

REAL ESTATE APPRAISER EXAMINING BOARD[193F]

Notice of Intended Action

**Proposing rulemaking related to organization and administration
and providing an opportunity for public comment**

The Real Estate Appraiser Examining Board hereby proposes to rescind Chapter 1, “Organization and Administration,” Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 543D.5.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 543D and Executive Order 10.

Purpose and Summary

Proposed Chapter 1 provides clarity to the organization and administration of the Board. The chapter also establishes Iowa’s compliance with Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA), the requirements of the Appraiser Qualifications Board (AQB), and the Appraisal Foundation’s (TAF) Criteria. This chapter also includes pertinent information related to the types of appraiser licenses issued in the state of Iowa and the process to obtain licensure.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rulemaking, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Board no later than 4:30 p.m. on February 14, 2024. Comments should be directed to:

Kimberly Gleason, Board Administrator
Iowa Department of Inspections, Appeals, and Licensing
6200 Park Avenue, Suite 100
Des Moines, Iowa 50321
Phone: 515.725.8145
Fax: 515.725.9032
Email: kimberly.gleason@dia.iowa.gov

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 13, 2024
10:40 to 11 a.m.

6200 Park Avenue
Des Moines, Iowa
Video call link: meet.google.com/zuu-vunu-dcc

February 14, 2024
10:40 to 11 a.m.

6200 Park Avenue
Des Moines, Iowa
Video call link: meet.google.com/zuu-vunu-dcc

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 193F—Chapter 1 and adopt the following **new** chapter in lieu thereof:

CHAPTER 1
ORGANIZATION AND ADMINISTRATION

193F—1.1(543D) Description.

1.1(1) The purpose of the real estate appraiser examining board is to administer and enforce the provisions of Iowa Code chapter 543D with regard to the appraisal of real property in the state of Iowa, examination of candidates, issuance of licenses, investigation of alleged violations by licensees, and discipline of those regulated by the board. Through its actions, the board seeks to promote and maintain a high level of public trust in professional appraisal practice.

1.1(2) The board maintains an office at 200 E. Grand Avenue, Suite 350, Des Moines, Iowa 50309.

1.1(3) All board action under Iowa Code chapter 543D will be taken under the supervision of the director, as provided in Iowa Code section 543D.23 and these implementing rules.

193F—1.2(543D) Administrative authority.

1.2(1) The director is vested with authority to review, approve, modify, or reject all board action pursuant to Iowa Code chapter 543D. The director may exercise all authority conferred upon the board and has to have access to all records and information to which the board has access. In supervising the board, the director will independently evaluate the substantive merits of recommended or proposed board actions which may be anticompetitive.

1.2(2) In performing its duties and in exercising its authority under Iowa Code chapter 543D, the board may take action without preclearance by the director if the action is ministerial or nondiscretionary. As used in this chapter, the words “ministerial or nondiscretionary” include any action expressly mandated by state or federal law, rule, or regulation; by the AQB; or by the appraisal subcommittee. The board may, for example, grant or deny an application for initial or reciprocal certification as a real estate appraiser, an application for registration as an associate real estate appraiser, or an application for a temporary practice permit by an out-of-state appraiser, on any ground expressly mandated by state or federal law, rule, or regulation; by the AQB; or by the appraisal subcommittee.

1.2(3) Prior to taking discretionary action under Iowa Code chapter 543D, the board will secure approval of the director if the proposed action is or may be anticompetitive. As used in this chapter, the word “discretionary” includes any action that is authorized but not expressly imposed by state or federal

law, rule, or regulation; by the AQB; or by the appraisal subcommittee. Examples of discretionary action include orders in response to petitions for rulemaking, declaratory orders, or waivers from rules, rulemaking, disciplinary proceedings against licensees, administrative proceedings against unlicensed persons, or any action commenced in the district court.

1.2(4) Determining whether any particular action is or may be anticompetitive is necessarily a fact-based inquiry dependent on a number of factors, including potential impact on the market or restraint of trade. With respect to disciplinary actions, for instance, a proceeding against a single licensee for violating appraisal standards would not have an impact on the broader market and would accordingly not be an anticompetitive action. Commencement of disciplinary proceedings which affect all or a substantial subset of appraisers may have a significant market impact. When in doubt as to whether a proposed discretionary action is or may be anticompetitive, the board may submit the proposed action to the director for preclearance.

1.2(5) A person aggrieved by any final action of the board taken under Iowa Code chapter 543D may appeal that action to the director within 20 days of the date the board issues the action.

a. The appeal process applies whether the board action at issue was ministerial or nondiscretionary, or discretionary, and whether the proposed action was or was not submitted through a preclearance process before the director.

b. No person aggrieved by a final action of the board may seek judicial review of that action without first appealing the action to the director.

c. Records, filings, and requests for public information. Final board action, regardless of whether such board action is ministerial, nondiscretionary, or discretionary, will be immediately effective when issued by the board but is subject to review or appeal to the director. If a timely review is initiated or a timely appeal is taken, the effectiveness of such final board action will be delayed during the pendency of such review or appeal.

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

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

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

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

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

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

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

1.6(1) Any person may examine public records promulgated or maintained by the board at its office during regular business hours.

1.6(2) Deadlines. Unless the context dictates otherwise, such as is the case for timely renewal of a registration or certificate, any deadline for filing a document will be extended to the next working day when the deadline falls on a Saturday, Sunday, or official state holiday.

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

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

- a.* The name, address, and telephone number of the person or agency authoring the comment or request;
- b.* The number and title of the proposed rule, which is the subject of the comment or request as given in the Notice of Intended Action;
- c.* The general content of the oral presentation. A separate comment or request to make an oral presentation will be made for each proposed rule to which remarks are to be asserted.

1.7(2) The board will acknowledge receipt and acceptance for consideration of written comments and requests to make oral presentations.

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

193F—1.8(543D) Types of appraiser classifications. There are four types of appraiser classifications:

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

193F—1.9(543D) Qualified state appraiser certifying agency.

1.9(1) The real estate appraiser examining board is a state appraiser certifying agency in compliance with Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA). As a result, persons who are issued certificates by the board to practice as certified real estate appraisers are authorized under federal law to perform appraisal services for federally related transactions and are identified as such in the National Registry maintained by the Appraisal Subcommittee (ASC).

1.9(2) The board will adhere to the criteria established by the Appraiser Qualifications Board (AQB) of the Appraisal Foundation when registering associate appraisers or certifying certified appraisers under Iowa Code chapter 543D. To the extent that the rules conflict with the minimum obligations outlined in the current version of the AQB criteria, the minimum standards established in the criteria will apply and these rules will give way to the minimum obligations to comply with federal rule, law, or policy.

193F—1.10(543D) AQB criteria.

1.10(1) No person may be certified as a certified appraiser unless the person is eligible under the January 1, 2022, AQB criteria.

1.10(2) The January 1, 2022, AQB criteria outline the conditions under which applicants for certification are eligible to take the mandated examinations.

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