition by certified mail upon the other party(ies) to the dispute. Proof of service shall be promptly filed with the commissioner.

**34.4(2)** The other party(ies) shall file within 20 days an answer to the petition for arbitration, admitting or denying the facts alleged in the petition and indicating whether there is agreement with the statement of the issue(s) in the petition and setting forth the other party's position on the issue(s). All papers other than the petition shall be served in accordance with Iowa Rule of Civil Procedure 82 with proof of service to be made in conformance therewith.

**34.4(3)** The commissioner shall conduct a prehearing conference in accordance with rule 191—3.5(17A,502,505) at which the commissioner may set a schedule for the submission of briefs by the parties, and, if necessary, shall provide for the holding of an evidentiary hearing. The parties are encouraged to stipulate to the facts and agree as to the legal issue(s).

**34.4(4)** The commissioner may submit the dispute to a person selected by the commissioner, who may or may not be employed by the division, who shall make proposed findings and recommendations to the commissioner for a decision by the commissioner.

**191—34.5(514) Filing requirements.** All matters subject to the division's approval under Iowa Code chapter 514 shall be submitted prior to the intended effective date.

**191—34.6(514) Participating hospital contracts.**

**34.6(1)** The following standards shall be applied to all participating hospital contracts subject to approval under Iowa Code section 514.8 and shall be relied upon by the commissioner in deciding whether approval is granted:

- a. Contracts shall be fair to the subscribers of the hospital service corporation.
- b. Contracts shall be fair to the hospital service corporation.
- c. Contracts shall be fair, reasonable, and in the public interest.
- d. The subscribers' rights to service under participating hospital contracts shall be adequately specified and protected.
- e. The contract shall not be unfairly discriminatory with respect to the provision of services to subscribers.
- f. Contracts shall not be detrimental to the financial condition of the hospital service corporation.
- g. The payment of consideration required of the hospital service corporation by the provisions of the contract shall not be excessive, inadequate or unfair.

**34.6(2)** The prototype contract used by hospital service corporations with participating hospitals for hospital service shall be subject to the prior approval of the division. The individual contracts between hospital service corporations and individual participating hospitals are not subject to prior approval, so long as they substantially conform to the prototype contract approved by the commissioner. An informational filing shall be required upon execution of an individual hospital contract. An individual hospital contract shall be deemed to be in substantial conformity with the prototype contract if it is not disapproved within 30 days of filing.



**34.6(3)** In order to ensure fair and equitable charges to and premiums paid by subscribers of hospital service corporations, any method for paying hospitals which is contained in contracts between hospital service corporations and participating hospitals shall contain the following:

- a. Incentives for high productivity and disincentives that encourage efficiency in hospital operation and effectiveness in use;
  - b. Provisions for economic trends;
  - c. Adjustments for variations in capacity among large hospitals and small hospitals;
  - d. Control mechanisms on unnecessary utilization and inappropriate setting for care;
  - e. Payment levels to hospitals which are equitable and meet reasonable financial requirements;
  - f. An internal appeal mechanism for disputes relating to budget review.
- This rule is intended to implement Iowa Code chapter 514.

**191—34.7(514) Composition, nomination, and election of board of directors.**

**34.7(1) *Composition of board of directors.*** The composition of the board of directors of each corporation subject to Iowa Code chapter 514 shall be as follows:

- a. On and after August 1, 1984, a majority of the members of the board of directors of each corporation subject to Iowa Code chapter 514 shall be subscriber directors.
- b. On and after August 1, 1985, at least two-thirds of the members of the board of directors of each corporation subject to Iowa Code chapter 514 shall be subscriber directors.

**34.7(2) *Nomination of subscriber directors.***

a. Until the board composition requirements of subrule 34.7(1), paragraph "b," are met, a ballot containing nominees for subscriber director positions shall be prepared by an independent subscriber nominating committee pursuant to subrule 34.7(3). Nominations for subscriber director positions may also be made by petition signed by at least 50 subscribers. The independent subscriber nominating committee shall consider the petitions to determine which persons, if any, nominated by those petitions shall be placed on the ballot.

b. Once the board composition requirements of subrule 34.7(1), paragraph "b," are met, a ballot containing nominees for subscriber director position shall be prepared by the subscriber directors under procedures established by the board of directors. These procedures shall also permit nomination by a petition of at least 50 subscribers. The board shall determine which persons, if any, nominated by these petitions shall be placed on the ballot.

**34.7(3) *Independent subscriber nominating committee.***

a. *Generally.* An independent subscriber nominating committee shall be appointed for each corporation subject to Iowa Code chapter 514. Each independent subscriber nominating committee shall consist of at least five to seven members. Commonality of membership among the independent subscriber nominating committees shall be permissible. The independent subscriber nominating committee for each corporation shall, as a whole, be broadly representative of the subscribers of the corporation. The independent subscriber nominating committee for each corporation shall serve only until the composition of the board of directors for the corporation meets the requirements of subrule 34.7(1), paragraph "b."

b. *Standards for independent subscriber nominating committee membership.* Each individual appointed to the independent subscriber nominating committee shall meet the following criteria:

(1) Each member of an independent subscriber nominating committee shall be a subscriber of a corporation subject to Iowa Code chapter 514. Each member of the independent subscriber nominating committee of a hospital or medical service corporation shall be a subscriber of the services of that corporation.

(2) No member of an independent subscriber nominating committee shall be a member of the board of directors of a corporation subject to Iowa Code chapter 514.

(3) No member, their spouse or an immediate family member, of an independent subscriber nominating committee shall have a material financial interest in, be a fiduciary to, or be an employee of a competitor. Proof of compliance with this requirement shall be by affidavit.

(4) Each member of an independent subscriber nominating committee shall have reasonable knowledge of the operation of and issues facing the corporation for which the independent subscriber nominating committee has been appointed.

c. *Appointment.* The commissioner shall appoint each committee from names suggested by individual subscribers, group subscribers, labor organizations, the Health Policy Corporation of Iowa, each corporation subject to Iowa Code chapter 514, and other interested persons. Interested persons shall submit the names of potential independent subscriber nominating committee members to the commissioner within 30 days of the effective date of these rules. The committee appointments will be within 7 days thereafter.

d. *Work of the independent subscriber nominating committee.* The independent subscriber nominating committee shall develop a ballot containing nominees for subscriber director positions to be filled. At least two and not more than three individuals shall be nominated for each subscriber director position to be filled.

The independent subscriber nominating committee shall also consider each individual currently serving as a subscriber representative on the board of directors of a corporation operating pursuant to Iowa Code chapter 514, and each individual nominated by subscriber petitions, for inclusion on the ballot containing nominees for subscriber directors. The independent subscriber nominating committee shall select nominees that represent a broad spectrum of subscriber interests including an appropriate balance of demographic and geographic characteristics for the corporation's service area.

e. *Criteria for nominees.* The independent subscriber nominating committee shall utilize the following criteria in developing nominations for subscriber directors:

(1) Each nominee shall be a subscriber of a corporation subject to Iowa Code chapter 514. Each nominee to the board of directors of a hospital or medical service corporation shall be a subscriber of the services of that corporation. The corporation shall verify a potential nominee's subscriber status upon inquiry by an independent subscriber nominating committee.

(2) A nominee, their spouse or an immediate family member, shall not have a material financial interest in, be a fiduciary to, or be an employee of a competitor or provider. Proof of compliance with this requirement shall be by affidavit.

(3) Each nominee shall have reasonable knowledge of the operation of and issues facing the corporation to whose board the nominee has been nominated.

**34.7(4) Election of subscriber directors.** Each subscriber director shall be elected from the subscriber nominees placed on a ballot prepared as provided by these rules. The ballot shall alphabetically list the subscriber nominees and indicate that each member shall vote only for the same number of candidates as there are positions to be filled. Election shall be by the corporate membership. Nominees receiving the most votes shall be considered elected to the positions.

The ballot for electing subscriber directors may also contain nominees to be elected to provider director positions.

**34.7(5) Nomination of provider directors.**

a. Until the board composition requirements of subrule 34.7(1), paragraph "b," are met, nominations for provider director positions may be made by petition signed by at least 50 providers. The independent subscriber nominating committee shall consider the petitions to determine which persons, if any, nominated by those petitions shall be placed on the ballot.

b. Once the board composition requirements of subrule 34.7(1), paragraph "b," are met, the board of directors shall establish procedures to permit nomination of provider directors by petition of at least 50 participating providers. The board of directors shall consider the petitions to determine which persons, if any, nominated by those petitions shall be placed on the ballot.

c. This subrule shall not be construed to preclude nominations for provider director positions by any alternate means provided by the corporation's articles or bylaws.

**34.7(6) Construction.** The articles or bylaws of a corporation operating pursuant to Iowa Code chapter 514 shall continue in existence to the extent that they do not conflict with this rule.

This rule is intended to implement Iowa Code section 514.4.

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CHAPTER 40  
HEALTH MAINTENANCE ORGANIZATIONS  
(Health and Insurance—Joint Rules)

Appeared as Ch 12, July 1974 Supplement  
[Prior to 10/22/86, Insurance Department [510]]

PREAMBLE

The following rules developed by the division of insurance govern the organization and regulation of health maintenance organizations pursuant to the authority set forth in Iowa Code chapter 514B.

**191—40.1(514B) Definitions.**

“Act” when used in these rules shall mean Iowa Code chapter 514B.

“Complaint” means a written communication expressing a grievance concerning a health maintenance organization.

“Dental care” means care by licensed dentists or by appropriate auxiliary dental personnel working under the supervision of a dentist. It includes the necessary diagnostic, treatment, and preventive services required to maintain proper oral health.

“Governing body” means the persons in which the ultimate responsibility and authority for the conduct of the HMO is vested.

“HMO” means health maintenance organization and shall be abbreviated as HMO in these rules.

“Inpatient hospital care” means inpatient hospital care provided through a licensed hospital on a 24-hour basis.

“Outpatient medical services” means outpatient medical services provided within or outside of a hospital. This shall include, but not be limited to, laboratory and diagnostic X-ray with emphasis directed toward primary care.

“Physician care” means care by a licensed physician or by paramedical or other ancillary health personnel under the direction of the licensed physician. It shall be of sufficient type and amount to adequately provide for the contracted services including emergency care, inpatient hospital care, and outpatient medical services.

“Uncovered expenditures” means the costs of those services that are covered under the organization’s health care plans, but that are not insured by a person other than the health maintenance organization, or that a provider has not agreed to hold enrollees harmless if the provider is not paid by the health maintenance organization. For purposes of deposit requirements under rule 191—40.12(514B), both the formula used by an organization to determine uncovered expenditures and the estimated amount thereof shall be approved by the commissioner.

**191—40.2(514B) Application.** An application on forms provided by the insurance division accompanied by a filing fee of \$100 payable to State Treasurer, State of Iowa, shall be completed by an officer or authorized representative of the health maintenance organization. The application with copies in duplicate shall be verified and shall be accompanied by the information found in Iowa Code section 514B.3(1 to 14). An application shall not be deemed to be filed until all information necessary to properly process said application has been received by the commissioner. See 40.11(514B).

An amendment to the application form shall be filed in the same manner as the application and approved by the commissioner before the change proposed by the amendment is effective.

**191—40.3(514B) Inspection of evidence of coverage.** An enrollee may, if evidence of coverage is not satisfactory for any reason, return evidence of coverage within ten days of receipt of same and receive full refund of the deposit paid, if any. This right shall not act as a cure for misleading or deceptive advertising or marketing methods, nor may it be exercised if the enrollee utilizes the services of the HMO within the ten-day period.

**191—40.4(514B) Governing body and enrollee representation.** An HMO shall have a basic written organizational document setting forth its scheme of organization and establishing a governing body appropriate to its form of organization. The governing body shall be responsible for matters of policy and operation.

The HMO shall develop bylaws or guidelines which describe the scope of the health care services the HMO renders to enrollees either directly by its medical staff or dental staff, if dental care is provided, or through arrangements with others outside of the organization. Initial bylaws, guidelines, and revisions thereto shall be submitted to the commissioner of insurance for review and approval.

The bylaws, guidelines, or similar document shall provide for "reasonable representation" on the governing body by enrollees. "Reasonable representation" as used in Iowa Code section 514B.7 shall require not less than 30 percent of the governing board members be enrollees who are not providers or are not associated with a provider. Enrollees shall have the opportunity to nominate said enrollee representatives.

The HMO may provide upon its initial formation that all representatives on the governing board shall be selected by the organizers of the HMO. Such members shall serve until the first annual meeting or election. If there are no enrollee representatives on the initial governing board, they shall be elected at the first annual meeting or election.

The nomination procedures for enrollee representatives should provide for the following to assure an adequate opportunity for participation by enrollees:

**40.4(1)** An opportunity for adult enrollees to nominate candidates for the governing body.

**40.4(2)** Notice to all adult enrollees of the nomination and election procedures.

The HMO shall be deemed to have complied with these requirements if it provides notice in its regular newsletter to enrollees of the opportunity to and the procedures for nomination of enrollee representatives.

Nomination procedures may be waived by the commissioner for a period of up to three years from the HMO's commencement of delivery of services to enrollees.

For purposes of this rule, an HMO operated directly by a corporation or corporations subject to Iowa Code chapter 514 and rule 191—34.7(514) shall be deemed to be in compliance with this rule if it is or they are in compliance with Iowa Code section 514.4 and rule 191—34.7(514).

This rule is intended to implement Iowa Code section 514B.7.

**191—40.5(514B) Quality of care.** Each HMO shall:

**40.5(1)** Provide primary care physicians' services commensurate with the need of the enrollees, but at a level of not less than that established in the community.

**40.5(2)** Advise the insurance division annually pursuant to Iowa Code section 514B.12 of the ratio of full-time equivalent physicians, paramedical and ancillary health personnel to enrollees and fee-for-service patients. Changes in the physician ratios shall be immediately reported together with action taken to correct any deficiencies in the ratios.

**40.5(3)** Provide assurance that all physicians, paramedical and ancillary health personnel engaged in the provisions of health services to enrollees and fee-for-service patients are currently licensed or certified by the appropriate state agency where they are located to practice their respective profession. These personnel shall be no less qualified in their respective profession than the current level of qualification, which is maintained in their community.

**191—40.18(514B) Provider contracts.** An HMO's arrangements for health care services shall be by written contract. Initial provider contracts shall be subject to prior approval. Thereafter, any provider contract deviating from previously submitted or approved contracts shall be submitted to the division within 30 days of execution for informational purposes. In all instances, all provider contracts shall include the following provision:

(Provider), or its assignee or subcontractor, hereby agrees that in no event, including, but not limited to nonpayment by the HMO, HMO insolvency or breach of this agreement, shall (Provider), or its assignee or subcontractor, bill, charge, collect a deposit from, seek compensation, remuneration or reimbursement from, or have any recourse against subscriber/enrollee or persons other than the HMO acting on their behalf for services provided pursuant to this Agreement. This provision shall not prohibit collection of supplemental charges or copayments on HMO's behalf made in accordance with terms of (applicable Agreement) between HMO and subscriber/enrollee.

(Provider), or its assignee or subcontractor, further agrees that (1) this provision shall survive the termination of this Agreement regardless of the cause giving rise to termination and shall be construed to be for the benefit of the HMO subscriber/enrollee and that (2) this provision supersedes any oral or written contrary agreement now existing or hereafter entered into between (Provider) and subscriber/enrollee or persons acting on their behalf.

**191—40.19(514B) Producers' duties.** In order to qualify for solicitation, enrollment, or delivery of a certificate of membership or policy in a health maintenance organization, a producer must comply with the licensing rules set forth in 191—Chapter 10 of the Iowa Administrative Code and in particular submit to an examination to determine the applicant's competence to sell accident and health insurance as described in rule 191—10.7(522), classification 6.

**191—40.20(514B) Emergency services.** "Emergency services," (inpatient and outpatient), as defined in 191—40.1(514B), shall be provided by the HMO, either through its own facilities or through guaranteed arrangements with other providers, on a 24-hour basis. A physician and sufficient other licensed and ancillary personnel shall be readily available at all times to render such services. Since HMOs may not contract with every emergency care provider in an area, HMOs shall make every effort to inform members of participating providers.

**40.20(1)** The term "emergency services" means, with respect to an individual enrolled with an organization, covered inpatient and outpatient services that are furnished by a provider that is qualified to furnish such services and are needed to evaluate or stabilize an emergency medical condition.

**40.20(2)** The term "emergency medical condition" means a medical condition manifesting itself by acute symptoms of sufficient severity, including severe pain, that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect that absence of immediate medical attention to result in one of the following:

- a. Placing the health of the individual or, with respect to a pregnant woman, the health of the woman and her unborn child, in serious jeopardy;
- b. Serious impairment to bodily function; or
- c. Serious dysfunction of any bodily organ or part.

**191—40.21(514B) Reimbursement.** Reimbursement to a provider of “emergency services,” as defined in 191—40.1(514B), shall not be denied by any health maintenance organization without that organization’s review of the patient’s medical history, presenting symptoms, and admitting or initial as well as final diagnosis, submitted by the provider, in determining whether, by definition, emergency services could reasonably have been expected to be provided. Reimbursement for emergency services shall not be denied solely on the grounds that services were performed by a noncontracted provider. If reimbursement for emergency services is denied, the enrollee may file a complaint with the HMO as outlined in rule 40.9(514B). Upon denial of reimbursement for emergency services, the HMO shall notify the enrollee and the provider that they may register a complaint with the commissioner of insurance.

**191—40.22(514B) Health maintenance organization requirements.**

**40.22(1)** A health maintenance organization shall not prohibit a participating provider from or penalize a participating provider for discussing treatment options with covered persons, irrespective of the health maintenance organization’s position on the treatment options, or from advocating on behalf of covered persons within the utilization review or grievance processes established by the health maintenance organization or a person contracting with the health maintenance organization.

**40.22(2)** A health maintenance organization shall not penalize a provider because the provider, in good faith, reports to state or federal authorities any act or practice by the health maintenance organization that, in the opinion of the provider, jeopardizes patient health or welfare.

**191—40.23(514B) Disclosure requirements.** All HMOs shall include in contracts and evidence of coverage forms a statement disclosing the existence of any prescription drug formularies. Upon request, an HMO offering a plan that includes a prescription drug formulary shall inform enrollees of the plan, and prospective enrollees of the plan during any open enrollment period, whether a prescription drug specified in the request is included in such formulary.

All HMOs shall also disclose the existence of any contractual arrangements providing rebates received by them for prescription drugs or durable medical equipment. Durable medical equipment means equipment that can stand repeated use and is primarily and customarily used to serve a medical purpose and is generally not useful to a person who is not sick or injured or used by other family members and is appropriate for home use for the purpose of improving bodily functions or preventing further deterioration of the medical condition caused by sickness or injury.

These rules are intended to implement Iowa Code chapter 514B.



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*INSURANCE HOLDING COMPANY SYSTEMS*CHAPTER 45  
INSURANCE HOLDING COMPANY SYSTEMS

[Appeared as Ch 11, 1973 IDR]  
[Prior to 10/22/86, Insurance Department[510]]

**191—45.1(521A) Purpose.** The purpose of these rules is to set forth rules and procedural requirements which the commissioner deems necessary to carry out the provisions of Iowa Code chapter 521A. The information called for by these rules is hereby declared to be necessary and appropriate in the public interest and for the protection of policyholders in this state.

This rule is intended to implement Iowa Code section 521A.8.

**191—45.2(521A) Definitions.** As used in these rules unless otherwise required by the context:

**45.2(1)** “*Executive officer*” means any individual charged with active management and control in an executive capacity (including a president, vice-president, treasurer, secretary, controller, and any other individual performing functions corresponding to those performed by the foregoing officers) of a person, whether incorporated or unincorporated.

**45.2(2)** “*Foreign insurer*” shall include an alien insurer except where clearly noted otherwise.

**45.2(3)** “*Ultimate controlling person*” means that person who is not controlled by any other person.

**45.2(4)** Other terms found in these rules and in Iowa Code section 521A.1 entitled “Definitions” shall retain the meaning as found in such section.

**191—45.3(521A) Subsidiaries of domestic insurers.** The authority to invest in subsidiaries under Iowa Code section 521A.2(3) is in addition to any authority to invest in subsidiaries which may be contained in any other provision of the insurance code.

An investment by a subsidiary under Iowa Code section 521A.2(3) “c” may cause the total investment of the insurer to exceed any of the limitations contained in any of the individual Iowa Code provisions referred to in section 521A.2(3) “c” provided that it does not exceed the aggregate amount which could be invested under all of those provisions with respect to the type of asset involved.

**191—45.4(521A) Control acquisition of domestic insurer.** Any person required to file a statement pursuant to Iowa Code section 521A.3 entitled “Acquisition of control of or merger with domestic insurer,” shall furnish all the information requested on FORM A hereto annexed and hereby made a part of these rules.

**45.4(1)** If the person being acquired is a “domestic insurer” solely because of the provisions of Iowa Code section 521A.3(1), the name of the domestic insurer on the cover page should be as follows: “ABC Insurance Company, a Subsidiary of XYZ Holding Company.”

**45.4(2)** Where a domestic insurer, including any other person controlling a domestic insurer, unless such other person is either directly or through its affiliate primarily engaged in business other than the business of insurance is being acquired, references to “the insurer” contained in FORM A shall refer to both the domestic subsidiary insurer and the person being acquired.

**45.4(3)** The applicant shall promptly advise the commissioner of any changes in the information so furnished arising subsequent to the date upon which such information was furnished but prior to the commissioner’s disposition of the application.

**45.4(4) Exemptions.** No statement need be filed and no approval by the commissioner is required pursuant to Iowa Code section 521A.3 if the company being acquired is considered a domestic insurer solely by reason of Iowa Code section 521A.3(1) and provided such acquisition is subject to disclosure requirements in said company's state of domicile substantially similar to those imposed by Iowa Code section 521A.3.

**191—45.5(521A) Registration of insurers.** Any insured required to file an annual registration statement pursuant to Iowa Code section 521A.4 shall furnish all the information required on FORM B hereto annexed and hereby made a part of these rules.

An insurer required to file an annual registration statement pursuant to Iowa Code section 521A.4 is also required to furnish information required on FORM C, hereby made a part of these regulations. An insurer shall file a copy of FORM C in each state in which the insurer is authorized to do business, if requested by the commissioner of that state.

**191—45.6(521A) Alternative and consolidated registrations.** Any authorized insurer may file a registration statement on behalf of any affiliated insurer or insurers which are required to register under section 521A.4. A registration statement may include information regarding any insurer in the insurance holding company system even if such insurer is not authorized to do business in this state. In lieu of filing a registration statement on FORM B, the authorized insurer may file a copy of the registration statement or similar report which it is required to file in its state of domicile, provided:

1. The statement or report contains substantially similar information required to be furnished on FORM B; and
2. The filing insurer is the principal insurance company in the insurance holding company system.

**45.6(1)** The question of whether the filing insurer is the principal insurance company in the insurance holding company system is a question of fact and an insurer filing a registration statement or report in lieu of FORM B on behalf of an affiliated insurer shall set forth a simple statement of facts which will substantiate the filing insurer's claim that it, in fact, is the principal insurer in the insurance holding company system.

**45.6(2)** With the prior approval of the commissioner, an unauthorized insurer may follow any of the procedures which could be done by an authorized insurer under subrule 45.6(1).

Any insurer may take advantage of the provisions of Iowa Code section 521A.4(7) or 521A.4(8) without obtaining the prior approval of the commissioner. The commissioner, however, reserves the right to require individual filings if the commissioner deems such filings necessary in the interest of clarity, ease of administration or the public good.

**191—45.7(521A) Exemptions.** A foreign or alien insurer otherwise subject to Iowa Code section 521A.4, shall not be required to register pursuant to that section if it is admitted in the domiciliary state of the principal insurer (as that term is defined in 45.6(1)) and in said state if subject to disclosure requirements and standards adopted by the statute or rules which are substantially the same as those contained in Iowa Code section 521A.4, provided, the commissioner may require a copy of the registration statement or other information filed with the domiciliary state.

**45.7(1)** The state of entry of an alien insurer shall be deemed to be its domiciliary state for the purposes of these rules.

**45.7(2)** Any insurer not otherwise exempt or excepted from Iowa Code section 521A.4 may apply for an exemption from the requirements of said section by submitting a statement to the commissioner setting forth its reasons for being exempt.

**191—45.8(521A) Disclaimers and termination of registration.** A disclaimer of affiliation or a request for termination of registration claiming that a person does not, or will not upon the taking of some proposed action, control another person (hereinafter referred to as the “subject”) shall contain the following information:

**45.8(1)** The number of authorized, issued and outstanding voting securities of the subject;

**45.8(2)** With respect to the person whose control is denied and all affiliates of such person, the number and percentage of shares of the subject’s voting securities which are held of record or known to be beneficially owned, and the number of such shares concerning which there is a right to acquire, directly or indirectly;

**45.8(3)** All material relationships and bases for affiliation between the subject and the person whose control is denied and all affiliates of such person;

**45.8(4)** A statement explaining why such person should not be considered to control the subject.

A request for termination of registration shall be deemed to have been granted unless the commissioner, within 30 days after receipt of the request, notifies the registrant otherwise.

**191—45.9(521A) Transactions subject to prior notice—notice filing.** An insurer required to give notice of a proposed transaction pursuant to Iowa Code section 521A.5 shall furnish the required information on FORM D, hereby made a part of these regulations.

**191—45.10(521A) Extraordinary dividends and other distributions.** Requests for approval of extraordinary dividends or any other extraordinary distribution to shareholders shall include the following:

**45.10(1)** The date established for payment of the dividend;

**45.10(2)** A statement as to whether the dividend is to be in cash or other property and, if in property, a description thereof of its cost, and its fair market value together with an explanation of the basis for valuation;

**45.10(3)** The amounts and dates of all dividends (including regular dividends) paid within the period of 24 consecutive months ending on the date fixed for payment of the proposed dividend for which approval is sought and commencing on the day after the same day of the same month in the second and immediately preceding years;

**45.10(4)** A balance sheet and statement of income for the period intervening from the last annual statement filed with the commissioner and the end of the month preceding the month in which the request for dividend approval is submitted;

**45.10(5)** A brief statement as to the effect of the proposed dividend upon the insurer’s surplus and the reasonableness of surplus in relation to the insurer’s outstanding liabilities and the adequacy of surplus relative to the insurer’s financial needs.

**45.10(6)** A dividend or distribution to an insurer’s shareholders which exceeds the greater of (a) 10 percent of the insurer’s surplus as regards policyholders as of the 31st day of December next preceding, or (b) the net gain from operations of such insurer if the insurer is a life insurer, or the net income if the insurer is not a life insurer, not including realized capital gains, for the 12-month period ending the 31st day of December next preceding must be submitted to the commissioner 30 days in advance for approval. The commissioner may deem such dividend to be excessive and constitute grounds under 191—subrule 5.23(6) for finding the insurer to be in a financially hazardous condition and subject to the provisions of 191—subrule 5.24(2).

FORM A

STATEMENT REGARDING THE ACQUISITION OF CONTROL OF OR MERGER WITH A DOMESTIC INSURER

Name of Domestic Insurer BY

Name of Acquiring Person (Applicant)

Filed with the Insurance Division of Iowa

Dated: \_\_\_\_\_, 19\_\_\_\_ Name, Title, Address and Telephone Number of Individual to Whom Notices and Correspondence Concerning This Statement Should be Addressed:

FORM A

Item 1. Insurer and method of acquisition.

State the name and address of the domestic insurer to which this application relates and a brief description of how control is to be acquired.

Item 2. Identity and background of the applicant.

(a) State the name and address of the applicant seeking to acquire control over the insurer.

(b) If the applicant is not an individual, state the nature of its business operations for the past five years or for such lesser period as such person and any predecessors thereof shall have been in existence. Briefly describe the business intended to be done by the applicant and the applicant's subsidiaries.

(c) Furnish a chart or listing clearly presenting the identities of the interrelationships among the applicant and all affiliates of the applicant. No affiliate need be identified if its total assets are equal to less than one-half of one percent of the total assets of the ultimate controlling person affiliated with the applicant. Indicate in such chart or listing the percentage of voting securities of each such person which is owned or controlled by the applicant or by any other such person. If control of any person is maintained other than by the ownership or control of voting securities, indicate the basis of such control. As to each person specified in such chart or listing indicate the type of organization (e.g., corporation, trust, partnership) and the state or other jurisdiction of domicile. If court proceedings involving a reorganization or liquidation are pending with respect to any such person, indicate which person, and set forth the title of the court, nature of proceedings and the date when commenced.

Item 3. Identity and background of individuals associated with the applicant.

State the following with respect to (1) the applicant if an individual or (2) all persons who are directors, executive officers or owners of 10 percent or more of the voting securities of the applicant if the applicant is not an individual.

(a) Name and business address;

(b) Present principal business activity occupation or employment including position and office held and the name, principal business and address of any corporation or other organization in which such employment is carried on;

(c) Material occupations, positions, offices or employments during the last five years, giving the starting and ending dates of each and the name, principal business and address of any business corporation or other organization in which each such occupation, position, office or employment was carried on; if any such occupation, position, office or employment required licensing by or registration with any federal, state or municipal governmental agency, indicate such fact, the current status of such licensing or registration, and an explanation of any surrender, revocation, suspension or disciplinary proceedings in connection therewith;

(d) Whether or not such person has ever been convicted in a criminal proceeding (excluding minor traffic violations) during the last ten years and, if so, give the date, nature of conviction, name and location of court, and penalty imposed or other disposition of the case.

**Item 4. Nature, source and amount of consideration.**

(a) Describe the nature, source and amount of funds or other considerations used or to be used in effecting the merger or other acquisition of control. If any part of the same is represented or is to be represented by funds or other consideration borrowed or otherwise obtained for the purpose of acquiring, holding, or trading securities, furnish a description of the transaction, the names of the parties thereto, the relationship, if any, between the borrower and the lender, the amounts borrowed or to be borrowed, and copies of all agreements, promissory notes and security arrangements relating thereto.

(b) Explain the criteria used in determining the nature and amount of such consideration.

(c) If the source of the consideration is a loan made in the lender's ordinary course of business and if the applicant wishes the identity to remain confidential, the applicant must specifically request that the identity be kept confidential.

**Item 5. Future plans for insurer.**

Describe any plans or proposals which the applicant may have to declare an extraordinary dividend, to liquidate such insurer, to sell its assets to or merge it with any person or persons or to make any other material change in its business operations or corporate structure or management.

**Item 6. Voting securities to be acquired.**

State number of shares of the insurer's voting securities which the applicant, its affiliates and any person listed in Item 3 plan to acquire, and the terms of the offer, request, invitation, agreement or acquisition, and a statement as to the method by which the fairness of the proposal was arrived at.

**Item 7. Ownership of voting securities.**

State the amount of each class of any voting security of the insurer which is beneficially owned or concerning which there is a right to acquire beneficial ownership by the applicant, its affiliates or any person listed in Item 3.

**Item 8. Contracts, arrangements or understandings with respect to voting securities of the insurer.**

Give a full description of any contracts, arrangements or understandings with respect to any voting security of the insurer in which the applicant, its affiliates or any persons listed in Item 3 is involved, including but not limited to transfer of any of the securities, joint ventures, loan or option arrangements, puts or calls, guarantees of loans, guarantees against loss or guarantees of profits, division of losses or profits, or the giving or withholding of proxies. Such description shall identify the persons with whom such contracts, arrangements or understandings have been entered into.

**Item 9. Recent purchases of voting securities.**

Describe any purchases of any voting securities of the insurer by the applicant, its affiliates or any person listed in Item 3 during the 12 calendar months preceding the filing of this statement. Include in such description the dates of purchase, the names of the purchasers, and the consideration paid or agreed to be paid therefor. State whether any such shares so purchased are hypothecated.

**Item 10. Recent recommendations to purchase.**

Describe any recommendations to purchase any voting security of the insurer made by the applicant, its affiliates or any person listed in Item 3, or by anyone based upon interviews or at the suggestion of the applicant, its affiliates or any person listed in Item 3 during the 12 calendar months preceding the filing of this statement.

**Item 11. Agreements with broker-dealers.**

Describe the terms of any agreement, contract or understanding made with any broker-dealer as to solicitation of voting securities of the insurer for tender, and the amount of any fees, commissions or other compensation to be paid to broker-dealer, with regard thereto.

**Item 12. Financial statements and exhibits.**

(a) Financial statements and exhibits shall be attached to this statement as an appendix, but list under this item the financial statements and exhibits so attached.

(b) The financial statements shall include the annual financial statements of the persons identified in Item 2(c) for the preceding five fiscal years (or for such lesser period as such applicant and its affiliates and any predecessors thereof shall have been in existence), and similar information covering the period from the end of such person's last fiscal year, if such information is available. Such statements may be prepared on either an individual basis, or, unless the commissioner otherwise requires, on a consolidated basis if such consolidated statements are prepared in the usual course of business.

The annual financial statements of the applicant shall be accompanied by the certificate of an independent public accountant to the effect that such statements present fairly the financial position of the applicant and the results of its operations for the year then ended, in conformity with generally accepted accounting principles or with requirements of insurance or other accounting principles prescribed or permitted under law. If the applicant is an insurer which is actively engaged in the business of insurance, the financial statements need not be certified, provided they are based on the Annual Statement of such person filed with the insurance department of the person's domiciliary state and are in accordance with the requirements of insurance or other accounting principles prescribed or permitted under the law and regulations of such state.

(c) File as exhibits copies of all tender offers for, requests or invitations for, tenders of, exchange offers for, and agreements to acquire or exchange any voting securities of the insurer and (if distributed) of additional soliciting material relating thereto; any proposed employment, consultation, advisory or management contracts concerning the insurer; annual reports to the stockholders of the insurer and the applicant for the last two fiscal years; and any additional documents or papers required by Form A or regulations sections 0.04 and 0.06.

**Item 13. Signature and certification.** Signature and certification of the following form:

**SIGNATURE**

Pursuant to the requirements of Iowa Code section 521A.3 and Regulation 3.01,  
\_\_\_\_\_ has caused this application to be duly signed on its

(Name of Applicant)

behalf in the City of \_\_\_\_\_ and State of \_\_\_\_\_, on the \_\_\_\_\_ day  
of \_\_\_\_\_, 19 \_\_\_\_\_.

(SEAL)

\_\_\_\_\_  
(Name of Applicant)

By \_\_\_\_\_  
(Name) (Title)

Attest:

\_\_\_\_\_  
(Signature of Officer)

\_\_\_\_\_  
(Title)



CERTIFICATION

The undersigned deposes and says that deponent has duly executed the attached application dated \_\_\_\_\_, 19 \_\_\_\_\_, for and on behalf of \_\_\_\_\_;

(Name of Applicant)

that deponent is the \_\_\_\_\_ of such company, and that deponent is authorized to  
(Title of Officer)

execute and file such instrument. Deponent further says that deponent is familiar with such instrument and the contents thereof, and that the facts therein set forth are true to the best of the deponent's knowledge, information and belief.

(Signature) \_\_\_\_\_

(Type or print name beneath) \_\_\_\_\_

FORM B

INSURANCE HOLDING COMPANY SYSTEM  
ANNUAL REGISTRATION STATEMENT

Filed with the Insurance Division of Iowa

By

\_\_\_\_\_

Name of Registrant

On Behalf of the Following Insurance Companies

Name \_\_\_\_\_ Address \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date: \_\_\_\_\_, 19 \_\_\_\_\_

Name, Title, Address and Telephone Number of Individual to Whom Notices and Correspondence Concerning This Statement Should Be Addressed:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

FORM B

**Item 1. Identity and control of registrant.**

Furnish the exact name of each insurer registering or being registered (hereinafter called "the Registrant"), the home office address and principal executive offices of each; the date on which each Registrant became part of the insurance holding company system; and the method(s) by which control of each Registrant was acquired and is maintained.

**Item 2. Organizational chart.**

Furnish a chart or listing clearly presenting the identities of and interrelationships among all affiliated persons within the insurance holding company system. No affiliate need be shown if its total assets are equal to less than one-half of 1 percent of the total assets of the ultimate controlling person within the insurance holding company system. The chart or listing should show the percentage of each class of voting securities of each affiliate which is owned, directly or indirectly, by another affiliate. If control of any person within the system is maintained other than by the ownership or control of voting securities, indicate the basis of such control. As to each person specified in such chart or listing indicate the type of organization (e.g., corporation, trust, partnership) and the state or other jurisdiction of domicile.

**Item 3. The ultimate controlling person.**

As to the ultimate controlling person in the insurance holding company system furnish the following information:

- (a) Name.
- (b) Home office address.
- (c) Principal executive office address.
- (d) The organizational structure of the person, i.e., corporation, partnership, individual, trust, etc.
- (e) The principal business of the person.
- (f) The name and address of any person who holds or owns 10 percent or more of any class of voting security, the class of such security, the number of shares held of record or known to be beneficially owned, and the percentage of class so held or owned.
- (g) If court proceedings looking toward a reorganization or liquidation are pending, indicate the title and location of the court, the nature of proceedings and the date when commenced.

**Item 4. Biographical information.**

Furnish the following information for the directors and executive officers of the ultimate controlling person: The individual's name, address, principal occupation and all offices and positions held during the past five years; and any conviction of crimes other than minor traffic violations during the past ten years.

**Item 5. Transactions, relationships and agreements.**

(a) Briefly describe the following agreements in force, relationships subsisting, and transactions currently outstanding or which have occurred during the last calendar year between the Registrant and its affiliates:

- (1) Loans, other investments or purchases, sales or exchanges of securities of the affiliates by the Registrant or of the Registrant by its affiliates;
- (2) Purchases, sales or exchanges of assets;
- (3) Transactions not in the ordinary course of business;
- (4) Guarantees or undertakings for the benefit of an affiliate which result in an actual contingent exposure of the Registrant's assets to liability, other than insurance contracts entered into in the ordinary course of the Registrant's business;
- (5) All management and service contracts and all cost-sharing arrangements, other than cost allocation arrangements based upon generally accepted accounting principles;
- (6) Reinsurance agreements;
- (7) Dividends and other distributions to shareholders; and
- (8) A pledge of the insurer's stock, including stock of a subsidiary or controlling affiliate, for a loan made to a member of the insurance holding company system.

No information need be disclosed if such information is not material. Sales, purchases, exchanges, loans or extensions of credit or investments involving one-half of 1 percent or less of the Registrant's admitted assets as of the 31st day of December next preceding shall not be deemed material.

The description shall be in a manner as to permit the proper evaluation thereof by the commissioner, and shall include at least the following: the nature and purpose of the transaction; the nature and amounts of any payments or transfers of assets between the parties; the identity of all parties to such transaction; and relationship of the affiliated parties to the Registrant.

**Item 6. Litigation or administrative proceedings.**

A brief description of any litigation or administrative proceedings of the following types, either then pending or concluded within the preceding fiscal year, to which the ultimate controlling person or any of its directors or executive officers was a party or of which the property of any such person is or was the subject; give the names of the parties and the court or agency in which litigation or proceeding is or was pending:

(a) Criminal prosecutions or administrative proceedings by any government agency or authority which may be relevant to the trustworthiness of any party thereto; and

(b) Proceedings which may have a material effect upon the solvency or capital structure of the ultimate holding company including, but not necessarily limited to, bankruptcy, receivership or other corporate reorganizations.

**Item 7. Financial statements and exhibits.**

(a) Financial statements and exhibits should be attached to this statement as an appendix, but list under this item the financial statements and exhibits so attached.

(b) The financial statements shall include the annual financial statements of the ultimate controlling person in the insurance holding company system as of the end of the person's latest fiscal year.

If at the time of the initial registration, the annual financial statements for the latest fiscal year are not available, annual statements for the previous fiscal year may be filed and similar financial information shall be filed for any subsequent period to the extent such information is available. Such financial statements may be prepared on either an individual basis, or unless the commissioner otherwise requires, on a consolidated basis if such consolidated statements are prepared in the usual course of business.

Unless the commissioner otherwise permits, the annual financial statements shall be accompanied by the certificate of an independent public accountant to the effect that such statements present fairly the financial position of the ultimate controlling person and the results of its operations for the year then ended, in conformity with generally accepted accounting principles or with requirements of insurance or other accounting principles prescribed or permitted under law. If the ultimate controlling person is an insurer who is actively engaged in the business of insurance, the annual financial statements need not be certified, provided they are based on the Annual Statement of such insurer filed with the insurance department of the insurer's domiciliary state and are in accordance with requirements of insurance or other accounting principles prescribed or permitted under the law and regulations of such state.

(c) Exhibits shall include copies of the latest annual reports to shareholders of the ultimate controlling person and proxy material used by the ultimate controlling person; and any additional documents or papers required by FORM B requested by the commissioner.

**SIGNATURES**

Signatures and certification of the form as follows:

**SIGNATURE**

Pursuant to the requirements of Iowa Code section 521A.4 and Regulation No. 4.01, the Registrant has caused this registration statement to be duly signed on its behalf in the City of \_\_\_\_\_ and State of \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_.

(SEAL)

\_\_\_\_\_  
(Name of Registrant)

By \_\_\_\_\_

(Name)

(Title)

Attest:

\_\_\_\_\_  
(Signature of Officer)

\_\_\_\_\_  
(Title)

**CERTIFICATION**

The undersigned deposes and says that deponent has duly executed the attached registration statement dated \_\_\_\_\_, 19 \_\_\_\_\_, for and on behalf of \_\_\_\_\_;

(Name of Company)

that deponent is the \_\_\_\_\_ of such company, and that deponent has authority

(Title of Officer)

to execute and file such instrument. Deponent further says that deponent is familiar with such instrument and that the facts therein set forth are true to the best of deponent's knowledge, information and belief.

(Signature) \_\_\_\_\_

(Type or print name beneath) \_\_\_\_\_

**FORM C  
SUMMARY OF REGISTRATION STATEMENT**

Filed with the Insurance Division of Iowa

By

\_\_\_\_\_  
Name of Registrant

On Behalf of the following insurance companies

Name

Address

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date: \_\_\_\_\_, 19 \_\_\_\_\_

Name, title, address and telephone number of individual to whom notices and correspondence concerning this summary should be addressed:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Furnish a brief description of all items in the current annual registration statement which represented changes from the prior year's annual registration statement. The description shall be in a manner as to permit the proper evaluation thereof by the commissioner, and shall include specific references to item numbers in the annual registration statement and to the terms contained therein.

Changes occurring under Item 2 of FORM B, insofar as changes in the percentage of each class of voting securities held by each affiliate are concerned, need be included only where such changes are ones which result in ownership or holdings of 10 percent or more of voting securities, loss or transfer of control, or acquisition of loss of partnership interest.

Changes occurring under Item 4 of FORM B need be included only where: an individual is, for the first time, made a director or executive officer of the ultimate controlling person; a director or executive officer terminates their responsibilities with the ultimate controlling person; or in the event an individual is named president of the ultimate controlling person.

If a transaction disclosed on the prior year's annual registration statement has been changed, the nature of such change shall be included. If a transaction disclosed on the prior year's annual registration statement has been effectuated, furnish the mode of completion and describe any flow of funds between affiliates resulting from the transaction.

The insurer shall furnish a statement that transactions entered into since the filing of the prior year's annual registration statement are not part of a plan or series of like transactions whose purpose it is to avoid statutory threshold amounts and the review that might otherwise occur.

SIGNATURE

Pursuant to the requirements of Iowa Code section 521A.4, the registrant has caused this summary of registration statement to be duly signed on its behalf in the City of \_\_\_\_\_ and State of \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_.

\_\_\_\_\_  
(Name of Registrant)  
\_\_\_\_\_  
(Name) (Title)

Attest:

\_\_\_\_\_  
(Signature of Officer)  
\_\_\_\_\_  
(Title)

(SEAL)

CERTIFICATION

The undersigned deposes and says that having duly executed the attached summary of registration statement dated \_\_\_\_\_, 19 \_\_\_\_\_, for and on behalf of \_\_\_\_\_; as \_\_\_\_\_ of such company, with

(Name of Company)

(Title of Officer)

authority to execute and file such instrument, deponent is familiar with such instrument and the facts therein set forth are true to the best of deponent's knowledge, information and belief.

(Signature) \_\_\_\_\_

(Type or print name beneath) \_\_\_\_\_

FORM D  
PRIOR NOTICE OF A TRANSACTION

Filed with the Insurance Division of Iowa

By

\_\_\_\_\_  
Name of insurer filing notice

On behalf of the following insurance companies

Name	Address
_____	_____
_____	_____
_____	_____

Date: \_\_\_\_\_, 19 \_\_\_\_\_

Name, title, address and telephone number of individual to whom notices and correspondence concerning this summary should be addressed:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Item 1. Identity of parties to transaction.**

Furnish the following information for each of the parties to the transaction:

- (a) Name.
- (b) Home office address.
- (c) Principal executive office address.
- (d) The organizational structure, i.e., corporation, partnership, individual, trust, etc.
- (e) A description of the nature of the parties' business operations.
- (f) Relationship, if any, of other parties to the transaction to the insurer filing the notice, including any ownership or debtor/creditor interest by any other parties to the transaction in the insurer seeking approval, or by the insurer filing the notice in the affiliated parties.
- (g) Where the transaction is with a nonaffiliate, the name(s) of the affiliate(s) which will receive, in whole or in substantial part, the proceeds of the transaction.

**Item 2. Description of the transaction.**

Furnish a brief description of the amount and source of funds, securities, property or other consideration for the sale, purchase, exchange, loan, extension of credit, guarantee, or investment, whether any provision exists for purchase by the insurer filing notice, by any party to the transaction, or by any affiliate of the insurer filing notice; a description of the terms of any securities being received, if any; and a description of any other agreements relating to the transaction such as contracts, agreements for services, or consulting agreements. If the transaction involves other than cash, furnish a description of the consideration, its cost and its fair market value, together with an explanation of the basis for evaluation.

- (a) A statement as to whether notice is being given under Iowa Code section 521A.5(1) "b" or section 521A.5(1) "c."
- (b) A statement of the nature of the transaction.
- (c) The proposed effective date of the transaction.

**Item 3. Sales, purchases, exchanges, loans, extensions of credit, guarantees, or investments.**

Furnish a brief description of the amount and source of funds, securities, property or other consideration for the sale, purchase, exchange, loan, extension of credit, guarantee, or investment, whether any provision exists for purchase by the insurer filing notice, by any party to the transaction, or by any affiliate of the insurer filing notice; a description of the terms of any securities being received, if any; and a description of any other agreements relating to the transaction such as contracts, agreements for services, or consulting agreements. If the transaction involves other than cash, furnish a description of the consideration, its cost and its fair market value, together with an explanation of the basis for evaluation.

If the transaction involves a loan, extension of credit or a guarantee, furnish a description of the maximum amount which the insurer will be obligated to make available under such loan, extension of credit or guarantee, the date on which the credit or guarantee will terminate, and any provisions for the accrual of or deferral of interest.

If the transaction involves an investment, guarantee or other arrangement, state the time period during which the investment, guarantee or other arrangement will remain in effect, together with any provisions for extensions or renewals of such investments, guarantees or arrangements. Furnish a brief statement as to the effect of the transaction upon the insurer's surplus.

If the transaction involves a loan or extension of credit to any person who is not an affiliate, furnish a brief description of the agreement or understanding whereby the proceeds of the proposed transaction, in whole or in substantial part, are to be used to make loans or extensions of credit to, to purchase the assets of, or to make investments in, any affiliate of the insurer making such loans or extensions of credit, and specify in what manner the proceeds are to be used to loan to, extend credit to, purchase assets of or make investments in any affiliate. Describe the amount and source of funds, securities, property or other consideration for the loan or extension of credit and, if the transaction is one involving consideration other than cash, a description of its cost and its fair market value together with an explanation of the basis for evaluation. Furnish a brief statement as to the effect of the transaction upon the insurer's surplus.

No notice need be given if the sale, purchase, exchange, loan, extension of credit, guarantee or investment is one which is less than the greater of 5 percent of the insurer's admitted assets or 25 percent of surplus as regards policyholders.

#### **Item 4. Reinsurance.**

If the transaction is a reinsurance agreement or modification thereto, furnish a description of the known or estimated amount of liability to be ceded or assumed in each calendar year, the period of time during which the agreement will be in effect, and a statement of whether an agreement will be in effect, and a statement of whether an agreement or understanding exists between the insurer and a nonaffiliate to the effect that any portion of the assets constituting the consideration for the agreement will be transferred to one or more of the insurer's affiliates. Furnish a brief description of the consideration involved in the transaction, and a brief statement as to the effect of the transaction upon the insurer's surplus.

No notice need be given for reinsurance agreements or modification thereto if the reinsurance premium or a change in the insurer's liabilities in connection with the reinsurance agreement or modification thereto is less than 25 percent of the insurer's surplus as regards policyholders, as of the preceding 31st day of December.

#### **Item 5. Management agreements, service agreements and cost-sharing agreements.**

For management and service agreements, furnish:

(a) A brief description of the managerial responsibilities or services to be performed; and  
(b) A brief description of the agreement, including a statement of its duration, together with brief descriptions of the basis for compensation and the terms under which payment or compensation is to be made.

For cost-sharing arrangements, furnish:

(a) A brief description of the purpose of the agreement;  
(b) A description of the period of time during which the agreement is to be in effect;  
(c) A brief description of each party's expenses or costs covered by the agreement; and  
(d) A brief description of the accounting basis to be used in calculating each party's costs under the agreement.

Pursuant to the requirements of Iowa Code section 521A.5, the applicant has caused this notice to be duly signed on its behalf in the City of \_\_\_\_\_ and State of \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_.

\_\_\_\_\_  
(Name of requesting party)

By: \_\_\_\_\_  
(Name) (Title)

Attest:

\_\_\_\_\_  
(Signature of Officer)

\_\_\_\_\_  
(Title)

(SEAL)

CERTIFICATION

The undersigned acknowledges that having duly executed the attached prior notice of a transaction dated \_\_\_\_\_, 19 \_\_\_\_\_, for and on behalf of \_\_\_\_\_;

as \_\_\_\_\_ of such company, with authority to execute and file such instrument,  
(Name of Company)  
(Title of Officer)

deponent is familiar with such instrument and the facts therein set forth are true to the best of deponent's knowledge, information and belief.

(Signature) \_\_\_\_\_

(Type or print name beneath) \_\_\_\_\_

These rules are intended to implement Iowa Code sections 521A.4 and 521A.8.

[Filed 11/19/70; amended 12/14/72]

[Filed 2/23/83, Notice 1/19/83—published 3/16/83, effective 4/20/83]

[Filed 8/21/86, Notice 7/16/86—published 9/10/86, effective 10/15/86]

[Editorially transferred from [510] to [191] IAC Supp. 10/22/86; see IAB 7/30/86]

[Filed emergency 6/21/91—published 7/10/91, effective 6/21/91]

[Filed 3/5/99, Notice 11/4/98—published 3/24/99, effective 4/28/99]



**191—50.4(502) Minimum financial requirements and financial reporting requirements of broker-dealers.**

**50.4(1)** Each broker-dealer registered or required to be registered under Iowa Code chapter 502 shall comply with Securities and Exchange Commission rule 15c3-1 (17 CFR 240.15c3-1(1996)), 15c3-2 (17 CFR 240.15c3-2(1996)), and 15c3-3 (17 CFR 240.15c-3(1996)), Securities Exchange Act of 1934.

**50.4(2)** Each broker-dealer registered or required to be registered under Iowa Code chapter 502 shall comply with Securities and Exchange Commission rule 17a-11 (17 CFR 240.17a-11 (1996)) and shall file with the administrator copies of annual audited financial statements and notices of financial deficiencies, as required under rules 17a-5(d) (17 CFR 240.17a-5(d) (1996)) and 17a-11 (17 CFR 240.17a-11(1996)), Securities Exchange Act of 1934.

**50.4(3)** To the extent that the Securities and Exchange Commission promulgates changes to the above-referenced rules, broker-dealers in compliance with such rules as amended shall not be subject to enforcement action by the administrator for violation of this rule to the extent that the violation results solely from the broker-dealer's compliance with the amended rule.

**191—50.5(502) Net capital.** Rescinded IAB 8/13/97, effective 9/17/97.

**191—50.6(261) Denial, suspension or revocation of license for failure to pay debts owed to or collected by the college student aid commission.**

**50.6(1) Issuance of notice.** Upon receipt from the college student aid commission of a certificate of noncompliance for defaults on debts owed to or collected by the commission, the administrator shall issue a notice to a securities agent or investment adviser representative applicant or licensee that the pending application for licensure or current license will be denied, suspended or revoked. The notice shall be served by restricted certified mail, return receipt requested, or by personal service in accordance with the Iowa Rules of Civil Procedure, unless the applicant or licensee accepts service personally or through authorized counsel.

**50.6(2) Notice contents.** The notice referred to in subrule 50.6(1) shall state all of the following:

*a.* The administrator intends to deny, suspend, or revoke an application or license due to the receipt of a certificate of noncompliance from the college student aid commission.

*b.* The applicant or licensee must contact the college student aid commission to schedule a conference or to otherwise obtain a withdrawal of a certificate of noncompliance.

*c.* Unless the college student aid commission furnishes to the administrator a withdrawal of a certificate of noncompliance within 30 days of issuance of the notice, the application or license shall be denied, revoked or suspended.

*d.* The applicant or licensee served shall not have a right to a hearing before the administrator but may request a court hearing pursuant to Iowa Code section 261.127 within 30 days of the provision of notice.

**50.6(3) Automatic stay.** The filing of an application for hearing with the district court pursuant to Iowa Code section 261.127 shall automatically stay action of the administrator until the administrator is notified of the resolution of the application.

**50.6(4) Effective date of action.** If the administrator does not receive a withdrawal of the certificate of noncompliance from the college student aid commission or a notice that an application for district court hearing has been filed, the administrator shall deny, suspend or revoke the application or license 30 days after the notice prescribed in subrule 50.6(2) is issued.

**50.6(5) *Withdrawal of certificate.*** If the administrator receives a withdrawal of the certificate of noncompliance from the college student aid commission, the administrator shall immediately halt action to deny, suspend or revoke an application or license. The applicant or licensee shall be notified that action has been halted. If an application or license has already been denied, suspended or revoked, the applicant or former licensee shall reapply for licensure and the application shall be granted if the individual is otherwise in compliance with applicable laws, rules, regulations or orders.

**50.6(6) *Application fees.*** All application fees must be paid by the applicant before a license will be issued, after the administrator has denied, suspended or revoked a license pursuant to Iowa Code sections 261.121 to 261.127.

**50.6(7) *Sharing of information.*** Notwithstanding any statutory confidentiality provision, the administrator may share information with the college student aid commission for the sole purpose of identifying applicants or licensees subject to enforcement under Iowa Code sections 261.121 to 261.127.

**191—50.7(502) Cost of examination.**

**50.7(1)** Whenever the administrator or the administrator's agent makes an examination as provided for in section 303(4) of the Act, the broker-dealer shall pay to the administrator the salaries and the travel, lodging and meal expenses pertaining to such examination as are permitted by the rules of the comptroller's office for state employees.

**50.7(2)** Within a reasonable time after completion of the examination, the administrator shall notify the subject of the examination of the expenses attributable thereto.

**50.7(3)** The expenses collected by the administrator pursuant to this rule shall be turned into the state treasury.

**191—50.8(502) Registration of agents and issuers.**

**50.8(1) *NASD member.***

**a.** An applicant for registration as an Iowa-licensed agent of an NASD member broker-dealer shall:

- (1) Pass one of the following National Association of Securities Dealers (NASD) examinations: Series 1, 2, 6, 7, 11, 17, 22, 24, 26, 39, 40, 52, 53, or 62; and
- (2) Pass the NASD Series 63 or Series 66 examination; and
- (3) File an accurate and complete Form U-4 with the Central Registration Depository (CRD) and pay the required filing fee of \$30 to the NASD.

**b.** An applicant may file a written request for waiver for good cause of the examination requirement contained in 50.8(1)"a." A waiver will be considered for an applicant with ten years of continuous experience in the securities industry. A waiver of the Series 63 examination will not be granted.

c. An applicant for an agent license under this subrule who has not been continuously licensed with the NASD for the two-year period immediately preceding the filing of the application shall be subject to the examination requirements of this rule.

d. Updates to Form U-4, withdrawal requests, renewals and renewal fees shall be filed with the Central Registration Depository (CRD).

**50.8(2) Non-NASD member.**

a. An applicant for registration as an Iowa-licensed agent of an issuer or other non-NASD member must file with the administrator:

(1) Proof of attaining a passing grade on one of the following NASD examinations: Series 1, 2, 6, 7, 11, 17, 22, 24, 26, 39, 40, 52, 53, or 62; and

(2) Proof of attaining a passing grade on the NASD Series 63 or Series 66 examination; and

(3) An accurate and complete Form U-4 and \$30 filing fee.

b. An applicant may file a written request for waiver of the examination requirements. The examination requirements may be waived upon written application to the administrator for good cause shown.

c. Updates to Form U-4, withdrawal requests and renewal documents and fees shall be filed directly with the administrator.

**50.8(3) Incomplete applications.** No application for a license to act as an agent shall be considered for approval until it is complete.

a. No application for an agent license with an NASD member broker-dealer shall be considered complete until all requirements of 50.8(1) "a" are satisfied.

b. No application for an agent license with an issuer or other non-NASD member shall be considered complete until all requirements of 50.8(2) "a" are satisfied.

c. In the discretion of the administrator, an applicant may be required to provide additional information regarding any aspect of the application. The application shall be incomplete until such requests are satisfied.

**50.8(4) Employment of agents of an issuer.** An issuer who desires to employ persons as agents of issuers within the meaning of section 502.102(3) of the Act must apply to the administrator for such authority. The application shall be made by letter and shall include:

a. A statement of the issuer's intent to employ agents for the sale of its securities,

b. Name, address, social security number and proof of satisfaction of 50.8(2) "a" for each agent, and

c. A complete description of the subject securities.

This rule is intended to implement Iowa Code section 502.302.

**191—50.9(502) Dishonest or unethical practices in the securities business.**

**50.9(1)** These acts and practices, including but not limited to the following, are deemed dishonest or unethical practices in the securities business by any person, other than an agent, under Iowa Code section 502.304(1) "g."

a. Engaging in any unreasonable and unjustifiable delay in the delivery of securities purchased by any of its customers or in the payment upon request of free credit balances reflecting completed transactions of any of its customers;

b. Inducing trading in a customer's account which is excessive in size or frequency in view of the financial resources and character of the account;

1. The first part of the document discusses the importance of maintaining accurate records of all transactions. This is essential for ensuring the integrity of the financial statements and for providing a clear audit trail. The records should be kept up-to-date and should be easily accessible to all relevant parties.

2. The second part of the document outlines the various methods used to collect and analyze data. These methods include direct observation, interviews, and the use of specialized software. Each method has its own strengths and weaknesses, and it is important to choose the most appropriate one for the specific situation.

3. The third part of the document describes the process of data analysis. This involves identifying patterns, trends, and anomalies in the data. It is important to use statistical techniques to help with this process and to ensure that the results are reliable and valid.

4. The fourth part of the document discusses the importance of communication in the research process. This involves sharing the results of the research with the relevant stakeholders and ensuring that they understand the findings and their implications. It is important to use clear and concise language and to provide supporting evidence for all claims.

5. The fifth part of the document outlines the various ethical considerations that must be taken into account when conducting research. These include the need to obtain informed consent from all participants, to ensure the confidentiality of the data, and to avoid any conflicts of interest.

6. The sixth part of the document describes the various methods used to ensure the reliability and validity of the research. These include the use of standardized procedures, the use of multiple sources of data, and the use of triangulation.

7. The seventh part of the document discusses the importance of documentation in the research process. This involves keeping a detailed record of all steps taken during the research, from the initial planning to the final reporting. This documentation is essential for ensuring the transparency and reproducibility of the research.

8. The eighth part of the document outlines the various methods used to disseminate the results of the research. These include the use of academic journals, conference proceedings, and public reports. It is important to choose the most appropriate method for the specific audience and to ensure that the results are presented in a clear and accessible way.

9. The ninth part of the document discusses the importance of reflection in the research process. This involves taking time to think about the research process and the findings, and to consider the implications for future research. It is important to be open to new ideas and to be willing to challenge one's own assumptions.

10. The tenth part of the document outlines the various methods used to evaluate the research. These include the use of peer review, the use of external audits, and the use of self-evaluation. It is important to ensure that the research is evaluated in a fair and objective way and that any weaknesses are identified and addressed.

50.97(2) *Withdrawals.*

- a. Requests to withdraw from investment adviser licensure shall be filed on a current Form ADV-W (Notice of Withdrawal from Registration as Investment Adviser).
- b. Requests to withdraw from investment adviser representative licensure shall be filed on a current Form U-5 (Uniform Termination Notice for Securities Industry Registration).
- c. If a federal covered adviser is no longer conducting business in the state, the federal covered adviser shall notify the administrator by letter or by filing with the administrator a current Form ADV-W.

This rule is intended to implement Iowa Code chapter 502 as amended by 1998 Iowa Acts, chapter 1106.

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CHAPTERS 51 to 53  
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# ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]

Rules transferred from agency number [190] to [121] to conform with the reorganization numbering scheme in general, IAC Supp. 9/9/87.

Prior to 3/30/94, Campaign Finance Disclosure Commission [121]

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1.4(3) A person subject to board discipline may accept administrative resolution, but is not required to do so. If the person accepts the administrative resolution of a routine enforcement matter through the payment of a scheduled penalty, compliance with recommended remedial action, or acceptance of a letter of reprimand, the matter shall be closed. If the person wishes to contest the administrative resolution, the person shall make a request for reconsideration or for a contested case proceeding in writing to the board's executive director which shall be received within 30 days of the date of the correspondence informing the person of the assessment of a scheduled penalty or of other intentions for administrative resolution. Requests for waiver or reduction of a scheduled penalty shall be treated as a request for reconsideration. If the person requests reconsideration and subsequently wishes to contest the board's action on the reconsideration, the person may make a written request for a contested case proceeding to the executive director which shall be received within 30 days of the date of the correspondence informing the person of the board's action. However, the issuance of a letter of reprimand under subrule 1.4(2) is final agency action subject to judicial review, and is not subject to contested case proceedings.

1.4(4) Upon timely receipt of a request for a contested case proceeding to challenge administrative resolution of a routine enforcement matter, the board shall provide for the issuance of a statement of charges and notice of hearing. The contested case shall be conducted in accordance with the provisions of 351—Chapter 7. The burden shall remain on board staff to prove that a violation has occurred. Failure to challenge the administrative resolution through a request for a contested case proceeding is a failure to exhaust administrative remedies. If, after a determination that a violation did occur, any sanctions under Iowa Code section 68B.32D may be imposed. These sanctions would be in addition to the original administrative resolution challenged.

1.4(5) The board may admonish a person who it believes has committed a minor violation. An admonition is not discipline and is not subject to contested case review.

This rule is intended to implement Iowa Code sections 68B.32A, 68B.32B, and 68B.32D.

### **351—1.5(17A,68B) Informal settlements.**

1.5(1) Informal settlements may be negotiated at any time during an investigation or after the commencement of a contested case proceeding. Negotiations on behalf of the board shall be conducted by the board's legal counsel. Upon agreement of the parties to commence negotiation, the board's legal counsel is authorized to discuss informal settlement proposals with the chairperson or the chairperson's designee. After commencement of a contested case, consent to negotiation by a respondent constitutes a waiver of notice and opportunity to be heard pursuant to Iowa Code section 17A.17 during informal settlement discussions between the board's legal counsel and the board member.

1.5(2) All informal settlements shall be in writing and are subject to approval of a majority of the full board. If the board fails to approve a proposed informal settlement, it shall be of no force or effect to either party.

1.5(3) A board member who is designated to act in negotiation of an informal settlement may review investigative material in the course of conducting the negotiation. The designated board member is not disqualified from participating in the adjudication of a contested case by virtue of reviewing the investigative material or having participated in negotiation discussions.

This rule is intended to implement Iowa Code sections 17A.10 and 17A.12 and Iowa Code section 68B.32B.

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CHAPTER 3  
 COUNTY COMMISSIONERS OF ELECTION  
 [Prior to 9/9/87, Campaign Finance Disclosure[190] Ch 3]  
 [Prior to 3/30/94, Campaign Finance Disclosure Commission[121] Ch 3]

**351—3.1(56) Summary reports.** County commissioners of elections shall file a summary report of all candidates' committees and all other political committees which have filed disclosure reports, statements of organization, or notices of dissolution. Summary reports from the county commissioners of elections shall be on forms approved by the board and shall be prepared and mailed to the board no later than the fifth day after each reporting period as required by Iowa Code chapter 56.

The county commissioners of elections shall also provide the board with copies of reports and information about delinquent filings when requested so that the board may make appropriate contacts with the committees to obtain reports and assess civil penalties.

This rule is intended to implement Iowa Code section 56.10.

**351—3.2(56) Availability of campaign finance information in offices of county election commissioners—costs.** The original reports for county and local candidates and political committees are filed with the county commissioner of elections (county auditor) and are available for public viewing, inspection, and reproduction. The county commissioners of elections may charge persons requesting copies of reports, statements, and notices a fee for copying services as provided by Iowa Code section 22.3.

This rule is intended to implement Iowa Code sections 56.6 and 68B.32A(6).

**351—3.3(56) Summary report form.** The summary report of all candidates' committees and all other political committees that have filed disclosure reports, statements of organization, or notices of dissolution shall be forwarded to the board in reasonable conformance with the following example:

[The example form is being omitted from this publication. For copies of the form contact Iowa Ethics and Campaign Disclosure Board, 514 E. Locust Street, Suite 104, Des Moines, Iowa 50309. The summary reports are forms CFDC/SR-O (quarterly) and CFDC/SR-M (monthly).]

This rule is intended to implement Iowa Code section 56.10.

**351—3.4(56) Ballot information provided.** Rescinded IAB 3/24/99, effective 4/28/99.

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CHAPTER 4  
CAMPAIGN DISCLOSURE PROCEDURES  
[Prior to 9/9/87, Campaign Finance Disclosure[190] Ch 4]  
[Prior to 3/30/94, Campaign Finance Disclosure Commission[121] Ch 4]

DIVISION I  
ORGANIZATIONAL REQUIREMENTS

**351—4.1(56,68B) Requirement to file statement of organization (DR-1)—persons subject to requirements; financial thresholds; where to file; when due.**

**4.1(1) *Persons subject to requirement.*** Every committee shall file a statement of organization (Form DR-1) within ten days from the date of its organization. The forms shall be either typewritten or printed legibly in black ink.

*a. "Committee" defined.* A "committee" includes a "candidate's committee," which is the entity required to be created when a candidate has exceeded the \$500 organizational threshold, even though the organization may consist only of the candidate. A "committee" also includes a "political committee," which is the entity required to be created when two or more individuals have exceeded the \$500 organizational threshold for permanent or temporary political purposes.

*b. When organization occurs; financial thresholds.* At the latest, organization is construed to have occurred as of the date that the committee first exceeded \$500 of financial activity in a calendar year in any of the following categories: contributions received (aggregate of monetary and in-kind contributions); expenditures made; or indebtedness incurred.

*c. Permanent organizations temporarily engaging in activity for political purposes.* The requirement to file the statement of organization applies to an entity which comes under the definition of a "political committee" because it is an association, lodge, society, cooperative, union, fraternity, sorority, educational institution, civic organization, labor organization, religious organization, professional organization or other permanent organization which temporarily engages in political activity by accepting contributions in excess of \$500 in the aggregate, making expenditures in excess of \$500 in the aggregate, or incurring indebtedness in excess of \$500 in the aggregate in any one calendar year for the purpose of supporting or opposing the election of a candidate for public office, or for the purpose of supporting or opposing the passage of a ballot issue.

**4.1(2) *Place of filing.***

*a. Board office.* Statements of organization for the following committees shall be filed with the board at its office, 514 E. Locust, Suite 104, Des Moines, Iowa 50309:

- (1) Candidates' committees for elected state office (legislative or statewide);
- (2) Political committees supporting or opposing the election of multiple candidates for elected state office (legislative or statewide), also referred to as "statewide PAC (political action committees)";
- (3) State statutory political committees (state parties);
- (4) Political committees supporting or opposing the passage of a statewide ballot issue.

*b. County commissioner of elections.* Statements of organization for the following committees shall be filed with the county commissioner (county auditor) responsible under Iowa Code section 47.2 for conducting the election at which an elected public office or ballot issue is voted upon:

- (1) Candidate's committees for candidates seeking election to a public office at the county, school, city, township or other nonlegislative district level, also referred to as "county/local candidate's" committees.
- (2) Political committees supporting or opposing the election of multiple candidates for elected county or local office, also referred to as "county PACs."
- (3) County or city statutory political committees (central committees); however, the committee shall file a copy of the statement of organization with the board.
- (4) Political committees supporting or opposing the passage of a county or local referendum, franchise, or other ballot issue, also referred to as a county or local "ballot issue (or franchise election) committee."

(5) Political committees other than central committees established to support a nonpartisan slate of specific municipal or school board candidates, also referred to as a "slate committee."

*c. Filing requirements for committees active at both the state and county/local level or active within multiple counties.*

(1) Political committees supporting or opposing the election of candidates both for state office and for county or local office shall file the statement of organization with the board.

(2) Political committees which support or oppose passage of a statewide ballot issue and one or more county/local ballot issues shall file the statement of organization with the board.

(3) Political committees which support or oppose passage of a county/local ballot issue where there are multiple elections under the jurisdiction of multiple county commissioners shall file duplicate originals with each of the appropriate county commissioners. (Also see rule 351—4.7(56,68B).)

(4) Political committees which support or oppose the election of county or local candidates where there are multiple elections under the jurisdiction of multiple county commissioners shall file duplicate originals with each of the appropriate county commissioners.

**4.1(3) Time of filing.** A statement of organization is deemed to be delinquent if it is not received in the appropriate office or mailed bearing a United States Postal Service postmark dated within ten days after the date of organization. However, if the tenth day falls on a Saturday, Sunday, or holiday on which the office of the board or county commissioner where the statement is required to be filed is closed, the filing deadline is extended to the first working day following, and statements of organization received or postmarked on that day will not be considered to be delinquent.

**4.1(4) Substitution of definition.** Anywhere in this chapter that the term "support or oppose" appears, insert the phrase "expressly advocates". Anywhere in this chapter that either the word "support" or "oppose" appears, insert the phrase "expressly advocates". As used in this chapter, "expressly advocates" means "express advocacy" as defined in subrule 4.100(1). If it is determined that paragraph 4.100(1)"b" is unconstitutional by a court of law, then "expressly advocates" will mean "express advocacy" as that term is defined in paragraph 4.100(1)"a."

This rule is intended to implement Iowa Code sections 56.4 and 56.5.

**351—4.2(56,68B) Information required: committee name.**

**4.2(1) Full name required.** The statement of organization shall include the full name of the committee. A committee which uses an abbreviation or acronym as part of its committee name shall provide a written explanation of the full word or words which are abbreviated or form the acronym. The explanation may be provided with the committee's statement of organization and shall be provided to the board upon request.

**4.2(2) Duplication of name prohibited.** The committee name shall not substantially duplicate the name of another committee organized under Iowa Code chapter 56. In cases of dispute, the board shall determine whether two committee names are in substantial duplication in violation of this rule and Iowa Code section 56.5. However, if a candidate with a preexisting open candidate's committee or previously dissolved candidate's committee organizes a new candidate's committee for a new election or for a new office sought, the same committee name may be used provided that the name is in compliance with Iowa Code section 56.5(2)"a" and subrule 4.2(3) and that any open committee for the candidate with the same name is dissolved simultaneously with the organization of the new committee.

**4.2(3) Candidate's surname required in committee name—candidate's committees.** For candidate's committees filing initial statements of organization on or after July 1, 1995, the candidate's surname shall be contained within the committee name. This requirement also applies to new candidate's committees organized by candidates who have a preexisting candidate's committee, but who organize a new candidate's committee for a new election or for a new office sought.

This rule is intended to implement Iowa Code section 56.5.



- j.* Purchase or lease of campaign equipment, such as copy machines, telephones, facsimile machines, computer hardware, software and printers.
  - k.* Purchase or lease of campaign office space, parking lots or storage space and the payment for campaign office utilities and maintenance.
  - l.* Payment of salaries, fringe benefits and payroll taxes of paid campaign staff.
  - m.* Payment for check printing and financial institution banking service charges.
  - n.* Lease or rental of a campaign vehicle, provided a detailed trip log is maintained which provides dates, miles driven, destination and purpose, and that noncampaign miles are reimbursed to the committee at an amount not to exceed the current rate of reimbursement allowed under the standard mileage rate for computations of business expenses pursuant to the Internal Revenue Code. However, the purchase of a campaign vehicle is prohibited.
  - o.* Reimbursement to candidates and campaign workers for mileage driven for campaign purposes in a personal vehicle, provided a detailed trip log is maintained which provides dates, miles driven, destination and purpose, and that reimbursement is paid at an amount not to exceed the current rate of reimbursement allowed under the standard mileage rate for computations of business expenses pursuant to the Internal Revenue Code.
  - p.* Payment for food expenses and supplies for campaign-related activities, such as the purchase of food, beverages and table service for fundraising events or campaign volunteers. However, except as provided in paragraph "h," the purchase of tickets for meals or fundraising events for other candidates is prohibited, and the purchase of groceries for the candidate or candidate's family is also prohibited. Payment for meals for the candidate (other than those involving tickets for fundraiser events as addressed in paragraph "h") is permitted as an allowable expenditure for campaign purposes if the meal was associated with campaign-related activities.
  - q.* Payment of civil penalties and hearing costs assessed by the board.
  - r.* Payment for the services of attorneys, accountants, consultants or other professional persons when those services relate to campaign activities.
  - s.* Subscriptions to newspapers and periodicals.
  - t.* Membership in service organizations.
  - u.* Repayment of campaign loans made to the committee.
  - v.* Purchase of reports of other candidates and political committees so long as the reports' contents are not used for solicitation or commercial purposes.
  - w.* Transfers of funds to charitable organizations which qualify for tax-exempt status under Section 501(C) of the Internal Revenue Service regulations.
  - x.* Contributions to federal, state, county and city political party committees.
  - y.* Refunds to contributors when a contribution has been accepted in error, or when a committee chooses to dispose of leftover funds by refunding them in prorated shares to the original contributors.
  - z.* Payments of cash not to exceed \$250 per person, or payments for items with a purchase price not to exceed \$250 per person, which are presented to committee workers in recognition of a worker's services to the committee for the most recent election cycle for which the committee was active. However, this does not preclude a committee from paying compensation to a committee worker after the close of the reporting period in which the work was performed, so long as an obligation to pay the compensation was reported for that reporting period.
  - aa.* Expenses incurred with respect to an election recount as provided in Iowa Code section 50.48.
- 4.42(2)** Expenses which may be paid from campaign funds for educational and other expenses associated with the duties of office include, but are not limited to, the following items:
- a.* Purchase or lease of office supplies and equipment, such as paper, copy machines, telephones, facsimile machines, computer hardware, software and printers.
  - b.* Travel, lodging and registration expenses associated with attendance at an educational conference of a state, national, or regional organization whose memberships and officers are primarily composed of state or local government officials or employees. However, meal expenses are not allowable as expenses associated with the duties of office under any circumstances.

c. Meals and other expenses incurred in connection with attending a local meeting to which the officeholder is invited and attends due to the officeholder's official position as an elected official.

d. Purchases of small, incidental items such as pencils, pens, rulers and bookmarks provided to members of the public touring the offices of the state or a political subdivision. However, such items distributed on public property shall not expressly advocate the election or defeat of a candidate or the adoption or defeat of a ballot issue as prohibited in Iowa Code section 56.12A. For example, a bookmark bearing the state seal could be distributed on public property, while a bookmark that identified the donor as a candidate for office could not be distributed on public property.

e. Gifts purchased for foreign dignitaries when the officeholder is part of an official trip out of the country such as a trade mission or exchange program.

f. Printing of additional stationery and supplies above the standard allotment of the state or political subdivision.

**4.42(3)** Expenses which may be paid from campaign funds for constituency services include, but are not limited to, the following items:

a. Mailings and newsletters sent to constituents.

b. Polls and surveys conducted to determine constituent opinions.

c. Travel expenses incurred in communicating with members of an elected official's constituency, provided a detailed trip log is maintained which provides dates, miles driven, destination and purpose, and that reimbursement is paid at an amount not to exceed the current rate of reimbursement allowed under the standard mileage rate for computations of business expenses pursuant to the Internal Revenue Code. However, meal expenses are not allowable as expenses associated with constituency services under any circumstances.

d. Holiday and other greeting cards sent to constituents.

This rule is intended to implement Iowa Code sections 56.40, 56.41, and 56.42.

**351—4.43(56,68B) Transfers between candidates.** Transfers of assets from one candidate's committee to another is not construed to be a violation of Iowa Code section 56.42 so long as the recipient candidate's committee pays the transferring committee the fair market value of the asset. Both candidates' committees shall be prepared to support the valuation of the asset with documentation.

This rule is intended to implement Iowa Code sections 56.6 and 56.42.

**351—4.44(56,68B) Transfers of funds and debts between multiple committees of the same person.** A candidate's committee is allowed to transfer its debts to another committee formed by the same candidate. The recipient committee is required to disclose the names and addresses of the creditors to whom such obligations are owed, as well as the amounts of the debts or loans, the dates they were incurred, and the nature of the obligations, as required by Iowa Code section 56.6(3).

This rule is intended to implement Iowa Code sections 56.6, 56.40 and 56.42.

**351—4.45(56,68B) Contributions by minors.** Persons under 18 years of age may make contributions to a candidate or political committee if all of the following conditions exist:

1. The decision to contribute is made knowingly and voluntarily by the minor;

2. The funds, goods, or services contributed are owned or controlled exclusively by the minor, such as income earned by the minor, the proceeds of a trust for which the minor is the beneficiary, or a savings account opened and maintained exclusively in the minor's name; and

3. The contribution is not made from the proceeds of a gift, the purpose of which was to provide funds to be contributed, or is not in any other way controlled by another person.

This rule is intended to implement Iowa Code section 56.13.

**351—4.55(56,68B) Record keeping.**

**4.55(1) Copies of reports.** A committee shall preserve a copy of every report it files for at least three years following the filing of the report.

**4.55(2) Supporting documentation.** The documentation which supports a committee's disclosure report shall be preserved by the committee for at least five years after the due date of the report covering the activity documented in the records; however, a committee is not required to preserve these records for more than three years from the certified date of dissolution of the committee. At a minimum, the supporting documentation shall consist of all of the following:

*a.* A ledger or similar record-keeping device which details all contributions received by the committee. This record shall include the name and address of each person making a contribution in excess of \$10, with the date and amount of the contribution. In lieu of or in addition to a ledger, the committee may record contributions received through a receipt book or other method of individually documenting the contributions, such as by making and keeping copies of the contribution checks.

*b.* The check register for the committee's account(s).

*c.* Bank statements for the committee's account(s).

*d.* Copies of canceled or duplicate checks for committee expenditures, if available.

*e.* Copies of bills or receipts for committee expenditures.

*f.* For committees which pay reimbursement for committee-related mileage, copies of vehicle mileage logs, including travel dates, distance driven, and travel purpose (description of event or activity). For a candidate's committee which leases a vehicle, the mileage log shall detail all mileage driven on the vehicle, including non-committee-related mileage.

This rule is intended to implement Iowa Code sections 56.3, 56.6, 56.7, 56.41, and 68B.32A.

**351—4.56 to 4.69 Reserved.**

DIVISION III  
POLITICAL MATERIAL—ATTRIBUTION STATEMENTS

**351—4.70(56,68B) Political attribution or disclaimer statements—contents.** Political advertising or other published material which expressly advocates for a political purpose shall contain a statement identifying its sponsor. This statement is referred to as the "attribution statement," or the "disclaimer statement." "Express advocacy" is as defined in subrule 4.100(1).

**4.70(1) Short form statement.** If the advertisement or other material is paid for by the candidate or candidate's committee, who has filed a statement of organization under Iowa Code chapter 56, and the specific name and address are available to the public, the statement will be acceptable if it contains the words, "Paid for by the Candidate", "Paid for by (candidate's name), Candidate" or "Paid for by the Candidate's Committee", whichever is applicable. If the advertisement or other material is paid for by a political committee, which has filed a statement of organization under Iowa Code chapter 56, and the specific name and address are available to the public, the statement will be acceptable if it contains the words, "Paid for by the (name of the committee)".

**4.70(2) Full form statement—individual.** If the advertising or material is paid for by an individual acting independently, and the individual has exceeded \$500 in expenditures (other than contributions) for the political purpose advocated by the advertising or material, the statement shall contain the words "Paid for by" followed by the full name and complete address (street or box number/city/state/ZIP code) of the person. The full name and address shall be included in this statement even if the name and address of the person appear elsewhere on the advertising or material.

**4.70(3) Full form statement—candidate who spends less than \$500.** Advertising or material paid for by a candidate who has not organized a committee because the candidate has raised or spent less than \$500 in support of the candidacy shall contain the same information as required for an individual under subrule 4.70(2). In addition, after the full name, the candidate may choose to include words identifying that this is the candidate, such as "first name, last name, Candidate."

**4.70(4) Full form statement—corporation involved in a ballot issue election.** If the advertising or other material is paid for by a corporation involved in a ballot issue, but the corporation has not organized a committee because it has not exceeded \$500 in activity with regard to the ballot issue, the statement shall contain the full name and address of the corporation, as well as the name and office designation of one officer of the corporation.

**4.70(5) Full form statement with additional language requirement for organizations other than corporations and registered committees.** If the advertising or other material is paid for by an informal association or organization of persons which has not organized a committee because it has not exceeded \$500 for a political purpose, but which is not a corporation, the statement shall contain the full name and address of the association or organization, the name and office designation of one officer of the association or organization, and the statement, "This association (or organization) is not incorporated and is not a registered committee." In the alternative, an association or group may use the statement method provided in subrule 4.70(6).

**4.70(6) Short form statement for multiple sponsors with addresses on file.** If the advertising or other material contains the names or replicated signatures of a number of individuals who have contributed to its cost, the addresses of the individuals need not be included in the material if the following or a substantially similar statement appears: "This (ad, brochure, material, as appropriate) has been paid for by the above-named individuals. Space limitations preclude printing their addresses. Addresses are on file with the county auditor (in the case of county or local elections) (and) with the Iowa ethics and campaign disclosure board, and are available upon request." The list shall be provided to the county auditor and the board as indicated.

**4.70(7) Pooled efforts; authorized activity.** If the advertising or other material is not wholly paid for by any one person or entity, but is an authorized activity by a committee, the attribution statement shall include an accurate description of the transaction. For example, if a political committee coordinated and provided the labor for providing a mass mailing, but a candidate's committee paid for the postage, the statement may indicate, "Paid for by (the candidate's committee), with labor provided by (the political committee)." Likewise, if a committee coordinates the activities of individual volunteers who participate in a committee-authorized distribution of advertising or other material, the statement may indicate, "Paid for by (the name and address of the individual volunteer), Authorized by (the name of the committee)." This attribution style would apply, for example, if the "Citizens for Smith" committee requests and coordinates the efforts of ten supporters to each write and send a personalized invitation to a committee fund-raising event.

**4.70(8) Thank-you ads excluded.** Postelection thank-you ads are not express advocacy and therefore not political advertising requiring inclusion of an attribution statement.

This rule is intended to implement Iowa Code section 56.14.

**351—4.71(56,68B) Yard signs and outdoor advertising.** "Yard signs," which are exempt from the attribution statement requirement, means a political sign with dimensions of 16 square feet or less which has been placed or posted on real property. "Outdoor advertising," which requires the attribution statement, means any political sign other than yard signs, including but not limited to: wood, metal, plastic or other hardboard signs affixed to the side of a building or painted directly on the side of the building, signs placed on the top of a car, truck or other vehicle, signs painted or affixed to the side of a vehicle, any advertisement printed, painted or otherwise displayed on a portable sign carrier, or magnetic signs temporarily placed on vehicles or structures.

This rule is intended to implement Iowa Code section 56.14.

**4.83(1) *Purchase or rental of office facility.*** A candidate's committee or other committee which supports or opposes candidates may purchase or rent property belonging to a corporate entity for use as an office facility, so long as the purchase or rental is at fair market value, and no discount is offered or accepted that is not available to all members of the general public. For the purpose of this subrule, "fair market value" means the amount that a member of the general public would expect to pay to purchase or rent the same or substantially similar property within the community in which the property is located; if the same or substantially similar property would not be available to the general public within the community in which the property is located, the standard shall be that of the nearest community in which substantially similar property is available to the general public.

**4.83(2) *Use of corporate facilities to produce or mail materials.*** Any person who uses the facilities of a corporate entity to produce or mail materials in connection with a candidate election is required to reimburse the corporate entity within a commercially reasonable time for the normal and usual charge for producing or mailing such materials in the commercial market. For example, if it would otherwise cost 10 cents per page to have a brochure copied at a commercial printer, the corporate entity must be reimbursed at 10 cents per page even if the overhead and operating cost was only 5 cents per page. Likewise, the corporate entity must be reimbursed at the first-class mail rate even if the direct cost to the corporate entity is less through the use of its bulk mail permit. This subrule does not affect the ability of a commercial vendor to charge an amount for postage which is less than for first-class mail where the reduced or bulk mail charge is available to all similarly situated customers without respect to the political identity of the customer.

**4.83(3) *Use or rental of corporate facilities by other persons.*** Persons other than stockholders, administrative officers or employees of a corporate entity who make any use of corporate facilities, such as using telephones, facsimile machines, typewriters or computers or borrowing office furniture for activity in connection with a candidate election, are required to reimburse the corporate entity within a commercially reasonable time in the amount of the normal and usual rental charge. If one or more telephones of a corporate entity are used as a telephone bank, a rebuttable presumption is established that \$3 per telephone per hour, plus any actual long distance charges, is acceptable as a normal and usual rental charge.

**4.83(4) *Use of airplanes and other means of transportation.***

**a. *Air travel.*** A candidate, candidate's agent, or person traveling on behalf of a candidate who uses noncommercial air transportation made available by a corporate entity shall, in advance, reimburse the corporate entity as follows:

(1) Where the destination is served by regularly scheduled commercial service, the coach class airfare (without discounts).

(2) Where the destination is not served by a regularly scheduled commercial service, the usual charter rate.

**b. *Other transportation.*** A candidate, candidate's agent, or person traveling on behalf of a candidate who uses other means of transportation made available by a corporate entity shall, within a commercially reasonable time, reimburse the corporate entity at the normal and usual rental charge.

**4.83(5) *Equal access not required.*** For the purpose of this rule, it is not necessary that the corporate entity be in the business of selling or renting the property, good or service to the general public; further, it is not necessary that the corporate entity provide access to the same property, good or service to other candidates or committees.

**4.83(6) *Commercially reasonable time.*** For the purpose of this rule, a rebuttable presumption is established that reimbursement to the corporate entity within ten business days is acceptable as within a commercially reasonable time.

**4.83(7) Documentation.** A candidate's committee or other committee which supports or opposes candidates which obtains property, goods or services from a corporate entity which does not make that property, good or service available for purchase or rental to the general public shall at the time of the transaction obtain documentation to establish that the amount paid by the committee to the corporate entity accurately reflects the fair market value or the normal and usual charge for the property, good or service. This documentation shall be maintained as part of the committee's records which are required to be kept in accordance with Iowa Code section 56.3, and shall be provided to the board upon request by the board.

This rule is intended to implement Iowa Code section 56.15.

**351—4.84(56,68B) Use of corporate facilities for individual volunteer activity by stockholders, administrative officers and employees.** Stockholders, administrative officers and employees of a corporate entity may, subject to the rules and practices of the entity, make occasional, isolated, or incidental use of the facilities of a corporate entity for individual volunteer activity in connection with a candidate election and will be required to reimburse the corporate entity only to the extent that the overhead or operating costs of the corporate entity are increased; however, the name or identity of the corporate entity shall not be utilized by the stockholder, administrative officer or employee for the direct or indirect purpose of influencing an election of a candidate. Reimbursement for increased overhead or operating costs shall be made within a commercially reasonable time as defined in subrule 4.26(6).

As used in this rule, "occasional, isolated, or incidental use" generally means:

**4.84(1)** When used by administrative officers or employees during working hours, an amount of activity during any particular work period which does not prevent the administrative officer or employee from completing the normal amount of work which that administrative officer or employee usually carries out during such work period; or

**4.84(2)** When used by stockholders other than administrative officers or employees during the working period, such use does not interfere with the corporation in carrying out its normal activities; but

**4.84(3)** Any such activity which does not exceed one hour per week or four hours per month, regardless of whether the activity is undertaken during or after normal working hours, shall be considered as occasional, isolated, or incidental use of the corporate facilities.

This rule is intended to implement Iowa Code section 56.15.

**351—4.85(56,68B) Individual property.** These rules do not apply to the personal or real property of corporate officers or of individuals employed or associated with a corporate entity and shall not abridge the free-speech rights and privileges of individuals.

This rule is intended to implement Iowa Code section 56.15.

**351—4.86(56,68B) Political corporations.** The prohibitions applicable to corporate entities shall not apply to political corporations based on the following factors:

1. The corporation was organized solely for political purposes and engages in minor business activities that generate minimal income and are incidental to its political purposes.

2. The corporation is not sponsored by a business corporation or labor union and has a policy of accepting only an insignificant and insubstantial amount of contributions from business corporations or labor unions.

3. The corporation has no shareholders or others which have claims on its assets or earnings.

A corporate entity may apply for status as a political corporation under Iowa Code chapter 56 by submitting a letter signed by a corporate officer which affirms the above factors and provides other pertinent details of the corporation's activities. A letter of approval or denial from the board will be provided to the corporation. The acceptance of contributions from a corporation seeking status as a political corporation is subject to the letter of approval and, if approval is not granted, any corporate contributions received shall be refunded by the candidates' committees or other political committees.

This rule is intended to implement Iowa Code section 56.15.

**351—4.87(56,68B) Political corporations required to file disclosure reports.** A political corporation which accepts contributions, makes expenditures or incurs indebtedness in the aggregate of more than \$500 in any one calendar year for the purpose of supporting or opposing a candidate for public office or a ballot issue is deemed to be a political committee subject to the reporting requirements of Iowa Code sections 56.5 and 56.6. A political corporation not domiciled in Iowa which is currently filing full reports of activities with another state disclosure agency or with the Federal Election Commission may file verified statement registration forms in lieu of full disclosure reports.

This rule is intended to implement Iowa Code section 56.6.

**351—4.88(56,68B) Corporate involvement with political committee funds.**

**4.88(1) Corporate payroll deductions.** For purposes of interpretation of Iowa Code section 56.15, the administrative functions performed by a corporation (profit or nonprofit corporation including, but not limited to, a bank, savings and loan institution, credit union or insurance company) to make payroll deductions for an employee organization's political action committee and to transmit the deductions in lump sum to the treasurer of the political action committee shall not be a prohibited corporate activity so long as the corporate entity is serving only as a conduit for the contributions.

**4.88(2) Joint solicitations and electronic transfer deposits.** Corporate sponsors of political committees which receive membership dues are permitted to solicit and receive contributions to their political action committees (PACs) subject to the following requirements:

a. The corporate sponsor shall initially submit a copy of its joint solicitation form for prior approval of the board. The joint solicitation form shall include a prominent statement that financial participation in the political action committee (PAC) is voluntary and not a requirement of membership with the sponsor. The form further shall state that a check containing both membership dues and PAC contributions cannot be written on a corporate account.

b. The corporate sponsor shall resubmit its joint solicitation form each year with its PAC January disclosure report. If changes in the form have been made (other than dates), the form shall not be used until approved.

c. Checks which include both dues and PAC contributions may be deposited in the respective banking accounts by electronic transfer deposit so long as the sponsor maintains no control over the PAC portion of the funds and records of the individual checks received are retained by the sponsor or PAC for a period of three years. These records shall be available to the board upon request.

**4.88(3) Allowable costs of administration.** For the purposes of interpreting Iowa Code section 56.15, subsection 3, which permits an entity otherwise forbidden from contributing to a candidate or a candidate's committee to "financ[e] the administration of a committee sponsored by that entity," the following are considered to be allowable costs of administration:

a. Full or partial compensation for political committee staff, which may include both wages and benefits.

b. Expenses of transportation and travel incurred by political committee staff; however, this does not include expenses of transportation or travel if provided by a political committee or a staff member to a candidate, nor does this include expenses of meals or events held on behalf of a candidate.

c. Printing and office supplies related to routine office administration; however, this does not include printing and supply costs directly associated with the making of an independent expenditure on behalf of a candidate, such as the production of a supporting or opposing campaign brochure or guide, nor does this include printing and supply costs directly associated with the solicitation of contributions for the committee from persons other than the stockholders, administrative officers, and members of the entity.

d. Postage and stationery, including that necessary for mailing contributions to specific candidates, but excluding postage and stationery necessary for distributing political material supporting or opposing a specific candidate to persons other than the committee membership.

e. Expenses of maintaining committee records and preparing financial disclosure reports, including costs associated with services provided by an accountant or other professional.

f. Promotional materials, such as stickers, pens, and coffee cups, so long as the items promote the political committee itself, and not a specific candidate.

Items which are excluded by this subrule from being an allowable cost of administration may still be provided by the committee, so long as those costs are paid for from contributions or other sources of funds other than the parent entity.


This rule is intended to implement Iowa Code section 56.15.

351—4.89 to 4.99 Reserved.

DIVISION V  
INDEPENDENT EXPENDITURES AND IN-KIND CONTRIBUTIONS

**351—4.100(56,68B) Express advocacy; in-kind contributions; independent expenditures—definitions.** For the purposes of Iowa Code chapter 56 and this division, the following definitions apply.

**4.100(1) Express advocacy.** “Express advocacy” means communication that either:

a. Uses phrases such as “vote for the Governor,” “re-elect your State Senator,” “support the Democratic nominee,” “cast your ballot for the Republican challenger for Iowa House seat 101,” “Smith for County Auditor,” “Jane Jones in ’98,” “vote Pro-Life” or “vote Pro-Choice” accompanied by a listing of clearly identified candidates described as Pro-Life or Pro-Choice, “vote ‘yes’ for the cable franchise,” “vote for the kids,” “support the gambling referendum,” “vote against Old Hickory,” “vote ‘no’ on the local option tax,” “defeat” accompanied by a picture of one or more candidate(s), “defeat the referendum,” “reject the incumbent,” “reject gambling,” or communications of campaign slogan(s) or individual word(s) or symbol(s), which in context can have no other reasonable meaning than to urge the election or defeat of one or more clearly identified candidate(s) or a ballot issue, such as posters, bumper stickers, or advertisements, which say “Branstad’s the One,” “Campbell ’94,” “Fitzgerald/Zimmerman,” “Ray!,” “ New City Library,” “Float the Boat,” or “”; or

b. When taken as a whole and with limited reference to external events such as the proximity to the election, could only be interpreted by a reasonable person as containing advocacy of the election or defeat of one or more clearly identified candidate(s) or a ballot issue because:

(1) The electoral portion of the communication is unmistakable, unambiguous, and suggestive of only one meaning; and

(2) Reasonable minds could not differ as to whether it encourages action to elect or defeat one or more clearly identified candidate(s) or a ballot issue or encourages some other kind of action.



4.113(2) *Settlement of contested debts.* If there is a dispute or contest between the committee and a creditor which is a corporation, in order to discharge or settle a committee debt for less than the original amount of the indebtedness, the committee and the creditor shall submit a written statement to the board describing the debt and the controversy. The corporate creditor shall also describe the steps taken to settle or collect the debt in question, as well as describing the steps taken to settle or collect other debts owed to the creditor by other persons in the creditor's ordinary course of business. The board will review these matters on a case-by-case basis in order to determine whether to allow the committee to report the debt as discharged. If there is a dispute or contest between the committee and a creditor who is not a corporation, the debt may be discharged or settled for less than the original amount of the debt if the committee provides with its disclosure report a written and signed agreement between the two parties describing the debt and the controversy and the resolution or settlement to which the parties have agreed. However, if for a committee debt owed to any creditor, whether a corporation or not, a copy of a final court order which establishes as a finding of fact or conclusion of law that the committee has no further liability on the obligation to the creditor shall be dispositive of the issue for purposes of whether the debt can be reported as discharged.

4.113(3) *Unavailable creditor.* If the committee cannot locate a person to whom it owes a debt, the committee shall provide the board with a written statement describing the steps it has taken to locate the creditor and shall request direction from the board as to what additional steps, if any, should be taken. If the debt is owed a corporation, the additional steps may include payment to a charitable entity or the general fund of the state of Iowa as provided in rule 4.111(56,68B).

This rule is intended to implement Iowa Code sections 56.6 and 56.15.

351—4.114 to 4.119 Reserved.

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\*Effective date of rule 4.16 delayed by the Administrative Rules Review Committee 45 days after convening of the next General Assembly pursuant to §17A.8(9).

∧Two or more ARCs

CHAPTER 5  
ETHICS AND CAMPAIGN DISCLOSURE BOARD

[Prior to 9/9/87, Campaign Finance Disclosure[190] Ch 5]  
[Prior to 3/30/94, Campaign Finance Disclosure Commission[121] Ch 5]

**351—5.1(56,68B) General agency description.**

**5.1(1)** The ethics and campaign disclosure board consists of six members appointed by the governor and confirmed by the senate. At the first meeting in each calendar year the members elect a chair and a vice chair, each to serve a one-year term. Meetings of the board are held, usually in alternate months, at the call of the chair at the time, place and date set by the chair. Meetings may occasionally be conducted by electronic means. When possible, meetings are announced at least one week in advance; however, when one week's notice is not possible, meetings shall be announced at least 24 hours prior to the commencement of the meeting, in conformance with Iowa Code section 21.4. Notice of meetings shall be given by public notice to the media and also posted in the lobby of the board's offices and in the office of the Governor, Statehouse, Des Moines, Iowa. The notice contains the tentative agenda of the meeting. Four board members constitute a quorum for conducting business of the board. It takes an affirmative vote of four board members for a motion to pass. Any interested party may attend and observe board meetings except for the portion that may be closed in accordance with Iowa Code section 21.5. Observers may use cameras or recording devices during the course of a meeting so long as the use of the devices does not materially hinder the proceedings. The meetings shall be generally conducted according to rules of parliamentary procedure. If possible, open session proceedings shall be electronically recorded by the board, and closed session proceedings shall be electronically recorded by the board. Minutes of meetings are available for viewing at the board offices. Copies may be obtained pursuant to the applicable copy fee schedule.

**5.1(2)** Duties of the board include the receipt, examination, and the preservation of documents required to be filed at the state level, the receipt and processing of complaints alleging violations of Iowa Code chapters 56 (campaign finance) and 68B (ethics), the holding of administrative hearings, the development and dissemination of information and educational materials related to the law. The board jointly administers the income tax checkoff with the Iowa department of management and the director of the Iowa department of revenue and finance. The board employs an executive secretary/director and other staff as it deems necessary to carry out the provisions of the law and the policies of the board. The executive secretary/director is responsible to the board and is responsible for administrative matters and general supervision of board staff.

This rule is intended to implement Iowa Code sections 68B.32 and 68B.32A.

**351—5.2(68B) Requirements for requesting board opinions.**

**5.2(1)** *Persons who may make requests.* Board opinions may be requested by any of the following:

- a. A local official as defined in Iowa Code section 68B.2(15).
- b. A local employee as defined in Iowa Code section 68B.2(14).
- c. An official as defined in Iowa Code section 68B.2(17).
- d. A state employee as defined in Iowa Code section 68B.2(25).
- e. A candidate as defined in Iowa Code section 56.2(3).
- f. A chairperson or treasurer of a candidate's committee as defined in Iowa Code section 56.2(4).
- g. Lobbyists and lobbyists' clients before the executive branch of state government.
- h. Another person subject to the board's jurisdiction under Iowa Code chapter 56 or 68B.
- i. An authorized agent of one of the above, but the agent shall disclose the identity of the agent's principal.

**5.2(2) Subject matter of requests.** The opinion request shall describe the specific transaction or activity that the requesting person plans to undertake or is presently undertaking. Requests presenting a general question of interpretation, or posing a hypothetical situation, or regarding the activities of third parties, do not qualify as opinion requests. The board may issue opinions pertaining only to Iowa Code chapter 56 or 68B, or rules adopted thereunder.

**5.2(3) Form of requests.** An opinion request shall be in writing and shall contain a citation that the request is being made for an opinion pursuant to Iowa Code subsection 68B.32A(11). An opinion request shall provide sufficient information to determine standing and subject matter jurisdiction.

This rule is intended to implement Iowa Code section 68B.32A.

**351—5.3(68B) Processing of opinion requests; formal and informal board opinions; routine administrative advice.**

**5.3(1)** Requests for board opinions shall be sent to the Iowa Ethics and Campaign Disclosure Board, 514 East Locust, Suite 104, Des Moines, Iowa 50309.

**5.3(2)** An opinion request which qualifies under these rules shall be reviewed by board staff, who shall determine whether to recommend to the board that the question posed presents such a fundamental issue that formal board review and resolution is necessary. If formal board review is conducted and a conclusion is determined by four members of the board, the board will issue a written formal opinion containing advice which will, if followed, constitute a defense to a complaint filed with the board. A person who receives a formal board opinion may, within 30 days after the issuance of the opinion, request modification or reconsideration of the opinion, which shall be deemed denied unless the board acts upon the request within 30 days of the receipt of the request.

**5.3(3)** If upon staff review it is determined that opinion request qualifies under these rules but that the question posed is routine in nature, board staff may respond with a written informal board opinion. Formal and informal board opinions shall be maintained for public view in the offices of the board.

**5.3(4)** Nothing in this rule precludes board staff from providing oral or written routine administrative advice when presented with oral or written inquiries from any person.

**5.3(5)** Nothing in this rule precludes a person who has received an informal board opinion or routine administrative advice from petitioning for a declaratory order regarding a question which qualifies under 351—Chapter 9. The board will refuse to issue a declaratory order to a person who has previously received a formal board opinion on the same question, unless the requester demonstrates a significant change in circumstances from those underlying the formal board opinion.

This rule is intended to implement Iowa Code section 68B.32A.

**351—5.4(56,22) Procedures for filing information.** Rescinded IAB 3/30/94, effective 5/4/94.

**351—5.5(56) Declaratory rulings.** Rescinded IAB 3/30/94, effective 5/4/94. See 351—Chapter 9.

**351—5.6** Reserved.

**351—5.7(56) Subpoena power during investigations.** Rescinded IAB 3/30/94, effective 5/4/94.

**351—5.8(56) Board's agenda.** A person who wishes to be placed upon the board's agenda for its next meeting should file a verbal or written request with the board office at least 48 hours prior to the meeting.

**351—5.9(56) Treasurer receives forms.** The board and county commissioner of elections shall provide report forms as mandated by Iowa Code section 56.30 to the treasurer of record of each active committee on or about April 25 of each year. The "treasurer of record" is the person designated on the statement of organization most recently filed with the board or county commissioner of elections.

This rule is intended to implement Iowa Code section 56.30.

**351—5.10(22,56,68B) Availability of reports and information—copies provided; prohibitions.**

**5.10(1) Copying costs and fees.** As provided by 351—subrule 10.3(7), a price schedule for copying and mailing costs and fees shall be posted in the board office. The price schedule shall be reviewed by the board at least annually.

**5.10(2) Mailing of copies.** Upon receipt of payment of copying costs and mailing costs, the board shall mail requested copies of reports to any person.

**5.10(3) Prohibited use.** Information regarding individuals that is copied or otherwise obtained from reports and statements required under Iowa Code chapter 56 or chapter 68B shall not be used by any person other than statutory political committees for the purpose of soliciting contributions or for any commercial purpose. For the purpose of this rule, “soliciting contributions” includes soliciting any type of contribution or donation of money or something of monetary value, such as political or charitable contributions. The use of information which is copied or otherwise obtained from the reports and statements in newspapers, magazines, books or other similar communications is permissible as long as the principal purpose of such communications is not to communicate any individual information listed on such reports for the purpose of soliciting contributions or for other commercial purpose.

**5.10(4) Information in electronic format.** Copies of information from reports and statements required under Iowa Code chapter 56 or chapter 68B which are maintained by the board in an electronic database, and copies of statistical reports based upon the reports and statements which the board routinely compiles by computer, shall be provided upon payment of costs and fees. Unless there is a technical inability to transfer the information to disk, the requester may specify whether the information is provided in a paper or disk format. However, any information printed or electronically transferred from an electronic database or computer shall include only the name, city and state, and shall not include the street or mailing address, including the ZIP code, of any individual.

**5.10(5) Protection.** A committee or other person required to file a report or statement under Iowa Code chapter 56 or chapter 68B must use the actual names of all individuals required to be disclosed on those reports and statements. However, a committee or other person filing a report or statement may choose to report the names of up to ten individuals on each report in such a manner so as to facilitate detection of an illegal use of the information, for example, by using an individual’s legal but not commonly known name, or by using a first initial and middle name with the last name. The committee or other person filing the report shall maintain a list of the name modifications used on the report, which shall be provided to the board upon request.

This rule is intended to implement Iowa Code section 68B.32A.

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c. *Special election reports.* The committees of general assembly candidates to fill vacancies in special elections shall be assessed a \$200 civil penalty for filing the special election report one or more days delinquent.

The committees of statewide candidates to fill vacancies in special elections shall be assessed a \$400 civil penalty for filing the special election report one or more days delinquent.

**6.2(4) *Extreme delinquencies.*** Committees which owe reports which are more than 45 days delinquent or which have been delinquent three or more times shall be referred to as extreme delinquencies and shall be subject to review of the board, and the committee may be considered for a more serious sanction or penalty. The committee may also be considered for a more serious sanction or penalty if there is evidence that any delinquency was intentional.

**6.2(5) *Late-filed verified statements of registration.*** The board shall routinely assess and collect monetary penalties against committees which are organized in a jurisdiction other than Iowa and which choose to file a verified statement of registration (VSR) as provided in Iowa Code section 56.5 and rule 351—4.48(56,68B), but are delinquent in filing the VSR. A VSR is considered delinquent if it is not received on or before the tenth day after the date of the contribution, or mailed bearing a United States Postal Service postmark dated on or before the tenth day after the contribution. A flat late penalty of \$25 shall be assessed for late-filed VSRs, except that if it is a repeat delinquency by the same committee in a 12-month period, the flat late penalty shall be \$50. However, if the VSR is not filed within ten days after notice of the delinquency is sent to the committee by the board, the amount of the late-filing penalty shall increase to \$100 for a first-time delinquency, or to \$200 for a repeat delinquency by the same committee within a 12-month period. A VSR which is not filed within 45 days after the notice is sent by the board shall be referred to as an extreme delinquency and shall be subject to the provisions of subrule 6.2(4). In addition, a committee which has received a contribution from a committee which has failed to file a VSR may be required to return the contribution.

For purposes of this subrule, “date of the contribution” means the day, month and year the contribution check is dated. If the board deems it necessary, a copy of any check may be required to be filed with the board. When a copy of a check is required to be filed with the board, said copy shall be filed within ten days of notice by the board.

**6.2(6) *Late-filed notices of independent expenditure by political committees for candidate(s)—routine penalties.*** In routine resolution of apparent violations, the board shall administratively assess and collect monetary penalties against political committees which make an independent expenditure on behalf of one or more candidates with a prorated value of \$50 or more per candidate, but are delinquent in filing the notice of independent expenditure as provided in Iowa Code section 56.13. A notice is considered delinquent if it is not received in the board office on or before the first day after the action is taken, or mailed bearing a United States Postal Service postmark dated on or before the first day after the action is taken, with extensions as necessary for holidays and Sundays. A flat late penalty of \$25 shall be assessed for each late-filed notice arising from the first expenditure for which the committee is delinquent in filing notices in a 12-month period. A flat late penalty shall be \$50 for each late-filed notice arising from additional expenditures by the same committee in the succeeding 12-month period. However, if the independent expenditure notice is not filed within ten days after notice of the delinquency is sent to the committee by the board, the amount of the late-filing penalty shall increase to \$100 per notice for a first-time delinquency, or to \$200 per notice for a repeat delinquency by the same committee within the 12-month period. An independent expenditure notice which is not filed within 45 days after the delinquency notice is sent by the board shall be referred to as an extreme delinquency and shall be subject to the provisions of subrule 6.2(4).

**6.2(7) Requests for waiver of penalties.** Penalties will be automatically assessed in resolution of violations for late filings to all delinquent committees. If a committee feels there are mitigating circumstances which prevented its timely filing, it may make written request to the board for waiver of the penalty. Waivers may be granted only under exceptional or very unusual circumstances. The board will review the request and issue either a waiver or denial of the request. If a waiver is granted, the board will determine how much of the penalty may be waived based on the circumstances. If a denial is issued, the committee shall promptly pay the incurred penalty.

This rule is intended to implement Iowa Code sections 56.5, 56.6, 68B.32B, 68B.32C, and 68B.32D.

**351—6.3(56) Penalties assessed.** Rescinded IAB 10/22/97, effective 1/3/98.

**351—6.4(56) Payment of penalty.** The remittance shall be made payable and forwarded to: Iowa Ethics and Campaign Disclosure Board, 514 E. Locust Street, Suite 104, Des Moines, Iowa 50309.

After recording, the remittance shall be deposited in the general fund of the state of Iowa and, if the committee has provided a self-addressed, stamped envelope, a receipt will be issued by the board to the committee.

Payment may be made at the discretion of the delinquent committee, from the funds of the committee or from personal funds of an officer of the committee, or, in the case of a candidate, from the candidate's personal funds. If payment is made from a source other than committee funds, the fine payment shall be listed as an in-kind contribution to the committee. Fine payments from corporate entities as described in Iowa Code section 56.15 are prohibited, except in the case of ballot issue committees.

The penalties in this chapter shall be in addition to any civil penalties imposed pursuant to Iowa Code section 68B.32D(1) "h" after a contested case proceeding held under Iowa Code section 68B.32C.

This rule is intended to implement Iowa Code section 56.6.

**351—6.5(56) Nonpayment of penalty.** Rescinded IAB 10/22/97, effective 1/3/98.

**351—6.6(56) Waiver of penalty.** Rescinded IAB 10/22/97, effective 1/3/98.

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## CHAPTER 7 CONTESTED CASE PROCEDURES

**351—7.1(17A,68B) Scope and applicability.** This chapter applies to contested case proceedings conducted by the Iowa ethics and campaign disclosure board. The board has modified for its use the uniform rules for contested cases which are printed in the first Volume of the Iowa Administrative Code.

**351—7.2(17A,68B) Definitions.** Except where otherwise specifically defined by law:

*"Contested case"* means a proceeding defined by Iowa Code section 17A.2(5) and includes any matter defined as a no factual dispute contested case under 1998 Iowa Acts, chapter 1202, section 14.

*"Issuance"* means the date of mailing of a decision or order or date of delivery if service is by other means unless another date is specified in the order.

*"Party"* means each person or agency named or admitted as a party or properly seeking and entitled as of right to be admitted as a party.

*"Presiding officer"* means the board chairperson, the board member designated as chair of a hearing panel or the administrative law judge assigned by the division of administrative hearings; except that, with regard to substantive or dispositive motions, "presiding officer" means all participating members of the board.

*"Proposed decision"* means the presiding officer's recommended findings of fact, conclusions of law, decision, and order in a contested case in which the Iowa ethics and campaign disclosure board did not preside.

**351—7.3(17A,68B) Time requirements.**

**7.3(1)** Time shall be computed as provided in Iowa Code subsection 4.1(34).

**7.3(2)** For good cause, the presiding officer may extend or shorten the time to take any action, except as precluded by statute or by rule. Except for good cause stated in the record, before extending or shortening the time to take any action, the presiding officer shall afford all parties an opportunity to be heard or to file written arguments.

**351—7.4(17A,68B) Requests for contested case proceeding.** Any person claiming an entitlement to a contested case proceeding shall file a written request for such a proceeding within the time specified by the particular rules or statutes governing the subject matter or, in the absence of such law, the time specified in the board action in question.

Upon petition by any party in a matter that would be a contested case if there was a dispute over the existence of material facts, all of the provisions of this chapter, except those relating to presentation of evidence, shall be applicable even though there is no factual dispute in the particular case.

The request for a contested case proceeding should state the name and address of the requester, identify the specific board action which is disputed, and where the requester is represented by a lawyer identify the provisions of law or precedent requiring or authorizing the holding of a contested case proceeding in the particular circumstances involved, and include a short and plain statement of the issues of material fact in dispute.

**351—7.5(17A,68B) Notice of hearing.**

**7.5(1) Delivery.** Delivery of the notice of hearing constitutes the commencement of the contested case proceeding. Delivery may be executed by:

- a. Personal service as provided in the Iowa Rules of Civil Procedure; or
- b. Certified mail, return receipt requested; or
- c. Publication, as provided in the Iowa Rules of Civil Procedure.

**7.5(2) Contents.** The notice of hearing shall contain the following information:

- a. A statement of the time, place, and nature of the hearing;
- b. A statement of the legal authority and jurisdiction under which the hearing is to be held;
- c. A reference to the particular sections of the statutes and rules involved;
- d. A short and plain statement of the matters asserted. If the board or other party is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter, upon application, a more definite and detailed statement shall be furnished;
- e. Identification of all parties including the name, address and telephone number of the person who will act as advocate for the board or the state and of parties' counsel where known;
- f. Reference to the procedural rules governing conduct of the contested case proceeding;
- g. Reference to the procedural rules governing informal settlement;
- h. Identification of the presiding officer; and
- i. Notification of the time period in which a party may request, pursuant to 1998 Iowa Acts, chapter 1202, section 15, and subrule 7.8(3), that the presiding officer be an administrative law judge.

**7.5(3) Time.** The notice of hearing shall be served upon all parties at least 45 days before the scheduled hearing date.

**351—7.6(17A,68B) Waiver of procedures.** Unless otherwise precluded by law, the parties in a contested case proceeding may waive any provision of this chapter. However, the agency in its discretion may refuse to give effect to such a waiver when it deems the waiver to be inconsistent with the public interest.

**351—7.7(17A,68B) Telephone proceedings.** The presiding officer may resolve preliminary procedural motions by telephone conference in which all parties have an opportunity to participate. Other telephone proceedings may be held with the consent of all parties. The presiding officer will determine the location of the parties and witnesses for telephone hearings. The convenience of the witnesses or parties, as well as the nature of the case, will be considered when location is chosen.

**351—7.8(17A,68B) Disqualification; request for administrative law judge.**

**7.8(1)** A presiding officer or other person shall withdraw from participation in the making of any proposed or final decision in a contested case if that person:

- a. Has a personal bias or prejudice concerning a party or a representative of a party;
- b. Has personally prosecuted or advocated, in connection with that case, the specific controversy underlying that case, or another pending factually related contested case, or pending factually related controversy that may culminate in a contested case involving the same parties;
- c. Is subject to the authority, direction or discretion of any person who has personally prosecuted or advocated in connection with that contested case, the specific controversy underlying that contested case, or a pending factually related contested case or controversy involving the same parties;

d. Has personally investigated the pending contested case. The term "personally investigated" means taking affirmative steps to interview witnesses directly or to obtain documents or other information directly. It does not include either direction and supervision of assigned investigators or unsolicited receipt of oral information or documents which are relayed to assigned investigators, review of another person's investigative work product in the course of determining whether there is probable cause to initiate a proceeding, or exposure to factual information while performing other board functions, including fact gathering for purposes other than investigation of the matter which culminates in a contested case. Factual information relevant to the merits of a contested case received by a person who later serves as presiding officer in that case shall be disclosed if required by Iowa Code section 17A.17 as amended by 1998 Iowa Acts, chapter 1202, section 19, and rules in this chapter;

e. Has acted as counsel to any person who is a private party to that proceeding within the past two years;

f. Has a personal financial interest in the outcome of the case or any other significant personal interest that could be substantially affected by the outcome of the case;

g. Has a spouse or relative within the third degree of relationship that: (1) is a party to the case, or an officer, director or trustee of a party; (2) is a lawyer in the case; (3) is known to have an interest that could be substantially affected by the outcome of the case; or (4) is likely to be a material witness in the case; or

h. Has any other legally sufficient cause to withdraw from participation in the decision making in that case.

(In a situation where a presiding officer or other person knows of information which might reasonably be deemed to be a basis for disqualification and decides voluntary withdrawal is unnecessary, that person shall submit the relevant information for the record by affidavit and shall provide for the record a statement of the reasons for the determination that withdrawal is inappropriate.)

7.8(2) If a party asserts disqualification on any appropriate ground, including those listed in subrule 7.8(1), the party shall file a motion supported by an affidavit pursuant to Iowa Code section 17A.17(4). The motion must be filed as soon as practicable after the reason alleged in the motion becomes known to the party.

If, during the course of the hearing, a party first becomes aware of evidence of bias or other grounds for disqualification, the party may move for disqualification but must establish the grounds by the introduction of evidence into the record.

If the presiding officer determines that disqualification is appropriate, the presiding officer or other person shall withdraw. If the presiding officer determines that withdrawal is not required, the presiding officer shall enter an order to that effect. A party asserting disqualification may seek an interlocutory appeal under rule 7.24(17A,68B) and seek a stay under rule 7.28(17A,68B).

7.8(3) A party may, within ten days of delivery of a notice of hearing under subrule 7.5(1), request that the presiding officer be an administrative law judge assigned by the division of administrative hearings. This request shall be sent to the board's executive director who shall then notify the board. Except as otherwise provided by statute, the board shall grant such a request unless the board finds, and states the reasons for such finding, that any of the following conditions exist:

a. There is a compelling need to expedite issuance of a final decision in order to protect the public health, safety, or welfare;

b. A qualified administrative law judge is unavailable to hear the case within a reasonable time;

c. The case involves significant policy issues of first impression that are inextricably intertwined with the factual issues presented;

d. The demeanor of the witnesses is likely to be dispositive in resolving the disputed factual issues;

e. Funds are unavailable to pay the costs of an administrative law judge and an intra-agency appeal;

f. The request was not timely filed;

g. The request is not consistent with a specified statute.

7.8(4) The board shall issue a written ruling specifying the grounds for the decision within ten days after a request for an administrative law judge is filed. If the ruling is contingent upon the availability of an administrative law judge, the parties shall be notified at least ten days prior to hearing if an administrative law judge will not be available.

7.8(5) All rulings by an administrative law judge acting as presiding officer are subject to appeal to the board pursuant to rules 7.24(17A,68B) and 7.25(17A,68B). A party must seek intra-agency appeal in order to exhaust administrative remedies.

7.8(6) Unless otherwise provided by law, the board, when reviewing a proposed decision upon intra-agency appeal, shall have the powers of, and shall comply with, the provisions of this chapter which apply to presiding officers.

### 351—7.9(17A,68B) Consolidation—severance.

7.9(1) *Consolidation.* The presiding officer may consolidate any or all matters at issue in two or more contested case proceedings where: (a) the matters at issue involve common parties or common questions of fact or law; (b) consolidation would expedite and simplify consideration of the issues involved; and (c) consolidation would not adversely affect the rights of any of the parties to those proceedings.

7.9(2) *Severance.* The presiding officer may, for good cause shown, order any contested case proceedings or portions thereof severed.

### 351—7.10(17A,68B) Pleadings.

7.10(1) Pleadings may be required by rule, by the notice of hearing, or by order of the presiding officer.

7.10(2) *Statement of charges.* The statement of charges shall set forth in ordinary and concise language the acts or omissions with which the person is charged and shall be of sufficient detail to enable the efficient preparation of the respondent's defense. The statement of charges shall specify the statute(s) and any rule(s) which are alleged to have been violated and may also include the additional information which the board deems appropriate to the proceeding. The statement of charges may be consolidated with the notice of hearing described in rule 7.5(17A,68B).

7.10(3) *Answer.* A respondent is not required to file an answer in response to a statement of charges.

7.10(4) *Amendment.* Any notice of hearing, petition, or other charging document may be amended before a responsive pleading has been filed. Amendments to pleadings after a responsive pleading has been filed and to an answer may be allowed with the consent of the other parties or in the discretion of the presiding officer who may impose terms or grant a continuance.

### 351—7.11(17A,68B) Service and filing of pleadings and other papers.

7.11(1) *When service required.* Except where otherwise provided by law, every pleading, motion, document, or other paper filed in a contested case proceeding and every paper relating to discovery in such a proceeding shall be served upon each of the parties of record to the proceeding, including the person designated as advocate or prosecutor for the state or the agency, simultaneously with their filing. Except for the original notice of hearing and an application for rehearing as provided in Iowa Code section 17A.16(2), the party filing a document is responsible for service on all parties.

**7.11(2) Service—how made.** Service upon a party represented by an attorney shall be made upon the attorney unless otherwise ordered. Service is made by delivery or by mailing a copy to the person's last known address. Service by mail is complete upon mailing, except where otherwise specifically provided by statute, rule, or order.

**7.11(3) Filing—when made.** Except where otherwise provided by law, a document is deemed filed at the time it is delivered to the office of the Iowa Ethics and Campaign Disclosure Board, 514 East Locust, Suite 104, Des Moines, Iowa 50309, delivered to an established courier service for immediate delivery to that office, or mailed by first-class mail or state interoffice mail to that office, so long as there is proof of mailing.

**7.11(4) Proof of mailing.** Proof of mailing includes either: a legible United States Postal Service postmark on the envelope, a certificate of service, a notarized affidavit, or a certification in substantially the following form:

I certify under penalty of perjury and pursuant to the laws of Iowa that, on (date of mailing), I mailed copies of (describe document) addressed to the (agency office and address) and to the names and addresses of the parties listed below by depositing the same in (a United States post office mail box with correct postage properly affixed or state interoffice mail).  
 (Date) (Signature)

### **351—7.12(17A,68B) Discovery.**

**7.12(1)** Discovery procedures applicable in civil actions are applicable in contested cases. Unless lengthened or shortened by these rules or by order of the presiding officer, time periods for compliance with discovery shall be as provided in the Iowa Rules of Civil Procedure.

**7.12(2)** Any motion relating to discovery shall allege that the moving party has previously made a good faith attempt to resolve the discovery issues involved with the opposing party. Motions in regard to discovery shall be ruled upon by the presiding officer. Opposing parties shall be afforded the opportunity to respond within ten days of the filing of the motion unless the time is shortened as provided in subrule 7.12(1). The presiding officer may rule on the basis of the written motion and any response, or may order argument on the motion.

**7.12(3)** Evidence obtained in discovery may be used in the contested case proceeding if that evidence would otherwise be admissible in that proceeding.

### **351—7.13(17A,68B) Subpoenas.**

#### **7.13(1) Issuance.**

**a.** An agency subpoena shall be issued to a party on request. Such a request must be in writing. In the absence of good cause for permitting later action, a request for a subpoena must be received at least three days before the scheduled hearing. The request shall include the name, address, and telephone number of the requesting party.

**b.** Except to the extent otherwise provided by law, parties are responsible for service of their own subpoenas and payment of witness fees and mileage expenses.

**7.13(2) Motion to quash or modify.** The presiding officer may quash or modify a subpoena for any lawful reason upon motion in accordance with the Iowa Rules of Civil Procedure. A motion to quash or modify a subpoena shall be set for argument promptly.

### **351—7.14(17A,68B) Motions.**

**7.14(1)** No technical form for motions is required. However, prehearing motions must be in writing, state the grounds for relief, and state the relief sought.

**7.14(2)** Any party may file a written response to a motion within ten days after the motion is served, unless the time period is extended or shortened by rules of the agency or the presiding officer. The presiding officer may consider a failure to respond within the required time period in ruling on a motion.

**7.14(3)** The presiding officer may schedule oral argument on any motion.

**7.14(4)** Motions pertaining to the hearing, except motions for summary judgment, must be filed and served at least ten days prior to the date of hearing unless there is good cause for permitting later action or the time for such action is lengthened or shortened by rule of the board or an order of the presiding officer.

**7.14(5)** Motions for summary judgment. Motions for summary judgment shall comply with the requirements of Iowa Rule of Civil Procedure 237 and shall be subject to disposition according to the requirements of that rule to the extent such requirements are not inconsistent with the provisions of this rule or any other provision of law governing the procedure in contested cases.

Motions for summary judgment must be filed and served at least 30 days prior to the scheduled hearing date, or other time period determined by the presiding officer. Any party resisting the motion shall file and serve a resistance within 15 days, unless otherwise ordered by the presiding officer, from the date a copy of the motion was served. The time fixed for hearing or nonoral submission shall not be less than 10 days after the filing of the motion, unless a shorter time is ordered by the presiding officer. A summary judgment order rendered on all issues in a contested case is subject to appeal and rehearing pursuant to rules 7.26(17A,68B) and 7.27(17A,68B).

### **351—7.15(17A,68B) Prehearing conference.**

**7.15(1)** Any party may request a prehearing conference. A written request for prehearing conference or an order for prehearing conference on the presiding officer's own motion shall be filed not less than seven days (or other time period designated by the agency) prior to the hearing date. A prehearing conference shall be scheduled not less than three business days (or other time period designated by the agency) prior to the hearing date.

Written notice of the prehearing conference shall be given by the presiding officer to all parties. For good cause the presiding officer may permit variances from this rule.

**7.15(2)** Each party shall bring to the prehearing conference:

*a.* A final list of the witnesses who the party anticipates will testify at hearing. Witnesses not listed may be excluded from testifying unless there was good cause for the failure to include their names; and

*b.* A final list of exhibits which the party anticipates will be introduced at hearing. Exhibits other than rebuttal exhibits that are not listed may be excluded from admission into evidence unless there was good cause for the failure to include them.

*c.* Witness or exhibit lists may be amended subsequent to the prehearing conference within the time limits established by the presiding officer at the prehearing conference. Any such amendments must be served on all parties.

**7.15(3)** In addition to the requirements of subrule 7.15(2), the parties at a prehearing conference may:

- a.* Enter into stipulations of law or fact;
- b.* Enter into stipulations on the admissibility of exhibits;
- c.* Identify matters which the parties intend to request be officially noticed;
- d.* Enter into stipulations for waiver of any provision of law; and
- e.* Consider any additional matters which will expedite the hearing.

**7.15(4)** Prehearing conferences shall be conducted by telephone unless otherwise ordered. Parties shall exchange and receive witness and exhibit lists in advance of a telephone prehearing conference.

**351—7.16(17A,68B) Continuances.** Unless otherwise provided, applications for continuances shall be made by the presiding officer.

**7.16(1)** A written application for a continuance shall:

- a. Be made at the earliest possible time and no less than seven days (or other time period designated by the agency) before the hearing except in case of unanticipated emergencies;
- b. State the specific reasons for the request; and
- c. Be signed by the requesting party or the party's representative.

An oral application for a continuance may be made if the presiding officer waives the requirement for a written motion. However, a party making such an oral application for a continuance must confirm that request by written application within five days after the oral request unless that requirement is waived by the presiding officer. No application for continuance shall be made or granted without notice to all parties except in an emergency where notice is not feasible. The agency may waive notice of such requests for a particular case or an entire class of cases.

**7.16(2)** In determining whether to grant a continuance, the presiding officer may consider:

- a. Prior continuances;
- b. The interest of all parties;
- c. The likelihood of informal settlement;
- d. The existence of an emergency;
- e. Any objection;
- f. Any applicable time requirements;
- g. The existence of a conflict in the schedules of counsel, parties, or witnesses;
- h. The timeliness of the request; and
- i. Other relevant factors.

The presiding officer may require documentation of any grounds for continuance.

**351—7.17(17A,68B) Withdrawals.** A party requesting a contested case proceeding may withdraw that request prior to the hearing only in accordance with agency rules. Unless otherwise provided, a withdrawal shall be with prejudice.

**351—7.18(17A,68B) Intervention.**

**7.18(1) Motion.** A motion for leave to intervene in a contested case proceeding shall state the grounds for the proposed intervention, the position and interest of the proposed intervenor, and the possible impact of intervention on the proceeding. A proposed answer or petition in intervention shall be attached to the motion. Any party may file a response within 14 days of service of the motion to intervene unless the time period is extended or shortened by the presiding officer.

**7.18(2) When filed.** Motion for leave to intervene shall be filed as early in the proceeding as possible to avoid adverse impact on existing parties or the conduct of the proceeding. Unless otherwise ordered, a motion for leave to intervene shall be filed before the prehearing conference, if any, or at least 20 days before the date scheduled for hearing. Any later motion must contain a statement of good cause for the failure to file in a timely manner. Unless inequitable or unjust, an intervenor shall be bound by any agreement, arrangement, or other matter previously raised in the case. Requests by untimely intervenors for continuances which would delay the proceeding will ordinarily be denied.

**7.18(3) Grounds for intervention.** The movant shall demonstrate that: (a) intervention would not unduly prolong the proceedings or otherwise prejudice the rights of existing parties; (b) the movant is likely to be aggrieved or adversely affected by a final order in the proceeding; and (c) the interests of the movant are not adequately represented by existing parties.

**7.18(4) *Effect of intervention.*** If appropriate, the presiding officer may order consolidation of the petitions and briefs of different parties whose interests are aligned with each other and limit the number of representatives allowed to participate actively in the proceedings. A person granted leave to intervene is a party to the proceeding. The order granting intervention may restrict the issues that may be raised by the intervenor or otherwise condition the intervenor's participation in the proceedings.

**351—7.19(17A,68B) Hearing procedures.**

**7.19(1)** The presiding officer presides at the hearing, and may rule on motions, require briefs, issue a proposed decision, and issue such orders and rulings as will ensure the orderly conduct of the proceedings.

**7.19(2)** All objections shall be timely made and stated on the record.

**7.19(3)** Parties have the right to participate or to be represented in all hearings or prehearing conferences related to their case. Partnerships, corporations, or associations may be represented by any member, officer, director, or duly authorized agent. Any party may be represented by an attorney or another person authorized by law.

**7.19(4)** Subject to terms and conditions prescribed by the presiding officer, parties have the right to introduce evidence on issues of material fact, cross-examine witnesses present at the hearing as necessary for a full and true disclosure of the facts, present evidence in rebuttal, and submit briefs and engage in oral argument.

**7.19(5)** The presiding officer shall maintain the decorum of the hearing and may refuse to admit or may expel anyone whose conduct is disorderly.

**7.19(6)** Witnesses may be sequestered during the hearing.

**7.19(7)** The presiding officer shall conduct the hearing in the following manner:

**a.** The presiding officer shall give an opening statement briefly describing the nature of the proceedings;

**b.** The parties shall be given an opportunity to present opening statements;

**c.** Parties shall present their cases in the sequence determined by the presiding officer;

**d.** Each witness shall be sworn or affirmed by the presiding officer or the court reporter, and be subject to examination and cross-examination. The presiding officer may limit questioning in a manner consistent with law;

**e.** When all parties and witnesses have been heard, parties may be given the opportunity to present final arguments.

**7.19(8)** Within seven days after the closing of the hearing, either party may file a draft decision for the consideration of the board, hearing panel, or administrative law judge, who may adopt all or part of any draft decision. Copies of a draft decision shall also be provided to the opposing party.

**351—7.20(17A,68B) Evidence.**

**7.20(1)** The presiding officer shall rule on admissibility of evidence and may, where appropriate, take official notice of facts in accordance with all applicable requirements of law.

**7.20(2)** Stipulation of facts is encouraged. The presiding officer may make a decision based on stipulated facts.

**7.20(3)** Evidence in the proceeding shall be confined to the issues as to which the parties received notice prior to the hearing unless the parties waive their right to such notice or the presiding officer determines that good cause justifies expansion of the issues. If the presiding officer decides to admit evidence on issues outside the scope of the notice over the objection of a party who did not have actual notice of those issues, that party, upon timely request, shall receive a continuance sufficient to amend pleadings and to prepare on the additional issue.



7.20(4) The party seeking admission of an exhibit must provide opposing parties with an opportunity to examine the exhibit prior to the ruling on its admissibility. Copies of documents should normally be provided to opposing parties.

All exhibits admitted into evidence shall be appropriately marked and be made part of the record.

7.20(5) Any party may object to specific evidence or may request limits on the scope of any examination or cross-examination. Such an objection shall be accompanied by a brief statement of the grounds upon which it is based. The objection, the ruling on the objection, and the reasons for the ruling shall be noted in the record. The presiding officer may rule on the objection at the time it is made or may reserve a ruling until the written decision.

7.20(6) Whenever evidence is ruled inadmissible, the party offering that evidence may submit an offer of proof on the record. The party making the offer of proof for excluded oral testimony shall briefly summarize the testimony or, with permission of the presiding officer, present the testimony. If the excluded evidence consists of a document or exhibit, it shall be marked as part of an offer of proof and inserted in the record.

### 351—7.21(17A,68B) Default.

7.21(1) If a party fails to appear or participate in a contested case proceeding after proper service of notice, the presiding officer may, if no adjournment is granted, enter a default decision or proceed with the hearing and render a decision in the absence of the party.

7.21(2) Where appropriate and not contrary to law, any party may move for default against a party who has requested the contested case proceeding and has failed to file a required pleading or has failed to appear after proper service.

7.21(3) Default decisions or decisions rendered on the merits after a party has failed to appear or participate in a contested case proceeding become final agency action unless, within 14 days after the date of notification or mailing of the decision, a motion to vacate is filed and served on all parties or an appeal of a decision on the merits is timely initiated within the time provided by rule 7.26(17A,68B). A motion to vacate must state all facts relied upon by the moving party which establish that good cause existed for that party's failure to appear or participate at the contested case proceeding. Each fact so stated must be substantiated by at least one sworn affidavit of a person with personal knowledge of each such fact, which affidavit(s) must be attached to the motion.

7.21(4) The time for further appeal of a decision for which a timely motion to vacate has been filed is stayed pending a decision on the motion to vacate.

7.21(5) Properly substantiated and timely filed motions to vacate shall be granted only for good cause shown. The burden of proof as to good cause is on the moving party. Adverse parties shall have ten days to respond to a motion to vacate. Adverse parties shall be allowed to conduct discovery as to the issue of good cause and to present evidence on the issue prior to a decision on the motion, if a request to do so is included in that party's response.

7.21(6) "Good cause" for purposes of this rule shall have the same meaning as "good cause" for setting aside a default judgment under Iowa Rule of Civil Procedure 236.

7.21(7) A decision denying a motion to vacate is subject to further appeal within the time limit allowed for further appeal of a decision on the merits in the contested case proceeding. A decision granting a motion to vacate is subject to interlocutory appeal by the adverse party pursuant to rule 7.24(17A,68B).

7.21(8) If a motion to vacate is granted and no timely interlocutory appeal has been taken, the presiding officer shall issue another notice of hearing and the contested case shall proceed accordingly.

7.21(9) A default decision may award any relief consistent with the request for relief made in the petition and embraced in its issues but, unless the defaulting party has appeared, it cannot exceed the relief demanded.

7.21(10) A default decision may provide either that the default decision is to be stayed pending a timely motion to vacate or that the default decision is to take effect immediately, subject to a request for stay.

**351—7.22(17A,68B) Ex parte communication.**

**7.22(1)** Prohibited communications. Following issuance of the notice of hearing, there shall be no communication, directly or indirectly, between any party or representative of any party in connection with any issue of fact or law in a case and any person assigned to render a proposed or final decision or make findings of fact or conclusions of law except upon notice and opportunity for all parties to participate. This does not prohibit persons jointly assigned such tasks from communicating with each other. Nothing in this provision is intended to preclude persons assigned to render a proposed or final decision in a contested case or to make findings of fact or conclusions of law in such a case from seeking the advice or help of persons other than those with personal interest in, or those engaged in personally investigating as defined in subrule 7.8(1), prosecuting, or advocating in, either the case under consideration or a pending factually related case involving the same parties as long as that advice or help does not violate Iowa Code subsection 17A.12(8).

**7.22(2)** Disclosure of prohibited communications. Any person who receives a communication prohibited by subrule 7.22(1) shall disclose that communication to all parties. A copy of any prohibited written communication or a summary of any prohibited oral communication shall be submitted for inclusion in the record. Any party desiring to rebut the prohibited ex parte communication must be allowed to do so, upon requesting the opportunity for rebuttal within ten days after notice of the communication. If the effect of an ex parte communication is so prejudicial that it cannot be cured by disclosure and rebuttal, a presiding officer who receives the communication shall be disqualified and the portions of the record pertaining to the communication shall be sealed by protective order.

**7.22(3)** The board and any party may report any violation of this rule to appropriate authorities for any disciplinary proceedings provided by law. The presiding officer or the board may impose appropriate sanctions for violations of this rule. Possible sanctions include a decision against the offending party; censure, suspension, or revocation of the privilege to practice before the board; and censure, suspension, dismissal, or other disciplinary action against board personnel.

**7.22(4)** A party to a contested case proceeding may file a timely and sufficient affidavit alleging a violation of any provision of this rule. The board shall determine the matter as part of the record in the case. When the board makes such a determination with respect to a board member or board employee, that determination shall be subject to de novo judicial review in any subsequent review proceeding of the case.

**351—7.23(17A,68B) Recording costs.** Upon request, the board shall provide a copy of the whole or any portion of the record at cost. The cost of preparing a copy of the record or of transcribing the hearing record shall be paid by the requesting party.

Parties who request that a hearing be recorded by certified shorthand reporters rather than by electronic means shall bear the cost of that recordation, unless otherwise provided by law.

**351—7.24(17A,68B) Interlocutory appeals.** Upon written request of a party or on its own motion, the board may review an interlocutory order (of the presiding officer). In determining whether to do so, the board shall weigh the extent to which its granting the interlocutory appeal would expedite final resolution of the case and the extent to which review of that interlocutory order by the agency at the time it reviews the proposed decision of the presiding officer would provide an adequate remedy. Any request for interlocutory review must be filed within 14 days (or other time period designated by the agency) of issuance of the challenged order, but no later than the time for compliance with the order or the date of hearing, whichever is first.

**351—7.25(17A,68B) Final decision.**

7.25(1) When a quorum of the board presides over the reception of evidence at the hearing, its decision is a final decision.

7.25(2) When the board does not preside at the reception of evidence, the hearing panel shall issue a proposed decision. The board will automatically conduct a review of all proposed decisions which are issued.

**351—7.26(17A,68B) Board review.**

7.26(1) Within 14 days after issuance of a proposed decision, any party may serve a statement of exceptions taken with the proposed decision, if any, together with a brief and argument, if any, by delivery of the original and five copies of each document to the board's executive director, and shall also serve copies to the opposing party. This time requirement may be extended by stipulation of the parties and approval by the board chairperson or the presiding officer.

7.26(2) At the time designated for filing briefs and arguments, either party may request oral argument. The board may complete its review on the briefs or may grant an opportunity for oral argument. If a request for oral argument is granted or such is required by the board on its own motion, the board's executive director shall notify all parties of the date, time, and place. The chairperson or the chairperson's designee shall preside at the oral argument and determine the procedural order of the proceedings.

7.26(3) The record on review shall be the entire record made before the hearing panel or presiding officer.

7.26(4) A written request to present additional evidence must be filed within 14 days of issuance of the proposed decision. The board may remand a case to the presiding officer for further hearing or may itself preside at the taking of additional evidence.

7.26(5) The board's decision on review of a proposed decision is a final decision.

**351—7.27(17A,68B) Application for rehearing.**

7.27(1) *By whom filed.* Any party to a contested case proceeding may file an application for rehearing from a final order.

7.27(2) *Content of application.* The application for rehearing shall state on whose behalf it is filed, the specific grounds for rehearing, and the relief sought. In addition, the application shall state whether the applicant desires reconsideration of all or part of the agency decision on the existing record and whether, on the basis of the grounds enumerated in subrule 7.26(4), the applicant requests an opportunity to submit additional evidence.

7.27(3) *Time of filing.* The application shall be filed with the board within 20 days after issuance of the final decision.

7.27(4) *Notice to other parties.* A copy of the application shall be timely mailed by the applicant to all parties of record not joining therein. If the application does not contain a certificate of service, the board shall serve copies on all parties.

7.27(5) *Disposition.* Any application for a rehearing shall be deemed denied unless the agency grants the application within 20 days after its filing.

**351—7.28(17A,68B) Stay of agency actions.****7.28(1) When available.**

a. Any party to a contested case proceeding may petition the board for a stay of an order issued in that proceeding, pending review by the agency. The petition for a stay shall be filed with the statement of exceptions and shall state the reasons justifying a stay. The board may rule on the stay or authorize the presiding officer to do so.

b. Any party to a contested case proceeding may petition the board for a stay, pending judicial review, of all or part of that proceeding. The petition for a stay shall state the reasons justifying a stay.

**7.28(2) *When granted.*** In determining whether to grant a stay, the presiding officer or board, as appropriate, shall consider whether substantial questions exist as to the propriety of the order for which a stay is requested, whether the party will suffer substantial and irreparable injury without the stay, and whether, and the extent to which, the interests of the public and other persons will be adversely affected by such a stay.

**7.28(3) *Vacation.*** A stay may be vacated by the issuing authority upon application of the board or any other party.

This chapter is intended to implement Iowa Code sections 17A.11 to 17A.18, 68B.32A and 68B.32C.

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CHAPTER 8  
PETITIONS FOR RULE MAKING

**351—8.1(56) Petition for rule making.** Any person or agency may file a petition for rule making with the Iowa Ethics and Campaign Disclosure Board at 514 E. Locust Street, Suite 104, Des Moines, Iowa 50309. A petition is deemed filed when it is received by that office. The agency must provide the petitioner with a file-stamped copy of the petition if the petitioner provides the agency an extra copy for this purpose. The petition must be typewritten or legibly handwritten in ink and must substantially conform to the following form:

**IOWA ETHICS AND CAMPAIGN DISCLOSURE BOARD**

Petition by (Name of Petitioner)

for the (adoption, amendment, or  
repeal) of rules relating to (statesub-  
ject matter)



**PETITION FOR  
RULE MAKING**

The petition must provide the following information:

1. A statement of the specific rule-making action sought by the petitioner including the text or a summary of the contents of the proposed rule or amendment to a rule and, if it is a petition to amend or repeal a rule, a citation to the particular portion or portions of the rule proposed to be amended or repealed, together with a quotation of the relevant language.
2. A citation to any law deemed relevant to the agency's authority to take the action urged or to the desirability of that action.
3. A brief summary of petitioner's arguments in support of the action urged in the petition.
4. A brief summary of any data supporting the action urged in the petition.
5. The names and addresses of other persons, or a description of any class of persons, known by petitioner to be affected by, or interested in, the proposed action which is the subject of the petition.
6. Any request by petitioner for a meeting provided for by rule 351—9.4(56).

**8.1(1)** The petition must be dated and signed by the petitioner or the petitioner's representative. It must also include the name, mailing address, and telephone number of the petitioner and petitioner's representative (if one is involved), and a statement indicating the person to whom communications concerning the petition should be directed.

**8.1(2)** The agency may deny a petition because it does not substantially conform to the required form.

**351—8.2(56) Briefs.** The petitioner may attach a brief to the petition in support of the action urged in the petition. The agency may request a brief from the petitioner or from any other person concerning the substance of the petition.

**351—8.3(56) Inquiries.** Inquiries concerning the status of a petition for rule making may be made to Executive Director, Iowa Ethics and Campaign Disclosure Board, 514 E. Locust Street, Suite 104, Des Moines, Iowa 50309.

**351—8.4(56) Agency consideration.**

**8.4(1)** Within 30 days after the filing of a petition or within 5 days following a regular meeting of the board in which the petition has been received and discussed, whichever comes earlier, the agency must submit a copy of the petition and any accompanying brief to the administrative rules coordinator and to the administrative rules review committee. Upon request by petitioner in the petition, the agency must schedule a brief and informal meeting between the petitioner and the agency, a member of the agency, or a member of the staff of the agency, to discuss the petition. The agency may request the petitioner to submit additional information or argument concerning the petition. The agency may also solicit comments from any person on the substance of the petition. Also, comments on the substance of the petition may be submitted to the agency by any person.

**8.4(2)** Within 90 days after the filing of the petition, or within any longer period agreed to by the petitioner, the agency must, in writing, deny the petition, and notify petitioner of its action and the specific grounds for the denial, or grant the petition and notify petitioner that it has instituted rule-making proceedings on the subject of the petition. Petitioner shall be deemed notified of the denial or grant of the petition on the date when the agency mails or delivers the required notification to petitioner.

**8.4(3)** Denial of a petition because it does not substantially conform to the required form does not preclude the filing of a new petition on the same subject that seeks to eliminate the grounds for the agency's rejection of the petition.

These rules are intended to implement Iowa Code chapters 17A and 56.

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CHAPTER 9  
DECLARATORY ORDERS

[Prior to 3/30/94, Campaign Finance Disclosure Commission[121] Ch 9]

**351—9.1(56) Petition for declaratory order.** Any person or agency may file a petition with the board for a declaratory order concerning the applicability of any statute, rule, policy, decision, or order, administered by the board, at 514 E. Locust Street, Suite 104, Des Moines, Iowa 50309. A petition is deemed filed when it is received by that office. The board shall provide the petitioner with a file-stamped copy of the petition if the petitioner provides the board an extra copy for this purpose. Within 15 days after receipt of a petition for a declaratory order, the board shall give notice of the petition to all persons to whom notice is required by any provision of law and may give notice to any other persons. Persons who qualify under any applicable provision of law as an intervenor, and who file timely petitions for intervention, may intervene in proceedings for declaratory orders. The petition must be type-written or legibly handwritten in ink and must substantially conform to the following form:

**IOWA ETHICS AND CAMPAIGN DISCLOSURE BOARD**

Petition by (Name of Petitioner)

for a Declaratory Order on

(Cite provisions of law involved).



**PETITION FOR  
DECLARATORY ORDER**

The petition must provide the following information:

1. A clear and concise statement of all relevant facts on which the order is requested.
2. A citation and the relevant language of the specific statutes, rules, policies, decisions, or orders, whose applicability is questioned, and any other relevant law.
3. The questions petitioner wants answered, stated clearly and concisely.
4. If applicable and desirable to the petitioner, the answers desired by the petitioner to these questions and a summary of the reasons urged by the petitioner in support of those answers.
5. The reasons for requesting the declaratory order and disclosure of the petitioner's interest in the outcome.
6. A statement indicating whether the petitioner is currently a party to another proceeding involving the questions at issue, or whether to the petitioner's knowledge, those questions have not been decided by, are not pending determination by, or are not under investigation by, any governmental entity.
7. The names and addresses of other persons, or a description of any class of persons, known by petitioner to be affected by, or interested in, the questions presented in the petition.
8. Any request by petitioner for a meeting provided for by rule 351—9.4(56).

The petition must be dated and signed by the petitioner or the petitioner's representative. It must also include the name, mailing address, and telephone number of the petitioner and petitioner's representative (if one is involved), and a statement indicating the person to whom communications concerning the petition should be directed.

**351—9.2(56) Briefs.** The petitioner may attach a brief to the petition in support of the position urged in the petition. The board may request a brief from the petitioner or from any other person concerning the questions raised in the petition. A requested brief shall be filed within ten days of receipt of notice from the board.

**351—9.3(56) Inquiries.** Inquiries concerning the status of a petition for a declaratory order may be made to the Executive Director, Iowa Ethics and Campaign Disclosure Board, 514 E. Locust Street, Suite 104, Des Moines, Iowa 50309.

**351—9.4(56) Agency consideration.** Upon request by petitioner in the petition, the board shall schedule a brief and informal meeting between the petitioner and the board's executive director or legal counsel to discuss the petition. The board may request the petitioner to submit additional information or argument concerning the petition. The board may solicit comments from any person on the questions presented in the petition. Also, comments on those questions may be submitted to the board by any person.

Within 30 days after the filing of the petition, or 5 days following a regular meeting of the board in which the petition has been received and discussed, whichever comes earlier, or within any longer period agreed to by the petitioner, the board shall, in writing, issue an order on the petition, set the matter for specified proceedings, agree to issue a declaratory order by a specified time or decline to issue the order and state the reasons for doing so. The board is deemed to have issued an order or to have refused to do so on the date the order or refusal is mailed or delivered to petitioner. If the board does not issue a declaratory order within 60 days after receipt of a petition therefor, or such later time as agreed by the parties, the petition is deemed to have been denied.

**351—9.5(56) Refusal to issue order.** The board may refuse to issue a declaratory order for good cause. Good cause includes, but is not limited to, the following reasons:

1. The petition does not substantially comply with the required form.
2. The petition does not contain facts sufficient to demonstrate that the petitioner will be aggrieved or adversely affected by the failure of the board to issue an order.
3. The board does not have jurisdiction over the questions presented in the petition.
4. The questions presented by the petition are also presented in a current rule making, contested case, or other agency or judicial proceeding, that may definitively resolve them.
5. The questions presented by the petition would more properly be resolved in a different type of proceeding or by another body with jurisdiction over the matter.
6. The facts or questions presented in the petition are unclear, overbroad, insufficient, or otherwise inappropriate as a basis upon which to issue an order.
7. There is no need to issue an order because the questions raised in the petition have been settled due to a change in circumstances.
8. The petition is not based upon facts calculated to aid in the planning of future conduct but is, instead, based solely upon prior conduct in an effort to establish the effect of that conduct or to challenge a board decision already made.
9. The petition requests a declaratory order that would necessarily determine the legal rights, duties, or responsibilities of other persons who have not joined in the petition or filed a similar petition and whose position on the questions presented may fairly be presumed to be adverse to that of petitioner.

10. The petitioner requests the board to determine whether a statute is unconstitutional on its face.

**9.5(1)** A refusal to issue a declaratory order must indicate the specific grounds for the refusal and constitutes final agency action on the petition. Once the board declines to issue a declaratory order, or if the petition is deemed to have been denied because such an order has not been entered within 60 days, a party to the proceeding may either seek judicial review or await further board action with respect to its petition.

**9.5(2)** Refusal to issue a declaratory order pursuant to this provision does not preclude the filing of a new petition that seeks to eliminate the grounds for the board's refusal to issue an order.



**351—9.6(56) Contents of declaratory order—effective date.** In addition to the order itself, a declaratory order must contain the date of its issuance, the name of petitioner, the specific statutes, rules, policies, decisions, or orders involved, the particular facts upon which it is based, and the reasons for its conclusion.

A declaratory order is effective on the date of issuance.

**351—9.7(56) Effect of a declaratory order.** A declaratory order is binding on the board and the petitioner and is applicable only in circumstances where the relevant facts and the law involved are indistinguishable from those contained in the petition. As to all other persons, a declaratory order serves only as precedent and is not binding on the board. The issuance of a declaratory order constitutes final agency action on the petition.

These rules are intended to implement Iowa Code chapter 17A as amended by 1998 Iowa Acts, chapter 1202, and Iowa Code chapter 56.

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[Filed 3/3/99, Notice 1/13/99—published 3/24/99, effective 4/28/99]

The first part of the document discusses the importance of maintaining accurate records of all transactions. It emphasizes that proper record-keeping is essential for the integrity of the financial system and for the ability to detect and prevent fraud. The document also highlights the need for transparency and accountability in all financial activities.

The second part of the document provides a detailed overview of the various types of transactions that are subject to reporting requirements. This includes information on the reporting thresholds, the types of transactions that must be reported, and the specific information that must be included in each report. The document also discusses the consequences of failing to comply with these requirements, including potential fines and penalties.

The third part of the document provides a step-by-step guide to the reporting process. It outlines the steps that must be followed to ensure that all reports are filed accurately and on time. This includes information on the reporting deadlines, the reporting process, and the documentation that must be maintained. The document also provides information on the various resources available to assist with the reporting process, including the reporting forms and the reporting instructions.

The fourth part of the document provides a summary of the key points discussed in the document. It emphasizes the importance of maintaining accurate records, the need for transparency and accountability, and the consequences of failing to comply with the reporting requirements. The document also provides a final reminder of the reporting process and the resources available to assist with it.

The fifth part of the document provides a list of the various resources available to assist with the reporting process. This includes the reporting forms, the reporting instructions, and the various support services available. The document also provides information on the various organizations that provide these services, including the reporting service providers and the various support organizations.

CHAPTER 11  
PERSONAL FINANCIAL DISCLOSURE

**351—11.1(68B) Filing requirements and procedures.**

**11.1(1)** All persons who are required to file a personal financial disclosure statement with the board pursuant to Iowa Code section 68B.35(2) shall file the statements with the board on or before April 30 of each year following a year during which the person holds a designated position, without regard to the length of time the position was occupied by the person. A person who fills a designated position in an “acting” capacity shall also file a personal financial disclosure statement in the subsequent year. A person who held a designated position who leaves that position or state employment shall have a continuing obligation to file the statement for all years or portions of a year the position was held prior to termination. A person who held a designated position who leaves that position prior to the end of a calendar year and does not immediately assume another designated position shall file the statement for the current year with the board within 30 days after leaving the designated position.

**11.1(2)** Persons who are candidates for statewide office shall file reports with the board no later than 30 days after the date on which a person is required to file nomination papers for state office under Iowa Code section 43.11.

**11.1(3)** Statements shall be filed on Form PFD as designated by the board and shall cover the calendar year immediately preceding the year due. However, a statement filed by a person who has left a designated position during the course of a year need only contain information covering the portion of that year which has elapsed prior to the person’s leaving the position.

**11.1(4)** For the purpose of completing Form PFD, income sources which shall be reported include those sources which are held jointly with one or more persons and which in total generate more than \$1000 of income. “Jointly” means that the ownership of the income source is undivided among the owners, and that all owners have one and the same interest in an undivided possession, each with full rights of use and enjoyment of the total income. Sources of income which are co-owned but with ownership interests which are legally divisible, without full rights of use or enjoyment of the total income, need not be reported unless the person’s portion of the income from that source exceeds \$1000.

**11.1(5)** For purposes of completing Form PFD, income earned solely by the spouse of a person subject to reporting is not income to that person and need not be reported as an income source.

**11.1(6)** The forms may be filed with the board by mailing the form to: IECDB, 514 East Locust, Suite 104, Des Moines, Iowa 50309. These forms will be recorded through electronic means, and the electronic image of the forms will be retained in active files for a period of at least two years, after which time the imaged forms will be placed in electronic data archives for a period of at least ten years. The paper form will be destroyed after form imaging and electronic data backup. The electronic image of the form shall be available for inspection through the board’s office. Printed copies of imaged forms may be obtained from the board in the same manner as for copies of other public records of the board.

**351—11.2(68B) Persons who are required to file with the board—by agency.** For the purpose of Iowa Code section 68B.35(2), persons who hold positions described below are designated as subject to personal financial disclosure requirements. An agency in which a position is modified, created, or deleted such that the agency’s position designations below should be modified should notify the board of the change in writing, requesting the board modify its rules. Persons who are aware of an undesignated position which appears to meet a criteria in Iowa Code section 68B.35(2) may make inquiry regarding that position to the board.

POSITION TITLE	Iowa Code Authority
1. AGRICULTURE AND LAND STEWARDSHIP, DEPARTMENT OF	
a. Secretary of Agriculture	§68B.35(2)"a"
b. Deputy Secretary of Agriculture	§68B.35(2)"c"
c. Director, Administrative Division	§68B.35(2)"d"
d. Director, Regulatory Division	§68B.35(2)"d"
e. Director, Laboratory Division	§68B.35(2)"d"
f. Director, Soil Conservation Division	§68B.35(2)"d"
g. Director, Ag. Development Authority	§68B.35(2)"d"
h. State Veterinarian	§68B.35(2)"d"
i. Bureau Chief, Accounting Bureau	§68B.35(2)"d"
j. Bureau Chief, Agricultural Marketing Bureau	§68B.35(2)"d"
2. AUDITOR'S OFFICE	
a. Auditor of State	§68B.35(2)"a"
b. Deputy Auditor of State	§68B.35(2)"c"
c. Deputy, Administrative Division	§68B.35(2)"c"
d. Deputy, Performance Audit Division	§68B.35(2)"c"
e. Deputy, Financial Audit Division	§68B.35(2)"c"
3. BLIND, DEPARTMENT FOR THE	
a. Director	§68B.35(2)"b"
b. Sr. Program Administrator, Fiscal & Admin.	§68B.35(2)"d"
c. Program Administrator, Field Operations Div.	§68B.35(2)"d"
d. Program Administrator, Bus. Ent. Prog.	§68B.35(2)"d"
4. CIVIL RIGHTS COMMISSION	
a. Executive Director	§68B.35(2)"b"
b. Internal Administrative Law Judge	§68B.35(2)"d"
5. COLLEGE STUDENT AID COMMISSION	
a. Executive Director	§68B.35(2)"b"
b. Director, Finance and Claims Administration	§68B.35(2)"d"
6. COMMERCE, DEPARTMENT OF	
a. Director	§68B.35(2)"b"
<u>Alcoholic Beverages Division</u>	
b. Administrator	§68B.35(2)"b"
c. Customer Services Bureau Chief	§68B.35(2)"d"
d. Licensing & Regulatory Bureau Chief	§68B.35(2)"d"
e. Operations Management Bureau Chief	§68B.35(2)"d"

Banking Division

- f. Superintendent of Banking §68B.35(2) "b"
- g. Deputy Superintendent of Banking §68B.35(2) "c"
- h. Asst. Superintendent/Personnel §68B.35(2) "d"
- i. Asst. Superintendent/Budget §68B.35(2) "d"
- j. Banking Board Member - 1 §68B.35(2) "e"
- k. Banking Board Member - 2 §68B.35(2) "e"
- l. Banking Board Member - 3 §68B.35(2) "e"
- m. Banking Board Member - 4 §68B.35(2) "e"
- n. Banking Board Member - 5 §68B.35(2) "e"
- o. Banking Board Member - 6 §68B.35(2) "e"

Credit Union Division

- p. Superintendent §68B.35(2) "b"
- q. Credit Union Review Board Member - 1 §68B.35(2) "e"
- r. Credit Union Review Board Member - 2 §68B.35(2) "e"
- s. Credit Union Review Board Member - 3 §68B.35(2) "e"
- t. Credit Union Review Board Member - 4 §68B.35(2) "e"
- u. Credit Union Review Board Member - 5 §68B.35(2) "e"
- v. Credit Union Review Board Member - 6 §68B.35(2) "e"
- w. Credit Union Review Board Member - 7 §68B.35(2) "e"

Insurance Division

- x. Insurance Commissioner §68B.35(2) "b"
- y-1. Deputy Comm'r., Prop./Casualty-Life/Health §68B.35(2) "c"
- y-2. Asst. Comm'r., Consumer/Legal Affairs, Agent Licensing §68B.35(2) "c"
- z. Superintendent of Securities §68B.35(2) "d"
- aa. Administrator, Insurance Co. Examinations §68B.35(2) "d"

Professional Licensing Division

- ab. Administrator §68B.35(2) "b"

Utilities Division

- ac. Utilities Board Member - 1 §68B.35(2) "e"
- ad. Utilities Board Member - 2 §68B.35(2) "e"
- ae. Utilities Board Member - 3 §68B.35(2) "e"
- af. General Counsel - Bureau Chief §68B.35(2) "d"
- ag. Rate & Safety Evaluation Bureau Chief §68B.35(2) "d"

7. CORRECTIONS, DEPARTMENT OF

- a. Director §68B.35(2) "b"
- b. Deputy Director - Community Services §68B.35(2) "c"
- c. Deputy Director - Industries §68B.35(2) "c"
- d. Deputy Director - Institutions §68B.35(2) "c"
- e. Deputy Director - Administration §68B.35(2) "c"

f.	Director, Community Corrections, Dist. 1	§68B.35(2)"d"
g.	Director, Community Corrections, Dist. 2	§68B.35(2)"d"
h.	Director, Community Corrections, Dist. 3	§68B.35(2)"d"
i.	Director, Community Corrections, Dist. 4	§68B.35(2)"d"
j.	Director, Community Corrections, Dist. 5	§68B.35(2)"d"
k.	Director, Community Corrections, Dist. 6	§68B.35(2)"d"
l.	Director, Community Corrections, Dist. 7	§68B.35(2)"d"
m.	Director, Community Corrections, Dist. 8	§68B.35(2)"d"
n.	Warden, Anamosa Correctional Facility	§68B.35(2)"d"
o.	Warden, Ft. Madison Correctional Facility	§68B.35(2)"d"
p.	Warden, Mitchellville Correctional Facility	§68B.35(2)"d"
q.	Warden, Newton Correctional Facility	§68B.35(2)"d"
r.	Warden, Oakdale Correctional Facility	§68B.35(2)"d"
s.	Warden, Rockwell City Correctional Facility	§68B.35(2)"d"
t.	Superintendent, Clarinda Corr. Facility	§68B.35(2)"d"
u.	Superintendent, Mt. Pleasant Corr. Facility	§68B.35(2)"d"
8.	CULTURAL AFFAIRS, DEPARTMENT OF	
a.	Director	§68B.35(2)"b"
b.	Historical Society Administrator	§68B.35(2)"d"
9.	ECONOMIC DEVELOPMENT, DEPARTMENT OF	
a.	Director	§68B.35(2)"b"
b.	Deputy Director	§68B.35(2)"c"
c.	Chief, General Administration	§68B.35(2)"d"
d.	Administrator, Business Development Division	§68B.35(2)"d"
e.	Administrator, Community & Rural Devel. Div.	§68B.35(2)"d"
f.	Administrator, International Division	§68B.35(2)"d"
g.	Administrator, Tourism Division	§68B.35(2)"d"
h.	Administrator, Workforce Devel. Division	§68B.35(2)"d"
i.	Reserved	
j.	Chief, Communications Bureau	§68B.35(2)"d"
k.	Manager, Film Office	§68B.35(2)"d"
l.	Reserved	
m.	Reserved	
n.	Chief, Business Finance Bureau	§68B.35(2)"d"
o.	Chief, Community Financing Bureau	§68B.35(2)"d"
p.	Chief, Community Assistance Bureau	§68B.35(2)"d"
q.	Chief, State Programs Bureau	§68B.35(2)"d"
r.	Chief, Federal Programs Bureau	§68B.35(2)"d"
s.	Chief, Support Services Bureau	§68B.35(2)"d"

Economic Development Board

(Ten voting members appointed by governor)

t.	Economic Development Board Member - 1	§68B.35(2) "e"
u.	Economic Development Board Member - 2	§68B.35(2) "e"
v.	Economic Development Board Member - 3	§68B.35(2) "e"
w.	Economic Development Board Member - 4	§68B.35(2) "e"
x.	Economic Development Board Member - 5	§68B.35(2) "e"
y.	Economic Development Board Member - 6	§68B.35(2) "e"
z.	Economic Development Board Member - 7	§68B.35(2) "e"
aa.	Economic Development Board Member - 8	§68B.35(2) "e"
ab.	Economic Development Board Member - 9	§68B.35(2) "e"
ac.	Economic Development Board Member - 10	§68B.35(2) "e"

Iowa Seed Capital Corporation

ad.	President	§68B.35(2) "b"
ae.	Iowa Seed Capital Corp. Director - 1	§68B.35(2) "e"
af.	Iowa Seed Capital Corp. Director - 2	§68B.35(2) "e"
ag.	Iowa Seed Capital Corp. Director - 3	§68B.35(2) "e"
ah.	Iowa Seed Capital Corp. Director - 4	§68B.35(2) "e"
ai.	Iowa Seed Capital Corp. Director - 5	§68B.35(2) "e"
aj.	Iowa Seed Capital Corp. Director - 6	§68B.35(2) "e"
ak.	Iowa Seed Capital Corp. Director - 7	§68B.35(2) "e"
al.	Reserved	
am.	Reserved	
an.	Reserved	

Iowa Finance Authority

ao.	Executive Director	§68B.35(2) "b"
ap.	Deputy Director	§68B.35(2) "c"
aq.	Chief Financial Officer	§68B.35(2) "d"
ar.	Title Guarantee Division Director	§68B.35(2) "d"
as.	Finance Authority Member - 1	§68B.35(2) "e"
at.	Finance Authority Member - 2	§68B.35(2) "e"
au.	Finance Authority Member - 3	§68B.35(2) "e"
av.	Finance Authority Member - 4	§68B.35(2) "e"
aw.	Finance Authority Member - 5	§68B.35(2) "e"
ax.	Finance Authority Member - 6	§68B.35(2) "e"
ay.	Finance Authority Member - 7	§68B.35(2) "e"
az.	Finance Authority Member - 8	§68B.35(2) "e"
ba.	Finance Authority Member - 9	§68B.35(2) "e"

10. EDUCATION, DEPARTMENT OF
- a. Director §68B.35(2) "b"
- b. Administrator, Library Services Division §68B.35(2) "d"
- c. Administrator, Voc. Rehab. Serv. Division §68B.35(2) "d"
- d. Administrator, Community Colleges Division §68B.35(2) "d"
- e. Administrator, Fin. & Inf. Services Division §68B.35(2) "d"
- f. Administrator, Elem. & Secondary Ed. Div. §68B.35(2) "d"
- g. Administrator, Office of Educ. Services §68B.35(2) "d"
- Vocational Education Council
- h. Executive Director §68B.35(2) "b"
- Educational Examiners Board
- i. Executive Director §68B.35(2) "b"
- FINE Foundation
- j. Executive Director §68B.35(2) "b"
11. ELDER AFFAIRS, DEPARTMENT OF
- a. Executive Director §68B.35(2) "b"
- b. Administrator, Administration Division §68B.35(2) "d"
- c. Administrator, Elder Rights Division §68B.35(2) "d"
12. EMPLOYMENT SERVICES, DEPARTMENT OF
- a. Director §68B.35(2) "b"
- b. Chief, Research & Data Services Bureau §68B.35(2) "d"
- c. Reserved
- d. Chief, Customer Service Bureau §68B.35(2) "d"
- Job Service Division
- e. Reserved
- f. Chief, Contribution & Benefit Services Bureau §68B.35(2) "d"
- g. Chief, Workforce Center Administration Bureau §68B.35(2) "d"
- h. Supervisor, Field Operations Region 1 §68B.35(2) "d"
- i. Supervisor, Field Operations Region 2 §68B.35(2) "d"
- j. Supervisor, Field Operations Region 3 §68B.35(2) "d"
- k. Supervisor, Field Operations Region 4 §68B.35(2) "d"
- Labor Services Division
- l. Commissioner §68B.35(2) "b"
- m. Chief, Occupational Safety & Health Bureau §68B.35(2) "d"
- n. Chief, Consultation & Education Bureau §68B.35(2) "d"
- o. Chief, Employee Protection Bureau §68B.35(2) "d"
- p. Chief, Inspections & Reporting Bureau §68B.35(2) "d"



Industrial Services Division

- q. Commissioner §68B.35(2) "b"
- r. Assistant Industrial Commissioner §68B.35(2) "c"

## 13. ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA

- a. ECD Board Member - 1 §68B.35(2) "e"
- b. ECD Board Member - 2 §68B.35(2) "e"
- c. ECD Board Member - 3 §68B.35(2) "e"
- d. ECD Board Member - 4 §68B.35(2) "e"
- e. ECD Board Member - 5 §68B.35(2) "e"
- f. ECD Board Member - 6 §68B.35(2) "e"
- g. Executive Director §68B.35(2) "b"

## 14. GENERAL SERVICES, DEPARTMENT OF

- a. Director §68B.35(2) "b"
- b. Team Leader, Communications §68B.35(2) "d"
- c. Team Leader, Customer Service, Admin. & Purch. §68B.35(2) "d"
- d. Team Leader, Data Operations §68B.35(2) "d"
- e. Team Leader, Design & Construction §68B.35(2) "d"
- f. Team Leader, Technology, Ed. & Consultation §68B.35(2) "d"
- g. Team Leader, Printing & Records §68B.35(2) "d"
- h. Team Leader, Fleet & Mail §68B.35(2) "d"
- i. Team Leader, Applications Systems & Programming §68B.35(2) "d"
- j. Team Leader, Custodial Services §68B.35(2) "d"
- k. Team Leader, Buildings & Grounds §78B.35(2) "d"

## 15. GOVERNOR'S ALLIANCE ON SUBSTANCE ABUSE

- a. Director §68B.35(2) "b"

## 16. GOVERNOR'S OFFICE

- a. Governor §68B.35(2) "a"
- b. Lieutenant Governor §68B.35(2) "a"
- c. Chief of Staff §68B.35(2) "d"

## 17. HUMAN RIGHTS, DEPARTMENT OF

- a. Director §68B.35(2) "b"
- b. Div. Administrator, Comm. Action Agencies §68B.35(2) "d"
- c. Div. Administrator, Crim. & Juv. Just. Plng. §68B.35(2) "d"
- d. Div. Administrator, Deaf Services §68B.35(2) "d"
- e. Div. Administrator, Latino Affairs §68B.35(2) "d"
- f. Div. Administrator, Persons w/ Disabilities §68B.35(2) "d"
- g. Div. Administrator, Status of African Amer. §68B.35(2) "d"
- h. Div. Administrator, Status of Women §68B.35(2) "d"

18. HUMAN SERVICES, DEPARTMENT OF
- a. Director §68B.35(2)“b”
  - b. Deputy Director for Administration §68B.35(2)“c”
  - c. Deputy Director for Services §68B.35(2)“c”
  - d. Administrator, Fiscal Management Division §68B.35(2)“d”
  - e. Administrator, Support Services Division §68B.35(2)“d”
  - f. Administrator, Data Management Division §68B.35(2)“d”
  - g. Administrator, MH/DD Division §68B.35(2)“d”
  - h. Administrator, Medical Services Division §68B.35(2)“d”
  - i. Administrator, Policy Coordination Division §68B.35(2)“d”
  - j. Administrator, Economic Assistance Division §68B.35(2)“d”
  - k. Administrator, Adult/Child./Fam. Serv. Div. §68B.35(2)“d”
  - l. Superintendent, Glenwood State Hosp.-School §68B.35(2)“d”
  - m. Superintendent, Woodward State Hosp.-School §68B.35(2)“d”
  - n. Superintendent, Cherokee Mental Health Inst. §68B.35(2)“d”
  - o. Superintendent, Clarinda Mental Health Inst. §68B.35(2)“d”
  - p. Superintendent, Independence M.H.I. §68B.35(2)“d”
  - q. Superintendent, Mt. Pleasant M.H.I. §68B.35(2)“d”
  - r. Superintendent, Iowa Juvenile Home (Toledo) §68B.35(2)“d”
  - s. Superintendent, Iowa State Training School §68B.35(2)“d”
  - t. Regional Administrator, Cedar Rapids Region §68B.35(2)“d”
  - u. Regional Administrator, Council Bluffs Reg. §68B.35(2)“d”
  - v. Regional Administrator, Des Moines Region §68B.35(2)“d”
  - w. Regional Administrator, Sioux City Region §68B.35(2)“d”
  - x. Regional Administrator, Waterloo Region §68B.35(2)“d”
19. INSPECTIONS AND APPEALS, DEPARTMENT OF
- a. Director §68B.35(2)“b”
  - b. Deputy Director §68B.35(2)“c”
  - c. Administrator, Appeals Division §68B.35(2)“d”
  - d. Administrator, Audits Division §68B.35(2)“d”
  - e. Administrator, Investigations Division §68B.35(2)“d”
  - f. Administrator, Health Facilities Division §68B.35(2)“d”
  - g. Administrator, Finance Division §68B.35(2)“d”
  - h. Chief, Budget & Accounting Bureau §68B.35(2)“d”
  - i. Employment Appeal Board Member - 1 §68B.35(2)“e”
  - j. Employment Appeal Board Member - 2 §68B.35(2)“e”
  - k. Employment Appeal Board Member - 3 §68B.35(2)“e”
  - l. Administrator, Racing & Gaming Commission §68B.35(2)“d”
  - m. Racing & Gaming Commission - Member 1 §68B.35(2)“e”
  - n. Racing & Gaming Commission - Member 2 §68B.35(2)“e”
  - o. Racing & Gaming Commission - Member 3 §68B.35(2)“e”
  - p. Racing & Gaming Commission - Member 4 §68B.35(2)“e”
  - q. Racing & Gaming Commission - Member 5 §68B.35(2)“e”

- |     |   |                |
|-----|---|----------------|
| r.  | State Public Defender                               | §68B.35(2) "b" |
| s.  | State Appellate Defender                            | §68B.35(2) "d" |
| t.  | Public Defender Supervisor, Black Hawk Co.          | §68B.35(2) "d" |
| u.  | Public Defender Supervisor, Cerro Gordo Co.         | §68B.35(2) "d" |
| v.  | Public Defender Supervisor, Des Moines Co.          | §68B.35(2) "d" |
| w.  | Public Defender Supervisor, Dubuque Co.             | §68B.35(2) "d" |
| x.  | Public Defender Supervisor, Lee Co.                 | §68B.35(2) "d" |
| y.  | Public Defender Supervisor, Linn Co.                | §68B.35(2) "d" |
| z.  | Public Defender Supervisor, Polk Co.-Adult          | §68B.35(2) "d" |
| aa. | Public Defender Supervisor, Polk Co.-Juv.           | §68B.35(2) "d" |
| ab. | Public Defender Supervisor, Pottawattamie Co.       | §68B.35(2) "d" |
| ac. | Public Defender Supervisor, Story Co.               | §68B.35(2) "d" |
| ad. | Public Defender Supervisor, Woodbury Co.            | §68B.35(2) "d" |
| ae. | Director, Foster Care Review Board                  | §68B.35(2) "d" |
| 20. | IOWA PUBLIC TELEVISION                              |                |
| a.  | Executive Director                                  | §68B.35(2) "b" |
| b.  | Director of Administration                          | §68B.35(2) "d" |
| c.  | Director of Development                             | §68B.35(2) "d" |
| d.  | Director of Engineering                             | §68B.35(2) "d" |
| e.  | Director of Educational Telecommunications          | §68B.35(2) "d" |
| f.  | Director of Programming                             | §68B.35(2) "d" |
| 21. | JUSTICE, DEPARTMENT OF                              |                |
| a.  | Attorney General                                    | §68B.35(2) "a" |
| b.  | Executive Deputy Attorney General                   | §68B.35(2) "d" |
| c.  | Deputy Attorney General - Civil Justice Bur.        | §68B.35(2) "d" |
| d.  | Deputy Attorney General - Public Prot. Bur.         | §68B.35(2) "d" |
| e.  | Deputy Attorney General - Crim. Justice Bur.        | §68B.35(2) "d" |
| f.  | Director, Revenue Division                          | §68B.35(2) "d" |
| g.  | Director, Special Litigation Division               | §68B.35(2) "d" |
| h.  | Director, Transportation Division                   | §68B.35(2) "d" |
| i.  | Director, Regents & Human Services                  | §68B.35(2) "d" |
| j.  | Director, Environmental & Agricultural Law Division | §68B.35(2) "d" |
| k.  | Director, Consumer Protection Division              | §68B.35(2) "d" |
| l.  | Director, Licensing & Admin. Law Division           | §68B.35(2) "d" |
| m.  | Director, Criminal Appeals Division                 | §68B.35(2) "d" |
| n.  | Director, Area Prosecution Division                 | §68B.35(2) "d" |
| o.  | Administrator, Crime Victims Assist. Prog.          | §68B.35(2) "d" |
| p.  | Coordinator, Pros. Att'ys Training Council          | §68B.35(2) "d" |
| q.  | Consumer Advocate                                   | §68B.35(2) "e" |
| r.  | Administrator, Admin. Services Division             | §68B.35(2) "d" |

22.	<b>LAW ENFORCEMENT ACADEMY</b>	
a.	Director	§68B.35(2) "b"
b.	Law Enforcement Training Coordinator	§68B.35(2) "d"
c.	Administrative Officer	§68B.35(2) "d"
23.	<b>MANAGEMENT, DEPARTMENT OF</b>	
a.	Director	§68B.35(2) "b"
b.	Director, Local Budget Division	§68B.35(2) "d"
c.	Director, State Budget Division	§68B.35(2) "d"
d.	Information Management Coordinator	§68B.35(2) "d"
24.	<b>NATURAL RESOURCES, DEPARTMENT OF</b>	
a.	Director	§68B.35(2) "b"
b.	Deputy Director	§68B.35(2) "d"
c.	Administrator, Administrative Services Div.	§68B.35(2) "d"
d.	Administrator, Waste Mgmt. Assist. Division	§68B.35(2) "d"
e.	Administrator, Environmental Protection Div.	§68B.35(2) "d"
f.	Administrator, Energy & Geological Res. Div.	§68B.35(2) "d"
g.	Administrator, Fish & Wildlife Division	§68B.35(2) "d"
h.	Administrator, Forests & Forestry Division	§68B.35(2) "d"
i.	Administrator, Parks, Rec. & Preserves Div.	§68B.35(2) "d"
j.	Chief, Env. Prot. Compliance & Enf'mnt Bur.	§68B.35(2) "d"
k.	Chief, Fish & Wildlife Law Enf'mnt Bureau	§68B.35(2) "d"
	<u><b>Environmental Protection Commission</b></u>	
l.	Environmental Protection Comm'n Member - 1	§68B.35(2) "e"
m.	Environmental Protection Comm'n Member - 2	§68B.35(2) "e"
n.	Environmental Protection Comm'n Member - 3	§68B.35(2) "e"
o.	Environmental Protection Comm'n Member - 4	§68B.35(2) "e"
p.	Environmental Protection Comm'n Member - 5	§68B.35(2) "e"
q.	Environmental Protection Comm'n Member - 6	§68B.35(2) "e"
r.	Environmental Protection Comm'n Member - 7	§68B.35(2) "e"
s.	Environmental Protection Comm'n Member - 8	§68B.35(2) "e"
t.	Environmental Protection Comm'n Member - 9	§68B.35(2) "e"
	<u><b>Natural Resource Commission</b></u>	
u.	Natural Resource Comm'n Member - 1	§68B.35(2) "e"
v.	Natural Resource Comm'n Member - 2	§68B.35(2) "e"
w.	Natural Resource Comm'n Member - 3	§68B.35(2) "e"
x.	Natural Resource Comm'n Member - 4	§68B.35(2) "e"
y.	Natural Resource Comm'n Member - 5	§68B.35(2) "e"
z.	Natural Resource Comm'n Member - 6	§68B.35(2) "e"
aa.	Natural Resource Comm'n Member - 7	§68B.35(2) "e"

## 25. PAROLE BOARD

- |    |                         |                |
|----|-------------------------|----------------|
| a. | Executive Director      | §68B.35(2) "b" |
| b. | Parole Board Member - 1 | §68B.35(2) "e" |
| c. | Parole Board Member - 2 | §68B.35(2) "e" |
| d. | Parole Board Member - 3 | §68B.35(2) "e" |
| e. | Parole Board Member - 4 | §68B.35(2) "e" |
| f. | Parole Board Member - 5 | §68B.35(2) "e" |

## 26. PERSONNEL, DEPARTMENT OF

- |    |  |                |
|----|--|----------------|
| a. | Director                                       | §68B.35(2) "b" |
| b. | Facilitator, Personnel Delivery Services Unit  | §68B.35(2) "d" |
| c. | Facilitator, Program Development & Admin. Unit | §68B.35(2) "d" |
| d. | Manager, Operations Unit                       | §68B.35(2) "d" |
| e. | Manager, Legal & Communications Unit           | §68B.35(2) "d" |
| f. | Manager, Benefits Unit                         | §68B.35(2) "d" |
| g. | Manager, Investments Unit                      | §68B.35(2) "d" |
| h. | Reserved                                       |                |
| i. | Reserved                                       |                |

Public Employees Retirement System Board

- |    |                                   |                |
|----|-----------------------------------|----------------|
| j. | IPERS Investment Board Member - 1 | §68B.35(2) "e" |
| k. | IPERS Investment Board Member - 2 | §68B.35(2) "e" |
| l. | IPERS Investment Board Member - 3 | §68B.35(2) "e" |
| m. | IPERS Investment Board Member - 4 | §68B.35(2) "e" |
| n. | IPERS Investment Board Member - 5 | §68B.35(2) "e" |
| o. | IPERS Investment Board Member - 6 | §68B.35(2) "e" |
| p. | IPERS Investment Board Member - 7 | §68B.35(2) "e" |
| q. | IPERS Investment Board Member - 8 | §68B.35(2) "e" |
| r. | IPERS Investment Board Member - 9 | §68B.35(2) "e" |

## 27. PETROLEUM UNDERGROUND STORAGE TANK FUND BOARD, IOWA COMPREHENSIVE

- |    |   |                |
|----|---|----------------|
| a. | Public Member - 1                             | §68B.35(2) "e" |
| b. | Public Member - 2                             | §68B.35(2) "e" |
| c. | DNR Dir.'s Designee unless otherwise covered  | §68B.35(2) "e" |
| d. | Treas.'s Designee unless otherwise covered    | §68B.35(2) "e" |
| e. | Ins. Cmr.'s Designee unless otherwise covered | §68B.35(2) "e" |

## 28. PUBLIC DEFENSE, DEPARTMENT OF

- |    |   |                |
|----|---|----------------|
| a. | Adjutant General                        | §68B.35(2) "b" |
| b. | Deputy Adjutant General                 | §68B.35(2) "c" |
| c. | Director, Emergency Management Division | §68B.35(2) "d" |

29. PUBLIC EMPLOYMENT RELATIONS BOARD
- a. PER Board Member - 1 §68B.35(2) "e"
  - b. PER Board Member - 2 §68B.35(2) "e"
  - c. PER Board Member - 3 §68B.35(2) "e"
30. PUBLIC HEALTH, DEPARTMENT OF
- a. Director §68B.35(2) "b"
  - b. Deputy Director §68B.35(2) "c"
  - c. Director, Subst. Abuse & Health Prom. Div. §68B.35(2) "d"
  - d. Director, Family & Comm. Health Division §68B.35(2) "d"
  - e. Director, Health Protection Division §68B.35(2) "d"
  - f. Chief, Fiscal Bureau §68B.35(2) "d"
  - g. Health Facilities Council Member - 1 §68B.35(2) "e"
  - h. Health Facilities Council Member - 2 §68B.35(2) "e"
  - i. Health Facilities Council Member - 3 §68B.35(2) "e"
  - j. Health Facilities Council Member - 4 §68B.35(2) "e"
  - k. Health Facilities Council Member - 5 §68B.35(2) "e"
- Board of Dental Examiners
- l. Executive Director §68B.35(2) "b"
- Board of Medical Examiners
- m. Executive Director §68B.35(2) "b"
- Board of Nursing Examiners
- n. Executive Director §68B.35(2) "b"
- Board of Pharmacy Examiners
- o. Executive Director §68B.35(2) "b"
31. PUBLIC SAFETY, DEPARTMENT OF
- a. Commissioner §68B.35(2) "b"
  - b. Executive Assistant §68B.35(2) "c"
  - c. State Medical Examiner §68B.35(2) "d"
  - d. State Fire Marshal §68B.35(2) "d"
  - e. Chief of the State Patrol §68B.35(2) "d"
  - f. Director of Capitol Police §68B.35(2) "d"
  - g. Director, Narcotics Enforcement Division §68B.35(2) "d"
  - h. Director, Administration Division §68B.35(2) "d"
  - i. Director, Criminal Investigation Division §68B.35(2) "d"
  - j. Chief, Governor's Traffic Safety Bureau §68B.35(2) "d"
  - k. Chief, Communications Bureau (State Patrol) §68B.35(2) "d"

## 32. REGENTS, BOARD OF

a.	Executive Director	§68B.35(2)“b”
b.	Deputy Executive Director	§68B.35(2)“c”
c.	Regents Board Member - 1	§68B.35(2)“e”
d.	Regents Board Member - 2	§68B.35(2)“e”
e.	Regents Board Member - 3	§68B.35(2)“e”
f.	Regents Board Member - 4	§68B.35(2)“e”
g.	Regents Board Member - 5	§68B.35(2)“e”
h.	Regents Board Member - 6	§68B.35(2)“e”
i.	Regents Board Member - 7	§68B.35(2)“e”
j.	Regents Board Member - 8	§68B.35(2)“e”
k.	Regents Board Member - 9	§68B.35(2)“e”

University of Iowa

l.	President	§68B.35(2)“b”
m.	Provost	§68B.35(2)“c”
n.	Vice President for Finance and Treasurer	§68B.35(2)“d”
o.	Vice President for Health Sciences	§68B.35(2)“d”
p.	Vice President for Research	§68B.35(2)“d”
q.	Vice President for Statewide Health Serv.	§68B.35(2)“d”
r.	Vice President for University Relations	§68B.35(2)“d”
s.	Business Manager	§68B.35(2)“d”
t.	Director of Financial Mgmt./Budget and Sec.	§68B.35(2)“d”
u.	Director of University Hospitals & Clinics	§68B.35(2)“d”
v.	Director of Purchasing	§68B.35(2)“d”

Iowa State University of Science & Technology

w.	President	§68B.35(2)“b”
x.	Vice President for External Affairs	§68B.35(2)“d”
y.	Vice President for Business and Finance	§68B.35(2)“d”
z.	Vice President for Student Affairs	§68B.35(2)“d”
aa.	Provost	§68B.35(2)“c”
ab.	Vice Provost for Extension	§68B.35(2)“d”
ac.	Vice Provost for Research & Advanced Studies	§68B.35(2)“d”
ad.	Director, Physical Res. & Tech. Institute	§68B.35(2)“d”
ae.	Secretary	§68B.35(2)“d”
af.	Treasurer	§68B.35(2)“d”
ag.	Director of Business Affairs	§68B.35(2)“d”

University of Northern Iowa

ah.	President	§68B.35(2)“b”
ai.	Vice President for Acad. Affairs & Provost	§68B.35(2)“c”
aj.	Vice President for Administration & Finance	§68B.35(2)“d”

ak.	Vice President for Ed. & Student Serv.	§68B.35(2) "d"
al.	Vice President for Development	§68B.35(2) "d"
am.	Executive Assistant to the President	§68B.35(2) "d"
an.	Controller and Secretary	§68B.35(2) "d"
ao.	Director of Purchasing	§68B.35(2) "d"
<u>Iowa School for the Deaf</u>		
ap.	Superintendent	§68B.35(2) "b"
aq.	Assistant Superintendent	§68B.35(2) "c"
ar.	Director of Business Operations	§68B.35(2) "d"
<u>Iowa Braille and Sight Saving School</u>		
as.	Superintendent	§68B.35(2) "b"
at.	Director of Administrative Services	§68B.35(2) "d"
33.	REVENUE AND FINANCE, DEPARTMENT OF	
a.	Director	§68B.35(2) "b"
b.	Co-Administrator, Internal Resource Mgmt. Division	§68B.35(2) "d"
c.	Co-Administrator, Internal Resource Mgmt. Division	§68B.35(2) "d"
d.	Administrator for Property Taxes	§68B.35(2) "d"
e.	Co-Administrator, Compliance Division	§68B.35(2) "d"
f.	Co-Administrator, Compliance Division	§68B.35(2) "d"
g.	Co-Administrator, State Financial Mgmt. Division	§68B.35(2) "d"
h.	Co-Administrator, State Financial Mgmt. Division	§68B.35(2) "d"
<u>Tax Review Board</u>		
i.	Tax Review Board Member - 1	§68B.35(2) "e"
j.	Tax Review Board Member - 2	§68B.35(2) "e"
k.	Tax Review Board Member - 3	§68B.35(2) "e"
<u>Lottery Division</u>		
l.	Commissioner	§68B.35(2) "b"
m.	Assistant Commissioner	§68B.35(2) "c"
n.	Chief, Security Bureau	§68B.35(2) "d"
o.	Chief, Marketing Bureau/Dir. of Marketing	§68B.35(2) "d"
p.	Chief, Financial Bureau/Financial Manager	§68B.35(2) "d"
q.	Sales Manager	§68B.35(2) "d"
r.	Lottery Board Member - 1	§68B.35(2) "e"
s.	Lottery Board Member - 2	§68B.35(2) "e"
t.	Lottery Board Member - 3	§68B.35(2) "e"
u.	Lottery Board Member - 4	§68B.35(2) "e"
v.	Lottery Board Member - 5	§68B.35(2) "e"



## 34. SECRETARY OF STATE'S OFFICE

- a. Secretary of State §68B.35(2)"a"
- b. Chief Deputy Secretary of State §68B.35(2)"c"
- c. Deputy Assistant for Business Services §68B.35(2)"c"
- d. Deputy Assistant for Elections §68B.35(2)"c"
- e. Director, Administrative Services §68B.35(2)"d"

## 35. STATE FAIR BOARD

- a. General Manager §68B.35(2)"b"

## 35A. TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION, IOWA

- a. Executive Director §68B.35(2)"b"
- b. Chief Operating Officer §68B.35(2)"c"
- c. Director, Administrative Division §68B.35(2)"d"
- d. Director, Finance Division §68B.35(2)"d"
- e. Director, Operations & Planning Division §68B.35(2)"d"
- f. Director, Public Affairs Division §68B.35(2)"d"
- g. Director, Outside Plant Division §68B.35(2)"d"
- h. Director, Network Engineering Division §68B.35(2)"d"
- i. Director, Toll Services Division §68B.35(2)"d"
- j. Director, Network Services Division §68B.35(2)"d"

## 36. TRANSPORTATION, DEPARTMENT OF

- a. Director §68B.35(2)"b"
- b. Deputy Director §68B.35(2)"c"
- c. Director's Staff Director §68B.35(2)"d"
- d. Director, Operations & Finance Division §68B.35(2)"d"
- e. Director, Planning & Programming Division §68B.35(2)"d"
- f. Director, Project Development Division §68B.35(2)"d"
- g. Director, Maintenance Division §68B.35(2)"d"
- h. Director, Engineering Division §68B.35(2)"d"
- i. Director, Field Services Division §68B.35(2)"d"
- j. Reserved
- k. Director, Motor Vehicle Division §68B.35(2)"d"

Transportation Commission

- l. Transp. Comm'n Member - 1 §68B.35(2)"e"
- m. Transp. Comm'n Member - 2 §68B.35(2)"e"
- n. Transp. Comm'n Member - 3 §68B.35(2)"e"
- o. Transp. Comm'n Member - 4 §68B.35(2)"e"
- p. Transp. Comm'n Member - 5 §68B.35(2)"e"
- q. Transp. Comm'n Member - 6 §68B.35(2)"e"
- r. Transp. Comm'n Member - 7 §68B.35(2)"e"

37. TREASURER OF STATE'S OFFICE
- a. Treasurer of State §68B.35(2) "b"
  - b. First Deputy Treasurer of State §68B.35(2) "c"
  - c. Second Deputy Treasurer of State §68B.35(2) "c"
  - d. Deputy Assistant §68B.35(2) "d"
38. VETERANS AFFAIRS, COMMISSION OF
- a. Executive Director §68B.35(2) "b"
  - b. Commandant, Iowa Veterans Home §68B.35(2) "d"
  - c. Business Manager, Iowa Veterans Home §68B.35(2) "d"
39. COMMUNITY COLLEGES
- AREA I - NICC
- a. President §68B.35(2) "b"
  - b. Vice President for Educational Services §68B.35(2) "d"
- AREA II - NIACC
- c. President §68B.35(2) "b"
  - d. Vice President for Academic Affairs §68B.35(2) "d"
- AREA III - ILCC
- e. President §68B.35(2) "b"
  - f. Executive Vice President §68B.35(2) "c"
  - g. Vice President for Academic Affairs §68B.35(2) "d"
- AREA IV - NCC
- h. President §68B.35(2) "b"
  - i. Vice President of Educational Services §68B.35(2) "d"
- AREA V - ICC
- j. President §68B.35(2) "b"
  - k. Vice President of Academic Affairs §68B.35(2) "d"
- AREA VI - IVCC District
- l. President §68B.35(2) "b"
  - m. Executive Vice President §68B.35(2) "c"
  - n. Dean, Ellsworth Community College/  
Vice President of Marketing §68B.35(2) "b," "d"
  - o. Dean, Marshalltown Community College/  
Vice President for Academic Services §68B.35(2) "b," "d"
  - p. Vice President of C.E. & Community Services/  
Vice President for Student Services §68B.35(2) "b," "d"
  - q. MCC Dean of Instruction §68B.35(2) "d"
  - r. ECC Dean of Instruction §68B.35(2) "d"

AREA VII - HCC

- s. President §68B.35(2)“b”  
 t. Vice President for Academic Affairs §68B.35(2)“d”

AREA IX - EICC District

- u. Chancellor §68B.35(2)“b”  
 v. President, Clinton Comm. College/Vice Chancellor for  
 Academic Affairs & Planning §68B.35(2)“b,”“d”  
 w. President, Muscatine Community College/Vice Chancellor for  
 Ancillary Services §68B.35(2)“b,”“d”  
 x. President, Scott Community College/Vice Chancellor for  
 Student Devel. & Technology §68B.35(2)“b,”“d”

AREA X - KCC

- y. President §68B.35(2)“b”  
 z. Vice President for Instruction §68B.35(2)“d”  
 aa. Vice President for Administration §68B.35(2)“d”

AREA XI - DMACC

- ab. President §68B.35(2)“b”  
 ac. Vice President, Ankeny Campus §68B.35(2)“d”  
 ad. Vice President, Operations §68B.35(2)“d”  
 ae. Executive Dean, Academic/Student Services §68B.35(2)“d”  
 af. Executive Dean, Boone Campus §68B.35(2)“d”  
 ag. Executive Dean, Carroll Campus §68B.35(2)“d”  
 ah. Executive Dean, Newton Campus §68B.35(2)“d”  
 ai. Executive Dean, Urban Campus §68B.35(2)“d”

AREA XII - WITCC

- aj. President §68B.35(2)“b”  
 ak. Exec. Vice President for Instruction §68B.35(2)“d”

AREA XIII - IWCC

- al. President §68B.35(2)“b”  
 am. Reserved

AREA XIV - SWCC

- an. Superintendent/President §68B.35(2)“b”  
 ao. Vice President of Instruction §68B.35(2)“d”

AREA XV - IHCC

- ap. President §68B.35(2)“b”  
 aq. Exec. Vice President/Dean, Finance & Records §68B.35(2)“d”  
 ar. Vice President, Academic Affairs §68B.35(2)“d”

AREA XVI - SCC

- as. President §68B.35(2)“b”  
 at. Dean of Instruction §68B.35(2)“d”

**351—11.3(68B) Annual filing exemption—procedure.** A person occupying a position identified in rule 11.2(68B) may request an annual filing exemption by making written application to the board no later than October 1 of each year. The application shall be accompanied by affidavits signed by the person’s immediate supervisor and the executive or administrative head of the agency (if different) which attest that the person’s position does not involve a substantial exercise of administrative discretion or the expenditure of public funds. Upon receipt of the application and affidavit(s), the board may require the person to make an individual appearance before the board. On or before December 31 of each year, the board shall issue a notice of exemption to persons to whom exemptions are granted. A person who receives an exemption is not required to file a personal financial disclosure statement covering the year in which the exemption is granted. A person is not precluded from making application for an exemption in subsequent years.

**351—11.4(68B) Disclosure statement.**

**11.4(1) Late if not received or postmarked with a United States Postal Service postmark.** A personal financial disclosure statement is deemed to be delinquent if it is not physically received in the office of the board or mailed bearing a United States Postal Service postmark dated on or before the report due date. Private postage meters are not acceptable as proof of timely mailing.

**11.4(2) Extension for holidays.** If the due date falls on a Saturday, Sunday, or holiday on which the board office is closed, the filing due date is extended to the first working day following, and personal financial disclosure statements received or properly postmarked on that day will not be considered to be delinquent. If the due date falls on a date on which the the board’s office is open, even though it is on a day that the United States Postal Service is not postmarking deposited mail, a disclosure statement is deemed to be delinquent if it is not received in the board’s office on or before the due date or mailed bearing a United States Postal Service postmark dated before the due date.

**11.4(3) Facsimile filing.** Filing by electronic facsimile is acceptable to prevent a disclosure statement from being deemed delinquent. However, the original statement must be filed to replace the facsimile filing within ten days of the date the facsimile was transmitted.

**351—11.5(68B) Penalties.**

**11.5(1) Penalties for late personal financial disclosure statements.** Any affected member of the executive branch, or candidate for statewide office, that fails to timely file a required personal financial disclosure statement shall be subject to an automatic civil penalty according to the following schedule:

<u>Days Delinquent</u>	<u>Penalty Amount</u>
1 to 14	\$25
15 to 30	\$50
31 and over	\$100

**11.5(2) Requests for waiver or reduction of assessed penalties.** Any person who is assessed a penalty under this chapter may apply to the Iowa ethics and campaign disclosure board for consideration of a waiver or reduction of the assessed amount.

**11.5(3) Additional penalty.** If an affected member of the executive branch, or a candidate for statewide office, fails to file a personal financial disclosure statement within 45 days of the required filing date, a contested case proceeding may be held to determine whether or not a violation has occurred. If, after notice and opportunity to be heard, it is determined that a violation occurred, any of the sanctions under Iowa Code section 68B.32D may be imposed. Any sanction under Iowa Code section 68B.32D would be in addition to an automatically assessed penalty under this chapter.

**11.5(4) *Payment of penalty.*** The remittance shall be made payable and forwarded to the Iowa Ethics and Campaign Disclosure Board, 514 E. Locust Street, Suite 104, Des Moines, Iowa 50309.

After recording, the remittance shall be deposited in the general fund of the state of Iowa and, if the person has provided a self-addressed, stamped envelope, a receipt will be issued by the board to the person.

**351—11.6(68B) Failure to file true statement.** It shall be a violation of this rule for any affected member of the executive branch, or candidate for statewide office, to file a disclosure statement containing false or fraudulent information. Complaints concerning the filing of a false or fraudulent disclosure statement shall be governed by the provisions of Iowa Code chapter 68B. If it is determined after a contested case proceeding that a false or fraudulent disclosure statement was filed, the board may impose any of the actions under Iowa Code section 68B.32D.

These rules are intended to implement Iowa Code section 68B.35.

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Faint, illegible text, possibly bleed-through from the reverse side of the page. The text is too light to transcribe accurately.

CHAPTER 12  
CODES OF CONDUCT

**351—12.1(68B) Board code of ethics.** Board members and employees shall abide by the code of ethics for the executive branch set out in rule 12.3(68B), as well as to the code of ethics set out in this rule.

**12.1(1)** Making monetary and in-kind contributions to the committees of candidates for Iowa public office is prohibited, including statewide, general assembly, county, municipal and school board candidates. Contributions are permitted to be made to Iowa candidates for federal office since the board has no jurisdiction over federal candidates.

**12.1(2)** Serving as an officer or member of a candidate's committee of a candidate for Iowa public office is prohibited, whether the service is volunteer or paid.

**12.1(3)** Making monetary or in-kind contributions to political party committees or political action committees (PACs) at the state, county or local level is prohibited, including local ballot issue committees.

**12.1(4)** Running for or serving as an officer or member of any political committee or PAC is prohibited (including serving as an officer or member of a state political party committee, county political party committee or local political party committee).

**12.1(5)** Public personal endorsement of a candidate or publicly taking a position in support or opposition of a ballot issue question is prohibited.

**12.1(6)** Running for or holding elective public office is prohibited.

**12.1(7)** Attendance at a political party or candidate event is prohibited except for the attendance at events for a federal candidate since the board has no jurisdiction over a federal candidate.

**12.1(8)** Serving as a delegate to a county or state political party convention is prohibited. Serving as a delegate to a national political party convention is permitted since the board has no jurisdiction over national political party activities.

**12.1(9)** If a board member or employee is aware of a disqualifying conflict of interest, that member or employee must provide notice of recusal stating the reason for recusal, and must refrain from any participation in the matter.

**12.1(10)** Board employees shall not engage in any outside employment which creates a potential conflict of interest or which creates the appearance of a conflict without the authorization of the board.

**12.1(11)** None of the prohibitions applicable to board members and employees apply to the spouse or other family members. However, actions by a spouse or other family member may create a potential conflict of interest on the part of the board member or employee which may necessitate recusal from a matter.

This rule is intended to implement Iowa Code sections 68B.2A, 68B.4 and 68B.32A.

**351—12.2(68B) Board sales of goods and services.** Board members and employees shall not sell, either directly or indirectly, any goods or services to individuals, associations, or corporations that are subject to the regulatory authority of the board except as authorized by this rule. However, the sale of services of political consulting or advising regarding Iowa Code chapters 56 and 68B, or the sale of materials regarding politics or chapters 56 and 68B, shall not be permitted.

**12.2(1) Conditions of consent.** Consent shall be given by a majority of the members of the board. Consent shall not be given to a member or employee to sell goods or services to an individual, association, or corporation regulated by the board unless all of the following conditions are met:

a. The person requesting consent does not have authority to determine whether consent should be given.

b. The person's duties or functions are not related to the board's regulatory authority over the individual, association or corporation to whom the goods and services are being sold, or the selling of the good or service does not affect the person's duties or functions.

c. The selling of the good or service does not include acting as an advocate on behalf of the individual, association, or corporation to the board.

d. The selling of the good or service does not result in the person selling a good or service to the board on behalf of the individual, association, or corporation.

**12.2(2) Authorized sales.**

a. A member or employee of the board may sell goods or services to an individual, association, or corporation regulated by the board if those goods or services are routinely provided to the general public as part of that person's regular business practice. This consent is granted because the sale of such goods or services does not affect the board member or employee's duties or functions on the board. However, upon request by the board, the member or employee shall make full factual disclosure regarding the sales and shall permit view to ensure compliance with the test set out in subrule 12.2(1) and Iowa Code section 68B.4.

b. Individual application and approval are not required for the sales authorized by this subrule unless there are unique facts surrounding a particular sale which would cause the sale to affect the seller's duties or functions, would give the buyer an advantage in dealing with the board, or would otherwise present a conflict of interest.

**12.2(3) Application for consent.** Prior to selling a good or service to an individual, association, or corporation subject to the regulatory authority of the board, a member or employee must obtain prior written consent unless the sale is specifically allowed in subrule 12.2(2). The request for consent must be in writing signed by the person requesting consent. The application must provide a clear statement of all relevant facts concerning the sale. The application should identify the parties to the sale and the amount of compensation. The application should also explain why the sale should be allowed.

**12.2(4) Limitation of consent.** Consent shall be in writing and shall be valid only for the activities and the time period specifically described in the consent. Consent can be revoked at any time by a majority vote of the members of the board upon written notice to the person. A consent provided under these rules does not constitute authorization for any activity which is a conflict of interest under common law or which would violate any other statute or rule. It is the responsibility of the member or employee requesting consent to ensure compliance with all other applicable laws and rules.

This rule is intended to implement Iowa Code section 68B.4.

**351—12.3(68B) Code of ethics for state executive branch officials and employees and statewide candidates.**

**12.3(1)** Unless otherwise prohibited by state or federal statute or rule, officials, employees and candidates are permitted to make contributions to candidates, political parties and political committees of their choice at all levels, but no such person under color of office shall influence another person to make contributions.

**12.3(2)** Officials, employees and candidates are prohibited from the use of facilities, equipment or materials paid for by public funds for any political purpose, including the use of employee time during regular working hours. "Political purpose" means activities directly related to a campaign, election, political party or nonparty political organization, and does not include activities which are primarily applications of public policy decisions with potential political implications. This prohibition does not bar the use of public facilities, equipment or materials where such use is commonly available to the general public or where the facilities constitute a public forum. This prohibition does not preclude a use combining a public purpose with a political purpose so long as the primary use is public and reimbursement to the state is made of any and all expenses resulting from the secondary political purpose. As elected officials do not have regular working hour criteria, this prohibition does not restrict the use of time of statewide elected officials.



12.3(3) Officials, employees and candidates are prohibited from displaying campaign promotional materials on state government property. "Campaign promotional materials" do not include political buttons or other political paraphernalia if they are worn on the person.

12.3(4) Officials, employees and candidates may display bumper stickers and campaign signs on personal vehicles which are parked in state public or employee parking lots of facilities in which the persons are either employed or are visiting to conduct business. Vehicles with campaign signs cannot be parked in state parking lots for periods exceeding 24 consecutive hours.

12.3(5) State-owned vehicles are prohibited from being used to store or transport campaign or political materials, and officials, employees and candidates are prohibited from driving state vehicles while primarily engaged in political activities.

12.3(6) State officials and employees shall not use their positions for private purpose or personal gain. For the purpose of this subrule, use for private purpose or personal gain includes the direct use of the color of office to gain an improper election advantage. For example, state officials or employees who are candidates may provide constituency services consistent with their position, but may not use their position or title to directly seek political support. Related criminal prohibitions appear in Iowa Code sections 721.2 and 721.3.

12.3(7) State officials and employees shall not engage in outside employment except as permitted by Iowa Code section 68B.2A. Outside employment shall be approved by the person's appointing authority.

This rule is intended to implement Iowa Code section 68B.32A.

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[Filed 3/3/99, Notice 1/13/99—published 3/24/99, effective 4/28/99]



“*Psychiatric rehabilitation practitioner*” means a person who holds a graduate degree in rehabilitation counseling, mental health counseling, psychology, social work, nursing, or medicine and has at least two years’ experience working in a psychiatric rehabilitation program or has at least 60 contact hours of training in psychiatric rehabilitation; or a person who holds a bachelor’s degree in one of the above areas and has both at least two years of experience working in a psychiatric rehabilitation program and at least 60 contact hours of training in psychiatric rehabilitation.

“*Psychiatric rehabilitation services*” means services designed to restore, improve, or maximize level of functioning, self-care, responsibility, independence, and quality of life and to minimize impairments, disabilities, and disadvantages of persons with a disabling mental illness. Services are focused on improving personal capabilities while reducing the harmful effects of psychiatric disability and resulting in consumers’ recovering the ability to perform a valued role in society.

“*Psychiatrist*” means a doctor of medicine or osteopathic medicine and surgery who is certified by the American Board of Psychiatry and Neurology or who is eligible for certification and who is fully licensed to practice medicine in the state of Iowa. (See definition for “doctor of medicine or osteopathic medicine.”)

“*Psychologist*” means a person who is licensed to practice psychology in the state of Iowa, or who is certified by the Iowa department of education as a school psychologist, or is eligible for certification, or meets the requirements of eligibility for a license to practice psychology in the state of Iowa as defined in Iowa Code chapter 154B.

“*Qualified case managers and supervisors*” means persons who have the following qualifications: (1) a bachelor’s degree in a human services field and at least one year of experience in the delivery of services to the population groups they serve, or (2) an Iowa license to practice as a registered nurse and at least three years of experience in the delivery of services to the population groups they serve. Persons employed as case management supervisors on or before August 1, 1993, who do not meet these requirements shall be considered to meet these requirements as long as they are continuously employed by the same case management provider.

“*Registered nurse*” means a person who is licensed to practice nursing in the state of Iowa as defined in Iowa Code chapter 152.

“*Rehabilitation services*” means services designed to restore, improve, or maximize the individual’s optimal level of functioning, self-care, self-responsibility, independence and quality of life and to minimize impairments, disabilities and dysfunctions caused by a serious and persistent mental or emotional disability.

“*Service plan*” means an individually goal-oriented plan of services written in language understandable by the consumer, and developed for a consumer by the consumer and with the organization.

“*Staff*” means a person paid by the organization to perform duties and responsibilities defined in the job description.

“*Support services*” means those services provided to consumers to enable them to live in the community. The services include the following: provision or arrangement of personal and environmental supports for the consumer and the family, assistance with or referral for basic human needs, the provision or arrangement for family education and coordination services, and assistance with the development of local support systems. These services are provided in the individual’s home or other natural community environment.

#### 441—24.2(225C) Standards for organizational activities.

##### 24.2(1) *Assessment and social history.*

a. *Performance benchmark:* Services provided to the consumer are determined based upon an assessment of the consumer’s situation, needs, problems, wants, abilities and desired results.

*b. Performance indicators:*

(1) Relevant current and historical information regarding the familial, physical, psychosocial, behavioral, environmental, social functioning, cultural and legal aspects of the consumer's life, and their effect upon the presenting problem is collected and analyzed. Family and significant others are involved as appropriate and desired by the consumer. Assessments of children reflect developmental history and needs.

(2) Decisions regarding level, type and immediacy of services to be provided, or need for further assessment or evaluation, are based upon the presenting consumer problem and the analysis of the information gathered in the assessment, and with the consumer's involvement.

(3) Each consumer is reassessed during the course of services to determine the consumer's response to interventions and when a significant change occurs in the consumer's functioning, presenting problem, needs, or desires.

(4) The assessment and social history are completed by staff credentialed in accordance with organization policy and procedure and appropriate professional standards of practice.

**24.2(2) Consumer service plan.**

*a. Performance benchmark:* Individualized, planned and appropriate services are guided by an individual-specific service plan developed in collaboration with consumer, significantly involved others as appropriate, and staff.

*b. Performance indicators:*

(1) The service plan is based on the assessment and identifies observable and measurable consumer goals and objectives, desires, time lines, and the actions, interventions, or supports needed to meet those goals and includes discharge planning.

(2) Services defined in the service plan are appropriate to the severity level of problems and specific needs or disabilities, and related to desired consumer outcomes. This plan reflects consumer desires and involves other organizations and individuals as appropriate.

(3) The selection and wording of the goals and objectives and desired outcomes reflect consumer collaboration.

(4) Intervention activities identified in the service plan encourage the consumer's ability and right to make choices, to experience a sense of achievement, and to modify or continue the consumer's participation in the treatment process.

(5) The service plan is monitored by staff with review occurring regularly. At least annually, the service plan is assessed and revised to determine achievement, continued need or change in goals or intervention methods. The review includes the consumer with the involvement of significant others as appropriate.

(6) The service plan is formulated and implemented by staff who are credentialed in accordance with organization policy and procedure and meet professional standards of practice.

**24.2(3) Provision of services and treatments.**

*a. Performance benchmark:* Individualized and appropriate intervention services and treatments are provided in ways that support the needs, desires, and goals identified in the service plan, and that respect consumers' rights and choices.

*b. Performance indicators:*

(1) All interventions respect and enhance the consumer's abilities and dignity, encourage the development of a sense of achievement, and allow the consumer to choose to continue or to modify the consumer's participation in the treatment process.

(3) Consumers receive recognized psychosocial and (re)habilitative services that are directed toward the areas of need identified at admission, that use consumer strengths, that are appropriate to the diagnosed disability level of the consumer, and that are reviewed regularly by the consumer and staff for effectiveness.

(4) Consumers receive support and (re)habilitation services directed to enabling them to regain or attain higher levels of functioning or to maximize current functioning.

(5) Consumers receive services that are enhanced and extended through the organization's linkages with other community resources.

(6) Consumers receive services from staff whose education, training, and competencies address the specific needs and disabilities of the consumer and who meet the requirements of the specific services or supports to be provided. Supervision is by staff who have training, education, and experience in the specific disability of the consumers being served.

(7) Consumers and support systems, identified by the consumer as appropriate, participate in developing a crisis intervention plan which identifies potential emergencies, available supports, and how to access emergency services when needed.

(8) The support systems identified by the consumers receive education services from staff and are involved in service planning and provision at a level deemed appropriate and necessary.

(9) Consumers have medical services provided by licensed physicians, and mental health treatment services provided by mental health professionals. These services are available based on consumer need and desire.

(10) Family members of consumers are involved in the planning and provision of services as appropriate and as desired by the consumer.

**24.3(5) Partial hospitalization services.** Partial hospitalization services is an active treatment program providing intensive group and individual clinical services within a structured therapeutic environment for those consumers who are exhibiting psychiatric symptoms of sufficient severity to cause significant impairment in day-to-day functioning. Short-term outpatient crisis stabilization and rehabilitation services are provided to avert hospitalization or to transition from an acute care setting. Services are supervised and managed by a mental health professional, and psychiatric consultation is routinely available. Clinical services are provided by a mental health professional.

*a. Performance benchmark:* Consumers who are experiencing serious impairment in day-to-day functioning due to severe psychiatric distress are enabled to remain in their community living situation through the receipt of therapeutically intensive milieu services.

*b. Performance indicators:*

(1) Consumers and staff mutually develop an individualized service plan which focuses on the behavioral and mental health issues and problems identified at admission. Goals are based on the consumer's need for services.

(2) Consumers receive clinical services that are provided and supervised by mental health professionals. Psychiatric consultation and medication services are provided by a licensed and qualified psychiatrist.

(3) Consumers receive a comprehensive schedule of active, planned and integrated psychotherapeutic and rehabilitation services provided by qualified professional staff at least four hours per day, four days per week.

(4) Consumers receive group and individual treatment services that are designed to increase their ability to function independently.

(5) Consumers are involved in the development of a discharge plan which includes linkages to family, provider, and community resources and services.

(6) Consumers have sufficient staff available to ensure their safety, to be responsive to crisis or individual need, and to provide active treatment services.

(7) Consumers receive services commensurate with current identified risk and need factors.

(8) Support systems identified by consumers are involved in the planning and provision of services and treatments as appropriate and desired by the consumer.

**24.3(6) *Outpatient psychotherapy and counseling services.*** Outpatient psychotherapy and counseling services is a planned process in which the therapist uses professional skills, knowledge and training to enable consumers to realize and mobilize their strengths and abilities; take charge of their lives; and resolve their issues and problems. Psychotherapy services may be individual, group, or family, and are provided by a person meeting the criteria of a mental health professional, or a person with a master's degree in a mental health field who is directly supervised by a mental health professional.

*a. Performance benchmark:* Consumers realize and mobilize their own strengths and abilities to take control of their lives and resolve their issues and problems.

*b. Performance indicators:*

(1) Consumers are prepared for their role as a partner in the therapeutic process at intake where they define their situation, evaluate those factors that affect their situation, and establish desired problem resolution.

(2) Consumers are active participants in the treatment planning process and with staff mutually establish individualized goals and services that address problems identified at intake.

(3) Consumers are encouraged to feel ownership of the process of resolving problems and achieving goals through frequent reviews of their service plan and their progress.

(4) Psychiatric consultation and psychopharmacological services are available as needed by the consumer.

(5) Consumers, families and community resources receive clinical consultation as needed and requested. Clinical consultations are provided by mental health professionals.

**24.3(7) *Emergency services.*** Emergency services are crisis services that provide a focused assessment and rapid stabilization of acute symptoms of mental illness or emotional distress, and are available and accessible, by telephone or face-to-face, to consumers on a 24-hour basis. The clinical assessment and psychotherapeutic services shall be provided by a person who holds a master's degree in a mental health field, including, but not limited to, psychology, counseling and guidance, psychiatric nursing, psychiatric rehabilitation, or social work who has training in emergency services and who has access, at least by telephone, to a mental health professional, if indicated; or a person who holds a bachelor's degree in a human service discipline with five years' experience providing mental health services or human services who has training in emergency services and who has access, at least by telephone, to a mental health professional; or a psychiatric nurse with three years of clinical experience in mental health who has training in emergency services and who has access, at least by telephone, to a mental health professional. A comprehensive social history is not required for this treatment.

*a. Performance benchmark:* Consumers receive, when needed, emergency services that provide a focused assessment and rapid stabilization of acute symptoms of mental illness or emotional distress.

*b. Performance indicators:*

(1) Consumers can access 24-hour emergency services by telephone or in person.

(2) Information about how to access emergency services is publicized to facilitate availability of services to consumers, family members, and the public.

(3) Consumers receive assessments and services from either a mental health professional or from personnel who meet the requirements above and are supervised by a mental health professional. Psychiatric consultation is available, if needed.

(4) Consumers receive intervention services commensurate with current identified risk factors.

(5) Significantly involved others of consumers are involved as necessary and appropriate to the situation and as desired by the consumer.

(6) Consumers are involved in the development of postemergency service planning and resource identification and coordination.

**441—24.27(76GA, ch1213, 135C, 225C, 249A) Appeals.** Decisions made by the department or its designee which adversely affect organizations certified under this chapter may be appealed pursuant to 441—Chapter 7.

These rules are intended to implement 1996 Iowa Acts, chapter 1213, section 3, subsection 12, and Iowa Code chapters 135C and 225C, and Iowa Code section 249A.4.

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\*Effective date of definitions of "Administrator," "Division" and "Persons with mental retardation" delayed 70 days by the Administrative Rules Review Committee at its meeting held April 10, 1995.





## CHAPTER 15 INSTALLERS AND INSPECTORS

### 591—15.1(455G) Definitions. As used herein:

*“Administrator”* means the Iowa comprehensive petroleum underground storage tank fund program administrator as provided in Iowa Code section 455G.5.

*“Board”* means the Iowa comprehensive petroleum underground storage tank fund board.

*“Certificate of noncompliance”* means a document provided by the child support recovery unit certifying that the named obligor is not in compliance with a support order or with a written agreement for payment of support entered into by the unit and the obligor.

*“Child support recovery unit”* means the child support recovery unit created by Iowa Code section 252B.2.

*“Deductible”* means the portion of a claim paid by insureds on the policy issued by the board.

*“DNR”* means the Iowa department of natural resources.

*“Inspector”* means a licensed individual who is engaged in the inspection and approval of the installation of new or upgraded underground storage tank systems.

*“Installer”* means a licensed individual or licensed company engaged in the installation of a new underground storage tank system or the upgrading or lining of existing underground storage tank systems.

*“In the aggregate”* means for all claims or suits in a single year seeking damages under an insurance policy issued by the board.

*“Licensed company”* means a person, or company which employs a person who meets all of the qualifications to install, upgrade, repair, test or line underground storage tank systems.

*“Licensed individual”* means an individual who has received a license to perform any of the activities regulated under this chapter.

*“Liner”* means a licensed company or an individual who lines a tank using an acceptable procedure under subrule 15.8(2).

*“Maintenance”* means minor service work to existing equipment, associated with underground storage tank systems, which is installed above grade level and can be observed from grade level. Maintenance does not require licensing.

*“Obligor”* means a natural person as defined in Iowa Code section 252B.1 who has been ordered by a court or administrative agency to pay support.

*“OSHA”* means the Occupational Safety and Health Act.

*“Precision test”* means a tank and line tightness test that meets the requirements in Iowa Administrative Code 567—135.4(455B).

*“Removal”* means the process of removing and disposing of an underground storage tank system no longer in service or the process of abandoning an underground storage tank system in place, in accordance with DNR rule 567—135.9(455B).

*“Repair”* means modification or correction of any existing portion of an underground storage tank system through such means as replacement of valves, fillpipes, vents, liquid level monitoring systems, and installation of spill and overfill devices, provided the activity occurs above grade, and the maintenance and inspection of the efficacy of cathodic protection devices. Repair does not include activities which are maintenance as defined in this chapter.

*“Self-insured retention”* means the portion of a claim paid by insureds who self-insure a portion of their risk as part of a policy issued by the board. Expenses included as a part of the self-insured retention are the cost of claims settlements or suits, the cost of adjusting, legal fees, court costs and any other investigative cost associated with the claim.

*“Tester”* means a licensed company or individual who tests tanks, lines, leak detection systems, or monitoring systems, using an acceptable procedure under subrule 15.7(2). For the purposes of this definition, an owner, operator or one of their employees performing vapor monitoring, cathodic protection tests, statistical inventory reconciliation or using an automated in-tank gauging device installed at a site location they own or operate shall not be defined as a tester. An owner or operator or one of their employees may also perform volumetric, nonvolumetric or vacuum tests on their own tanks and hydrostatic pressure tests on their own lines, provided they have received certification from the manufacturer or supplier of the system for its usage and the system has been approved by the USEPA.

*“Testing”* means the process of utilizing a system to test underground storage tank systems or any part thereof for tightness, leak detection, cathodic protection or monitoring.

*“Underground storage tank system”* means tank or tanks and associated piping intended to contain and dispense petroleum products and for which proof of financial responsibility is, or on a date definite will be required to be maintained pursuant to the Federal Resource Conservation and Recovery Act, 40 CFR 280, and the regulations in effect on December 31, 1994, adopted pursuant to that Act or successor Acts or amendments.

*“Unit”* means the child support recovery unit created in Iowa Code section 252B.2.

*“USEPA”* means the United States Environmental Protection Agency.

*“Withdrawal of a certificate of noncompliance”* means a document provided by the unit certifying that the certificate of noncompliance is withdrawn and that the licensing authority may proceed with issuance, reinstatement, or renewal of an obligor’s license.

**591—15.2(455G) Applicability of chapter.** To be eligible for program benefits under Iowa Code chapter 455G, all underground storage tank systems must comply with this chapter. All new installations, or the upgrading of existing underground storage tank systems, must comply with the installation and inspection guidelines established in this chapter and the underground storage tank systems must be registered with the DNR as provided for by 567—Chapter 135 of the Iowa Administrative Code.

**15.2(1) Nonapproved underground storage tank systems.** Owners may elect not to have their underground storage tank system approved by the board. Any underground storage tank system which is not approved in accordance with this chapter and 591—11.4(455B,455G) shall not be eligible for program benefits until such time as the underground storage tank system can be approved. Installations not approved in accordance with these rules do not require a licensed installer to perform the work. Should an owner/operator later want to become eligible for program benefits provided for in Iowa Code chapter 455G, all requirements as outlined in 591—Chapter 15 of the Iowa Administrative Code shall be completed prior to application for benefits.

**15.2(2) Reserved.**

**591—15.3(455G) Licensing—general and fees.** Effective January 1, 1995, new and renewal licenses shall be on a calendar-year basis, with the licensing fees to be prorated from the date of application or expiration of license to cover the time period to the next anniversary date. The license application will note the type of work the individual or company will be performing.

Persons working for a licensed company as an installer, liner or tester may not provide services as an inspector on sites that are being installed, upgraded or lined by that employer for the period of employment and the first six months following termination of employment with that company.

Persons working for a licensed company as an installer, liner or tester may provide services as an inspector on sites that are being installed or lined by their prior employer six months after leaving the licensed company.

If a licensed individual leaves the employment of a licensed company, the licensed company shall notify the administrator within 30 days of that occurrence.

**15.3(1) *Licensing of individuals.*** Licenses will not be issued to persons who are in noncompliance with the child support recovery unit. The following individuals shall be licensed:

*a.* Installers, liners and testers. The license application will note the type of work the individual will be performing: installation or the upgrading of underground liquid storage tank systems to meet federal USEPA or 591—11.4(455B,455G) requirements, corrosion protection, monitoring and leak detection systems, tank lining, tank and line tightness testing and removal done in conjunction with the above. The annual license fee is \$35. The annual \$35 individual fee is waived for a sole proprietor doing business as a licensed company.

*b.* Inspectors.

(1) The application for an inspector will note the type of work the inspector will be performing: inspections of underground storage tank systems or any part thereof on new or upgraded equipment.

(2) Underground storage tank systems which have been lined do not require an internal inspection by the inspector, but shall meet all requirements as outlined herein for lining underground storage tank systems.

(3) Cathodic systems do not need a separate inspection if the only work being completed is adding cathodic protection designed by a corrosion expert to an existing system.

(4) The annual license fee is \$50.

**15.3(2) *Licensed company.*** Companies employing licensed individuals for installation, upgrading, lining or testing of underground liquid storage tank systems shall be registered as a licensed company. A company shall lose its license if it fails to employ at least one licensed individual or if it employs unlicensed individuals to do work requiring a license. Sole proprietors need only to apply for a company license. However, employees of a sole proprietor must be licensed individually under 15.3(1)“a.” The annual license fee is \$50.

**15.3(3) *License not required.*** A license is not required for the following list of exceptions:

*a.* Individuals or companies performing only underground storage tank system removal. Please note that they may be subject to requirements in subrule 15.3(4).

*b.* Individuals or companies performing maintenance as herein defined.

*c.* Individuals installing groundwater or vapor monitoring wells used in the remediation of a site or to be used for leak detection at a site. Please note that individuals installing wells might be subject to the requirements in 567—Chapters 134 and 135.

**15.3(4) *OSHA safety requirements.*** All licensed individuals and companies regulated under this chapter will conduct their work as required by OSHA safety requirements defined under 29 CFR 1910, effective on July 1, 1993. OSHA standards apply whenever flammable, combustible or hazardous materials are present, especially during the following activities:

*a.* Excavating, placing liquid underground storage tank systems in excavations, and ballasting liquid underground storage tank systems with flammable, combustible or hazardous materials.

*b.* Purging, cleaning and removal of liquid underground storage tank systems which have contained flammable, combustible or hazardous materials.

*c.* Testing as a part of an installation or after the system has been placed in service.

**591—15.4(455G) Educational requirements for installers, liners, testers and inspectors.****15.4(1) Education and examination.**

a. Prior to the issuance of a license as an installer, liner or inspector, the applicant shall successfully complete a course of instruction and pass a qualification examination approved by the board, unless excepted under 15.4(2).

b. Examination requirements for all installers, liners, and inspectors are as follows:

(1) A passing grade of not less than 85 percent is required on the Iowa examination.  
(2) Candidates who have failed the examination may not perform work unless supervised by the appropriate licensed individual for the work they are performing.

(3) A fee as approved by the board may be charged for each examination and course of instruction.

(4) Nothing herein shall limit the right of the board to require additional educational requirements of license holders.

**15.4(2) Exceptions on completion of the course of instruction or examination.** A course of instruction is not required in the following circumstances:

a. Individuals doing testing only are not required to complete the course of instruction. However, the board will establish a separate test by January 1995 that all persons renewing their license as a tester will be required to take and pass in accordance with the same provisions outlined in 15.4(1) in order to renew their license in 1996. The test will cover all types of systems being installed and also leak detection requirements.

b. Installers, liners, testers or inspectors with more than two years' experience as an installer, inspector or liner as defined under rule 15.1(455G) may take the examination without taking the course. If the candidate is not successful on the second attempt, then an approved course and the Iowa examination shall be successfully completed in order to obtain a license.

**15.4(3) Reciprocity.** Persons who complete the University of Wisconsin Liquid Storage Tank Program, or a program offered by another state or recognized regulatory agency which covers installations of underground liquid storage tank systems and is approved by the board, shall successfully pass the Iowa examination only. Candidates shall provide an outline and evidence of the successful completion of the course. If the content of the course taken is not similar to that offered by the board, the board may still require that the Iowa course be taken.

**15.4(4) Continuing education.** Effective January 1, 1995, each person licensed hereunder shall complete a refresher course covering changes in installation, lining and testing standards at least once every two years and the course shall be completed prior to the anniversary of the next license renewal. The board shall evaluate continuing education courses. Testers are exempt from this requirement. The first refresher course shall be completed prior to the January 1, 1996, license renewal date for all individuals licensed on or after January 1, 1995.

**591—15.5(455G) Environmental liability insurance requirements.** All licensed installers, liners, testers and inspectors are required to have environmental liability insurance with minimum liability limits of \$250,000 per occurrence and in the aggregate, as approved by the administrator.

**15.5(1) Licensed company.** A licensed company is required to provide environmental liability insurance for all licensed activities of the company and its licensed installers, liners and testers.

**15.5(2) Licensed installers, liners, testers and inspectors.** Each licensed installer, liner, tester and inspector is required to provide proof of environmental liability insurance covering licensed activities. The insurance may be provided by the licensed company employing the individual, or by the individual licensee.

**15.5(3) *Exception to this requirement.*** Licensed installers, liners, testers and inspectors employed by owners or operators of underground storage tank systems, to work on their own system(s) and not for others, are exempted from insurance requirements. Licensed persons may install, line or inspect liquid underground storage tank systems owned by the licensed person's employer, but shall not perform both inspection and installation of a liquid underground storage tank system owned by the licensed company.

**15.5(4) *Forms of acceptable insurance.***

*a.* All parties covered by the licensing provisions of this chapter shall provide evidence of environmental liability insurance to the administrator upon request. This subrule applies to all companies and individuals as outlined in rule 15.5(455G).

(1) Rescinded IAB 3/24/99, effective 12/31/99.

(2) Environmental liability insurance may be provided by a private insurer authorized to do business in Iowa.

(3) Evidence of environmental liability insurance may be provided using methods of self-insurance as outlined in 567—Chapter 136.

(4) Environmental liability insurance shall, at minimum, cover the same risks as provided for by the board in its approved insurance document form.

*b. to g.* Rescinded IAB 3/24/99, effective 12/31/99.

**591—15.6(455G) *Installers.*** Installers of underground liquid storage tank systems shall apply for a license as an installer and shall indicate on the license application the types of installations and upgrade procedures they use.

**15.6(1) *Installer licensing requirements.*** The requirements are as follows. The applicant shall:

*a.* Possess two years of experience in underground storage tank system installation procedures or other experience approved by the administrator.

*b.* Pay the annual licensing fee as provided for in rule 15.3(455G).

*c.* Provide evidence of environmental liability insurance as provided for in rule 15.5(455G).

*d.* Complete the educational and examination requirements described in rule 15.4(455G), unless otherwise excepted under 15.4(2).

*e.* The applicant shall provide proof of certification, training or approval from the manufacturers or suppliers of underground liquid storage tank systems for which the applicant is requesting a license to install or upgrade including, but not limited to:

(1) Tank systems.

(2) Piping systems.

(3) Leak detection and monitoring systems.

(4) Corrosion protection systems.

*f.* The applicant shall not have been issued a certificate of noncompliance from the child support recovery unit.

**15.6(2) Responsibilities of installers.** A licensed installer shall be on site during the performance of all work, including subcontracted work, for which the owner/operator has contracted to have completed by the installer. A licensed installer does not need to be on site during paving, site grade preparations or when electrical work is being conducted. If removal is a part of the work being completed by or subcontracted by the installer, these same rules apply. Work on the site may be subcontracted by the licensed installer to another person or firm. The licensed installer is responsible for the integrity of the complete installation under the control of the licensed installer. Tank installation includes all work associated with the placement of the tanks, pipes, pumps, dispensers, gauging systems, monitoring systems, corrosion protection, containment devices, and ancillary systems which, if installed incorrectly, could cause or delay detection of a leak. This specifically includes excavation, equipment placement, backfilling, piping, electrical work, paving, testing calibration and start-up.

**15.6(3) Documentation of work performed, installers and liners.** Installations of all new systems or upgrading to meet USEPA or 591—11.4(455B,455G) requirements of underground liquid storage tank systems requires the submission to the board of a copy of the new owner-signed DNR Form 148 by the licensed company. Each licensed installer or liner responsible for the new system installation or the upgrading of an existing system shall sign the DNR Form 148 as required by 567—paragraph 135.3(3)“e.”

**591—15.7(455G) Testers.** Testers of underground liquid storage tank systems shall apply for licensing as a tester and note on the license application the systems and method(s) of testing they will use. If the applicant is employed by a licensed installer company as an installer or liner, a separate tester application is not required.

**15.7(1) Tester licensing requirements.** The requirements are as follows. The applicant shall:

- a. Possess one year's experience in testing underground storage tank system installations.
- b. Pay the annual licensing fee as provided for in rule 15.3(455G).
- c. Provide evidence of environmental liability insurance as provided for in rule 15.5(455G).
- d. Provide the administrator proof of certification, training or approval from the manufacturers or suppliers of testing methods and systems for which the applicant is seeking a license and, after January 1, 1995, meet requirements outlined in rule 15.4(455G).

e. The applicant shall not have been issued a certificate of noncompliance from the child support recovery unit.

**15.7(2) Approval of testing systems.** Testing systems which have been evaluated by the USEPA or the DNR and which meet or exceed the USEPA criteria for the detection of leaks and cathodic protection shall be accepted.

**15.7(3) Documentation of work performed—testers.** A copy of the test results shall be attached to the DNR Form 148 when testing is done in connection with a new or the upgrading of an existing underground liquid storage system installation. A precision test is required when the system is covered and is ready to be placed into service; a volumetric, nonvolumetric or vacuum test may be used as a method for testing the system and a hydrostatic pressure test may be used for testing the lines. Systems used for leak detection or monitoring, such as statistical inventory reconciliation, vapor or water monitoring wells or tracer type tests, shall not be acceptable as a precision test at the completion of the installation of a new or upgrading of an existing system. Automatic in-tank gauging may be acceptable if third-party USEPA approval as a precision test has been received for testing tanks.

a. The test results shall identify the tanks tested, the test method employed, the results of the test, and shall be dated and signed by the licensed tester performing the tests.

- b. The original DNR Form 148 without attachments shall be mailed to the DNR.
- c. Inspectors are not required for testing liquid underground storage tank systems, lines, leak detection and cathodic protection as required by 567—Chapter 135 after the liquid underground storage tank systems have been put into service.

**591—15.8(455G) Additional liner requirements.** Liners of underground liquid storage tank systems shall apply for licensing as a liner and the liner and lining system must be an USEPA-approved system.

**15.8(1) Liner licensing requirements.** The requirements are as follows:

- a. The applicant must possess at least one year of experience in lining underground storage tank systems with an approved lining method (see subrule 15.8(2)).
- b. The applicant must pay the annual licensing fee as provided for in rule 15.3(455G).
- c. The applicant must complete educational and examination requirements described in rule 15.4(455G) unless otherwise excepted under 15.4(2).
- d. The applicant must provide evidence of environmental liability insurance as provided for in rule 15.5(455G).
- e. The applicant must be certified, licensed or approved by a lining system manufacturer or supplier for which the applicant is requesting a license and which meets the requirements in subrule 15.8(2). A copy of the lining system specification installation instructions and other documentation shall be provided to the administrator with the license application.
- f. The applicant shall not have been issued a certificate of noncompliance from the child support recovery unit.

**15.8(2) Approval of lining systems.** The lining method employed must be specifically designed for the purpose, compatible with the product stored, and meet acceptable national standards. The following standards are acceptable:

- a. American Petroleum Institute, Recommended Practice for the Interior Lining of Existing Steel Underground Storage Tanks, API 1631; or
- b. National Leak Detection Association, Interior Inspection, Repair and Lining of Steel and Fiberglass Storage Tanks, NLP A Standard 631, Draft of the Third Edition, February 1990.
- c. No other standard will be acceptable for lining. Licensed liners shall certify, in writing to the inspector, if the system is being fully upgraded as required by Iowa Code section 455G.11, that the requirements as noted in subrule 15.8(2) have been met. If the system is only being lined, the liner shall certify to the administrator that the requirements as noted under 591—15.8(455G) have been met.

**15.8(3) Documentation of work performed—liners.** Liners shall follow the process as outlined in subrule 15.6(3) for the documentation of work performed.

**591—15.9(455G) Inspectors.** Inspectors of underground liquid storage tank systems shall apply for licensing as an inspector and shall be trained and licensed to do the requisite work. Engineers that have met requirements in Iowa to be a registered professional engineer (P.E.) may be exempt from the educational requirement as provided for in rule 15.4(455G), but not the examination requirement.

**15.9(1) Inspector licensing requirements.** The requirements are as follows:

- a. The applicant must possess at least one year of experience in underground storage tank system installations, testing, inspecting or design.
- b. The applicant must pay the annual licensing fee as provided for in rule 15.3(455G).
- c. The applicant must complete educational and examination requirements as described in rule 15.4(455G) unless otherwise excepted under 15.4(2).

d. The applicant must provide evidence of environmental liability insurance as provided for in rule 15.5(455G).

e. The applicant shall not have been issued a certificate of noncompliance from the child support recovery unit.

**15.9(2) Documentation of work performed—inspector.**

a. A copy of the inspection report shall be attached to the DNR Form 148 when the inspection is done in connection with a new system or the upgrading of an existing underground liquid storage system installation. "Repair" and "Maintenance" as defined in 15.1(455G) do not require inspection.

(1) A licensed inspector shall inspect the job site a minimum of two times during the course of the new tank or system installation or the upgrading of an existing system.

(2) If the work being completed consists of the adding or replacement of spill or overfill devices, lining or cathodic protection designed by a corrosion expert, an inspection is not required.

(3) If the work being done consists of more than lining or adding or replacement of spill/overfill equipment, then an inspection shall be completed.

b. New installations and upgrades shall have one of the inspections take place prior to the covering of the system when all tanks and pipes are exposed. The final inspection shall take place when all systems are operational and the system has been covered, but shall occur prior to actual operation. The inspector shall be present and visually observe the final inspection and be able to attest to the results. A video or other recording device showing the work completed by the installer or liner shall not be used nor shall it be an acceptable method of providing independent inspection of the work completed.

**15.9(3) Compensation.** Licensed inspectors shall be compensated on the basis of a fee for each inspection by the owner or operator.

**591—15.10(455G) Inspector notification regulation.**

**15.10(1)** The licensed company is responsible for notifying the licensed inspector hired by the owner/operator prior to performing approved work. The owner/operator is responsible for notifying any state or local agency with rules impacting installations or upgrades, and identifying who the inspector shall be, if other than a governmental entity.

**15.10(2)** Work plan approval requires prior notice to the inspector. The notification shall include, at a minimum, the following information:

- a. Description of the work planned.
- b. The licensed individual responsible for the work to be performed.
- c. A schedule of the work to be performed.

The inspector shall review the work plan, and any required changes by the inspector must be submitted to the installer prior to the beginning of the described work.

**15.10(3)** New installations and upgrades subject to 591—11.4(455B,455G) may require budget approval. Such approval request must be submitted 30 days prior to installation or removal.

**15.10(4)** A "preinstallation checklist" as approved by the administrator shall be submitted at least 14 days prior to an installation or upgrade by the licensed company to the inspector and administrator.

**15.10(5)** Inspectors are required to use an inspection form or checklist which has been approved by the administrator. Payment for services and board-approved secondary containment is dependent on the owner or operator as required herein having the work inspected.

**15.10(6)** The licensed inspector and licensed individual or company shall agree upon an inspection schedule before work commences.



**15.10(7)** Rescheduling due to weather or unforeseen job-site conditions shall be done as soon as the extenuating circumstances are recognized to minimize the disruption of schedules.

**15.10(8)** Inspectors who work directly for or as a subsidiary of a licensed company may not inspect the work of those licensed companies.

a. If the inspector establishes a contract to perform inspection services for a company or individual in any form, or performs more than five inspections per calendar year for any one company or individual, then the inspector is required to disclose that relationship in writing to the administrator within 30 days of the fifth inspection.

b. The administrator may require the owner or operator to seek alternative inspection services for any reason deemed prudent to ensure quality installations.

**15.10(9)** An inspector has the right to keep work from starting or to stop work on a job if standards as outlined herein are not followed by the installer. Furthermore, once an inspector has been placed on a job, that inspector cannot be replaced without the administrator's approval.

**591—15.11(455G) Standards.** Standards for new tank installations are prescribed in 567—Chapter 135, the federal technical standards for underground storage tank systems (40 CFR Part 280) and the following publications:

1. Underground Storage Tanks; Technical Requirements and State Program Approval Final Rules, 40 CFR Parts 280 & 281, Part II, Federal Register, Friday, September 23, 1988, and 567—Chapter 135, except as mandated by upgrade requirements in 591—11.4(455B,455G).

2. Installation of Underground Storage Systems, American Petroleum Institute Publication 1615, 1987.

3. Recommended Practice for the Installation of Underground Liquid Storage System, Petroleum Equipment Institute RP100-90.

4. American National Standard Code for Pressure Piping, American Society of Mechanical Engineers Standard ANSI B31.

**591—15.12(455G) General procedures.**

**15.12(1) Database.** The administrator will maintain a database including the following information:

a. Liquid underground storage tank systems registered with the DNR.

b. Licensed individuals (installers, liners, testers, inspectors).

c. Licensed companies (employers of licensed individuals).

d. Violations (including disposition or status).

**15.12(2) Revocation of license.** A license may be revoked for 12 months if the licensed company or individual, including installers, testers, liners or inspectors:

a. Fails to perform duties or the assigned work consistent with industry standards as outlined in 591—Chapter 15.

b. Intentionally falsifies reports to the board or DNR.

c. Intentionally fails to report to the board or DNR when a prohibited practice regulated by this chapter is observed or identified at a site at which they are performing work regulated by this chapter.

d. Fails to report to the board any practice by any party, including the owner/operator, which is prohibited under these rules.

e. Acts in collusion with any other party.

f. Fails to report a release from an underground storage tank system to the board or DNR that is discovered by the licensed individual at a site at which they are performing work regulated by this chapter, but which has not been reported as required under 591—Chapter 11.

g. A license will be revoked upon receipt by the board/administrator of a certificate of noncompliance from the child support recovery unit.

15.12(3) *Appeal.* Nothing herein shall eliminate the ability of the license holder to appeal, under Iowa Code chapter 17A procedures, any administrative action allowed by these rules.

Notwithstanding Iowa Code section 17A.18, the obligor does not have a right to a hearing before the board to contest the board's actions under Iowa Code chapter 252J but may request a court hearing pursuant to Iowa Code section 252J.9 within 30 days of the provision of notice under this section.

These rules are intended to implement Iowa Code chapter 455G and Iowa Code chapter 252J.

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CHAPTER 11  
IDENTIFICATION SECTION OF THE DIVISION OF CRIMINAL INVESTIGATION

[Rules 11.1 to 11.7 appeared as 4.3 prior to 6/27/79]  
[Prior to 4/20/88, see Public Safety Department[680] Ch 11]

**661—11.1(17A,690,692) Identification section.** The identification section maintains information necessary to identify persons with criminal histories. It collects, files and disseminates criminal history data to authorized criminal justice agencies and the public upon request and updates criminal history records as a continual process.

**661—11.2(17A,690,692) Definitions.**

*“Authorized agency”* means a division or office of the state of Iowa designated by a state to report, receive, or disseminate information under Iowa state law, administrative rule or Public Law 103-209.

*“Criminal identification records”* shall mean either of the following records, the forms for which are provided by the department to law enforcement agencies:

1. Department of public safety arrest fingerprint cards.
2. State of Iowa final disposition reports.

*“Dependent adult abuse registry”* means the official registry kept by the department of human services, established pursuant to Iowa Code chapter 235B.

*“Employee”* means a person who provides services to a qualified entity and is compensated for those services.

*“Fee”* means any cost associated with conducting a state or national criminal history record check.

*“Felony”* and *“misdemeanor”* shall have the same meaning and classifications as described in Iowa Code sections 701.7 and 701.8.

*“Fitness determination”* means an analysis of criminal history information to determine whether or not it disqualifies an individual from holding a particular position either as an employee or a volunteer.

*“National record check”* means a criminal history record check from the FBI that is fingerprint-based and is transmitted through the state central repository.

*“Nonlaw enforcement agency”* means an agency authorized by law to receive criminal history data from the department which is not a “criminal justice agency” as defined in Iowa Code section 692.1, subsection 10, or which is not an institution which trains law enforcement officers for certification under Iowa Code chapter 80B.

*“Qualified entity”* means a business or organization, whether public, private, for-profit, not-for-profit, or voluntary, that provides child care or child care placement services, including a business or organization that licenses or certifies others to provide child care or child care placement services. This definition also applies to organizations which provide care to the elderly or the disabled.

The *“taking of fingerprints”* shall mean the obtaining of a fully rolled set of inked fingerprint impressions having suitable quality for fingerprint classification and identification.

*“Volunteer”* means a person who provides services to a qualified entity without compensation.

This rule implements Iowa Code chapters 690 and 692.

**661—11.3(690,692) Release of information.** Records maintained by the identification section are public records and are released to criminal justice agencies and the public as authorized by statute. Only the department of public safety may release criminal history information maintained by the department to non-criminal justice agencies or persons.

**661—11.4(690,692) Right of review.** Any person who has a criminal history record on file with the division of criminal investigation has the right to review and obtain a copy of the record. This right may be exercised by an attorney acting on behalf of the person with the criminal history record with written authorization and fingerprint identification of the person with the criminal history record. A copy of a criminal history record provided pursuant to this rule is subject to the fee provided in rule 661—11.15(692).

**661—11.5(690,692) Review of record.** Any individual or that individual's attorney, acting with written authorization from the individual, may review or obtain a copy of the individual's criminal history record during normal business hours at the headquarters of the division in the Wallace State Office Building in Des Moines or by submitting a request on a form provided by the department of public safety. A copy of this request form may be obtained by writing to Identification Section, Division of Criminal Investigation, Department of Public Safety, Wallace State Office Building, Des Moines, Iowa 50319, by telephoning the identification section at (515)281-8706 or by sending a request by electronic mail to [cchinfo@dps.state.ia.us](mailto:cchinfo@dps.state.ia.us). The request form may also be downloaded from the division's Web site at <http://www.state.ia.us/government/dps/dci/>. The completed request form must be notarized, if submitted by mail, and accompanied by a set of the fingerprints of the individual whose criminal history record is being requested, along with submission of the fee established in rule 661—11.15(692). After the record check has been completed, the fingerprints submitted for verification shall be returned, upon request, or destroyed.

**661—11.6(17A,690,692) Inaccuracies in criminal history.** If an individual believes inaccuracies exist in the individual's criminal history, notice may be filed with the division outlining the alleged inaccuracies accompanied by any available supporting data. In all instances where a notice is so filed, the division contacts the arresting agencies, court of record and institutions to verify record accuracy. Any necessary changes shall be made to the individual's record. Any agency previously receiving a copy of the inaccurate record shall be so notified with a corrected copy. A final report shall be made to the individual who has so filed a notice of correction within 20 days of said filing. If, after notice is filed and the division makes its final report, the individual is still of the opinion that inaccuracies exist within the records, an appeal of the final decision of the division to the Polk county district court may be made.

**661—11.7(17A,690,692) Fingerprint files and crime reports.** This section also maintains all fingerprint files and has personnel for the entry of crime reports to the criminal system.

**661—11.8(690) Taking of fingerprints.** The taking of fingerprints shall be in compliance with Iowa Code sections 690.2 and 690.4. Fingerprints taken pursuant to these sections shall be submitted to the identification section of the division of criminal investigation within two working days, and to the Federal Bureau of Investigation.

**661—11.9(17A,690,692) Arresting agency portion of final disposition form.** The sheriff of each county and the chief of police of each city shall complete the arresting agency portion of the final disposition form with the arrest information on all persons whose fingerprints are taken in accordance with the rules or Iowa Code section 690.2, and thereafter forward the form to the appropriate county attorney.

**661—11.10(690,692) Final disposition form.** The county attorney of each county shall complete a final disposition report and submit it to the division of criminal investigation within 30 days when a preliminary information or citation is dismissed without new charges being filed, or when a case is ignored by a grand jury. When an indictment is returned or a county attorney's information filed, the final disposition form shall be forwarded by the county attorney to the clerk of the court having jurisdiction.

c. Criminal histories of juveniles who remain under the jurisdiction of the juvenile court shall be maintained only if the juvenile is adjudicated delinquent based upon an offense which would be an aggravated misdemeanor or felony if committed by an adult. The criminal history record established in response to receiving a fingerprint card shall be expunged if the delinquency petition is dismissed.

d. Criminal history records of juveniles over whom jurisdiction has not been transferred from juvenile to adult court shall be expunged when the subject reaches the age of 21 unless the subject has been convicted of a serious or aggravated misdemeanor or a felony between the ages of 18 and 21. If the subject has been convicted of a serious or aggravated misdemeanor or a felony between the ages of 18 and 21, the criminal history record shall be maintained in the same manner as adult criminal history records.

**11.19(5) Tracking criminal history records.** The division of criminal investigation shall establish an internal procedure for tracking criminal history records expunged from the files of the division for audit purposes only.

This rule is intended to implement Iowa Code section 232.148.

**661—11.20(135C) Release of dependent adult abuse records.** Effective July 1, 1997, the department of public safety, division of criminal investigation, may release to health care facilities licensed under Iowa Code chapter 135C dependent adult abuse registry information received from the department of human services. The department of public safety and the department of human services shall enter into a 28E agreement to carry out this rule.

**661—11.21(692) Criminal history checks for qualified entities.**

**11.21(1)** The department of public safety may process requests for national criminal history record checks for a qualified entity.

**11.21(2)** All qualified entities requesting criminal history record checks shall be required to pay any applicable state and federal fees associated with non-criminal justice record checks. The qualified entity is responsible for such fees whether the qualified entity requests or receives the information directly or through an agency authorized to make fitness determinations as provided in subrule 11.21(3).

**11.21(3)** Any public entity which has been duly authorized by statute or administrative rule to conduct fitness determinations of volunteers or employees of a qualified entity may receive state and national criminal history checks in order to do so.

These rules are intended to implement Iowa Code chapter 692.

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**701—17.26(422,423) Bedding for agricultural livestock or fowl.** See subrules 17.9(1) and 17.9(2) and paragraph 17.9(3) “a” for definitions applicable to this rule. Between July 1, 1985, and June 30, 1992, inclusive, only the sale of woodchips or sawdust used in the production of agricultural livestock or fowl was exempt from tax. The sale of other materials used as bedding in the production of agricultural livestock or fowl was not exempt from tax. On and after July 1, 1992, the gross receipts from the sale of not only woodchips or sawdust but also of hay, straw, paper or any other materials used for bedding in the production of agricultural livestock or fowl is exempt from tax.

This rule is intended to implement Iowa Code section 422.45(30).

**701—17.27(422,423) Statewide notification center service exemption.** On and after January 1, 1995, taxable services rendered, furnished or performed by a statewide notification center established under Iowa Code section 480.3 which provides notice to operators of underground facilities who excavate in the area of these facilities are exempt from tax. This exemption is also applicable to taxable services rendered, furnished, or performed by any vendor selected by the board of directors of the statewide notification center to provide notification services.

This rule is intended to implement Iowa Code section 422.45 as amended by 1995 Iowa Acts, House File 550.

**701—17.28(422,423) State fair and fair societies.** For periods beginning on or after July 1, 1996, the gross receipts from sales or services rendered, furnished, or performed by the state fair organized under Iowa Code chapter 173 or a county, district or fair society organized under Iowa Code chapter 174 are exempt from sales tax. This exemption does not apply to individuals, entities, or others that sell or provide services at the state, county, district fair, or fair societies organized under Iowa Code chapters 173 and 174. See 701—subrule 16.26(2) for examples of this rule’s application.

This rule is intended to implement Iowa Code section 422.45 as amended by 1996 Iowa Acts, chapter 1124.

**701—17.29(422,423) Reciprocal shipment of wines.** A winery licensed or permitted pursuant to laws regulating alcoholic beverages in a state which affords this state an equal reciprocal shipping privilege may ship into this state by private common carrier, to a person 21 years or age or older, not more than 18 liters of wine per month, for consumption or use by such person. Such wine shall not be resold. Shipment of wine pursuant to this rule is not subject to sales tax under Iowa Code section 422.43 or use tax under Iowa Code section 423.2.

“Equal reciprocal shipping privilege” means allowing wineries located in this state to ship wine into another state, not for resale, but for consumption or use by a person 21 years of age or older.

This rule is intended to implement Iowa Code section 123.187 as enacted by 1996 Iowa Acts, chapter 1101.

**701—17.30(422,423) Nonprofit organ procurement organizations.** On and after July 1, 1998, the gross receipts from sales of tangible personal property to, or from services rendered, furnished, or performed for, a statewide, nonprofit organ procurement organization are exempt from tax.

An “organ procurement organization” is an organization which performs or coordinates the activities of retrieving, preserving, or transplanting organs, which maintains a system of locating prospective recipients for available organs, and which is registered with the United Network for Organ Sharing and designated by the United States Secretary of Health and Human Services pursuant to 42 CFR § 485, subpt. D.

This rule is intended to implement Iowa Code section 422.45 as amended by 1998 Iowa Acts, chapter 1156.

**701—17.31(422,423) Sale of electricity to water companies.** On or after July 1, 1998, the gross receipts from the sale of electricity to water companies assessed for property tax pursuant to Iowa Code sections 428.24, 428.26, and 428.28, which is used solely for the purpose of pumping water from a river or well is exempt from sales tax. For the purposes of this rule, “river” means a natural body of water or waterway that is commonly known as a river. “Well,” for the purposes of this rule, means an issue of water from the earth; a mineral spring; a pit or hole sunk into the earth to reach a water supply; a shaft or hole sunk to obtain oil, water, gas, etc.; a shaft or excavation in the earth, in mining, from which run branches...*Pacific Gas and Electric Company v. Hufford*, 319 P.2d 1033, 1040 (Calif. 1957), citing Webster’s New International Dictionary, 2nd ed., unabridged. Also see rule 701—17.3(422,423) for additional information regarding the processing exemption.

This rule is intended to implement Iowa Code section 422.45 as amended by 1998 Iowa Acts, chapter 1161.

**701—17.32(422) Food and beverages sold by certain organizations are exempt.** Retroactively to July 1, 1988, the gross receipts from sales of food and beverages for human consumption by certain organizations that promote Iowa products and any other food or beverage sold in conjunction with the promoted Iowa product by the organization.

**17.32(1)** To claim the exemption, an organization must meet all of the following qualifications:

- a. The organization must be nonprofit,
- b. The organization must principally promote a food or beverage product for human consumption that is produced, grown, or raised in Iowa, and
- c. The organization must be exempt from federal income tax under Section 501(c) of the Internal Revenue Code.

**17.32(2)** Claim for refunds of tax, interest, or penalty paid for the period of July 1, 1988, to June 30, 1998, must be limited to \$25,000 in the aggregate and will not be allowed unless filed prior to October 1, 1998. If the amount of the claimed refunds for this period totals more than \$25,000, the department must prorate the \$25,000 among all claims. In addition, refunds of tax, interest, or penalty paid will only be refunded to the organization that actually paid the tax and did not collect the tax from the customer for the period in which the refund is requested or to an individual that paid the tax during the authorized period and had a receipt of the transaction.

**EXAMPLE 1.** A nonprofit association that is also exempt from federal income tax under Section 501(c) of the Internal Revenue Code promotes the sale of turkey. In October of 1997, in Winterset, Iowa, the organization sold turkey sandwiches, chips, and beverages to patrons of a festival encouraging the touring and preservation of its historic covered bridges. The association did not separately charge sales tax to the customers for the food purchased. Instead, the association remitted the sales tax on the gross receipts from the event from its own funds. The gross receipts from the sales of the turkey sandwiches would be exempt from sales tax. The association would be entitled to submit a request for refund of the tax paid on the gross receipts from the selling event by October 1, 1998.

**EXAMPLE 2.** A local nonprofit organization that is exempt from federal income tax under Section 501(c) of the Internal Revenue Code promotes the sale of Iowa corn. On May 8, 1998, during a festival promoting Pella, Iowa’s beautiful tulips and heritage, the association sold Iowa sweet corn on an “all you can eat” basis for one price to patrons of the festival. The organization charged its customers tax in addition to the price charged. The organization would not qualify to claim a refund for the sales tax paid on the gross receipts from the festival due to the organization’s not paying the sales tax from its own funds for the May 8, 1998, event. Instead, the organization collected the tax from its customers and remitted the tax to the department. However, a customer of the organization would be entitled to a refund if the customer can produce a receipt of the transaction indicating the tax was paid by the customer for the period at issue.

This rule is intended to implement Iowa Code section 422.45 as amended by 1998 Iowa Acts, chapter 1091.

- 63 Fed. Reg. 1269 (January 8, 1998)
- 63 Fed. Reg. 13339 (March 19, 1998)
- 63 Fed. Reg. 17093 (April 8, 1998)
- 63 Fed. Reg. 20098 (April 23, 1998)
- 63 Fed. Reg. 33467 (June 18, 1998)
- 63 Fed. Reg. 50729 (September 22, 1998)
- 63 Fed. Reg. 66038 (December 1, 1998)
- 63 Fed. Reg. 66270 (December 1, 1998)

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- 60 Fed. Reg. 9625 (February 21, 1995)
- 60 Fed. Reg. 11194 (March 1, 1995)
- 60 Fed. Reg. 33345 (June 28, 1995)
- 60 Fed. Reg. 34001 (June 29, 1995)
- 60 Fed. Reg. 36044 (July 13, 1995)
- 60 Fed. Reg. 39255 (August 2, 1995)
- 60 Fed. Reg. 50412 (September 29, 1995)
- 61 Fed. Reg. 5509 (February 13, 1996)
- 61 Fed. Reg. 9248 (March 7, 1996)
- 61 Fed. Reg. 31431 (June 20, 1996)
- 61 Fed. Reg. 41738 (August 12, 1996)
- 61 Fed. Reg. 43458 (August 23, 1996)
- 61 Fed. Reg. 46104 (August 30, 1996)
- 61 Fed. Reg. 56856 (November 4, 1996)
- 61 Fed. Reg. 59831 (November 25, 1996)
- 62 Fed. Reg. 1619 (January 10, 1997)
- 63 Fed. Reg. 1295 (January 8, 1998)
- 63 Fed. Reg. 1919 (January 13, 1998)
- 63 Fed. Reg. 3814 (January 27, 1998)
- 63 Fed. Reg. 13340 (March 19, 1998)
- 63 Fed. Reg. 17094 (April 8, 1998)
- 63 Fed. Reg. 20099 (April 23, 1998)
- 63 Fed. Reg. 33468 (June 18, 1998)
- 63 Fed. Reg. 35138 (June 29, 1998)
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