

REAL ESTATE COMMISSION[193E]

Notice of Intended Action

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

The Real Estate Commission hereby proposes to rescind Chapter 10, “Advertising,” 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 chapter 543B.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 272C and 543B.

Purpose and Summary

This proposed chapter articulates practice standards for advertising real estate services. The chapter provides the public and licensees with guidelines relevant to the provisions for when a licensee is advertising. The Commission receives quite a few complaints for unlicensed advertising, such as a tradename that could be a team name or another aspect of advertising other than the firm and licensee names. Advertising is a main source for licensees seeking new clients or listings. This is a good source of information to follow.

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 comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Commission no later than 4:30 p.m. on January 30, 2024. Comments should be directed to:

Renee Paulsen
Real Estate Commission
6200 Park Avenue
Des Moines, Iowa 50321
Email: renee.paulsen@iowa.gov

Public Hearing

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

January 30, 2024
11 to 11:20 a.m.

6200 Park Avenue
Des Moines, Iowa

January 31, 2024
11 to 11:20 a.m.

6200 Park Avenue
Des Moines, Iowa

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 Commission 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 193E—Chapter 10 and adopt the following **new** chapter in lieu thereof:

CHAPTER 10
ADVERTISING

193E—10.1(543B) Advertising. A broker cannot advertise to sell, buy, exchange, rent, or lease property in a manner indicating that the offer is being made by a private party not engaged in the real estate business, and no real estate advertisement can show only a post office box number, telephone number or street address. Every licensee, when advertising real estate, will use the licensed business name or the name under which the broker is licensed, and affirmatively and unmistakably indicate that the party is a real estate licensee and not a private party. Each broker when operating under a franchise or trade name other than the broker's own name may license the franchise or trade name with the commission, or clearly reveal in all advertising that the broker is the licensed individual who owns the entity using the franchise or trade name.

10.1(1) Advertising includes all forms of identification, representation, promotion and solicitation disseminated in any manner and by any means of communication to the public for any purpose related to licensed real estate activity. Forms of advertising include, but are not limited to, real estate brokerage checks, letterhead, email, signs, websites, social media and business cards.

10.1(2) Real estate advertising cannot be misleading or deceptive or intentionally misrepresent any property, terms, values, or policies and services of the brokerage.

10.1(3) All advertising is conducted under the supervision of the broker. The broker ensures the accuracy of the information and, upon becoming aware of a material error or an advertisement that is in violation of this chapter or Iowa Code chapter 543B, the broker promptly corrects the error or problem within ten calendar days.

10.1(4) A licensed firm advertising or marketing on a website or social media account that is either owned by or controlled by the licensed firm includes the following data on each page of the site on which the firm's advertisement or information appears:

- a. The firm or tradename as registered with the commission (abbreviations are not permitted);
- b. The city and state in which the firm's main office is located; and
- c. The states in which the firm holds a real estate brokerage license.

10.1(5) A licensee advertising or marketing on a website or social media account that is either owned by or controlled by the licensee includes the following data on each page of the site on which the licensee's advertisement or information appears:

- a. The licensee's legal name;
- b. The name of the firm or trade name with which the licensee is affiliated as that firm name is registered with the commission (abbreviations are not permitted);
- c. The city and state in which the licensee's office is located; and
- d. The states in which the licensee holds a real estate broker or salesperson license.

10.1(6) A firm using any Internet electronic communication for advertising or marketing, including but not limited to email, websites, and social media accounts, includes the information in rule 193E—10.1(4).

10.1(7) A licensee using any Internet electronic communication for advertising or marketing, including but not limited to email, websites, and social media accounts, includes on the first or last page of all communications the information in subrule 10.1(5).

193E—10.2(543B) Advertising under own name. Salespersons and broker associates are barred from advertising under their own names unless they are the owners of the property they are advertising for sale, rent, lease or exchange, and on which no brokerage fees are to be paid. The sale is completely a “for sale by owner” transaction. The property cannot be listed or advertised in any way that would make it appear to be listed with a brokerage. The affiliated licensee cannot function in any capacity that needs a real estate license, and the licensee is responsible for all advertising conducted on the licensee's own behalf.

193E—10.3(543B) Signs on property. Placing a sign on any property offering it for sale, rent, lease, or exchange without the written consent of the owner is not considered in the best interest of the general public.

10.3(1) When a listing expires, unless a new written listing or extension is obtained, the licensee immediately ceases advertising and active marketing of the property. The licensee makes every reasonable effort to remove signs as quickly as possible.

10.3(2) The licensee makes every reasonable effort to remove signs from the property after the transaction is closed. Sold signs and other signs are not left on properties without the written consent of the new owner of record.

These rules are intended to implement Iowa Code chapters 17A, 272C and 543B.