

**REAL ESTATE COMMISSION[193E]**

**Notice of Intended Action**

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

The Real Estate Commission hereby proposes to rescind Chapter 15, “Property Management,” 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*

The purpose of this proposed chapter is to provide property management guidelines for individuals who are renting property. This chapter provides education on the property management laws and policies to enforce the management laws. This chapter only applies to the owner of the property. Tenants are covered under a separate chapter.

*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](mailto: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 15 and adopt the following **new** chapter in lieu thereof:

CHAPTER 15  
PROPERTY MANAGEMENT

**193E—15.1(543B) Property management.** A licensee cannot rent or lease real estate, offer to rent or lease real estate, negotiate or offer or agree to negotiate the rental or leasing of real estate, list or offer to list real estate for the leasing or rental of real estate, assist or direct in the negotiation of any transaction calculated or intended to result in the leasing or rental of real estate or show property to prospective renters or lessees of real estate unless the licensee's broker holds a current written property management agreement or other written authorization signed by the owner of the real estate or the owner's authorized agent.

**15.1(1)** Every property management agreement or other written authorization between a broker and an owner of real estate includes, but is not limited to, the following:

- a. Proper identification of the property to be managed.
- b. All terms and conditions under which the property is to be managed and the powers and authority given to the broker by the owner.
- c. Terms and conditions under which the broker will remit property income to the owner and when the broker will provide periodic written statements of property income and expenses to the owner, which is done no less than annually.
- d. Which payments of property-related expenses are to be made by the broker to third parties.
- e. Amount of fee or commission to be paid to the broker and when it will be paid.
- f. Amount of security deposits and prepaid rents to be held by the broker or the owner.
- g. Effective date of the agreement.
- h. Terms and conditions for termination of the property management agreement by the broker or the owner of the property.
- i. Signatures of the broker and owner or the owner's authorized agent.

**15.1(2)** The licensee gives the owner or the owner's authorized agent a legible copy of every written property management agreement or written authorization at the time the signature of the owner is obtained, and the licensee's broker retains a copy.

**15.1(3)** A licensee who is managing the leasing or rental of real estate may act as an agent in the sale or exchange of that real estate only if the property management agreement clearly grants the specific authorization and contains all of the necessary elements for a listing as set forth in rule 193E—11.1(543B) or if a separate listing agreement is secured.

**15.1(4)** The broker deposits all funds received on behalf of the owner, by no later than five banking days after receipt of the funds, into a trust account maintained by the broker, under the broker's control and in compliance with Iowa Code section 543B.46 and rule 193E—13.1(543B).

**15.1(5)** If the property management agreement is terminated or transferred for any reason, the property manager:

- a.* Terminates the management activities of the property as provided in the agreement and except as otherwise provided by the agreement;
- b.* Notifies the owner and any tenants of the property of the termination;
- c.* Provides the owner, not later than 30 days after the effective date of the termination, with any unobligated funds due the owner under the agreement and not later than 60 days after the effective date of the termination, provides the owner with a final accounting of the owner's ledger account, the amount of any obligated funds held in the property manager's client trust account under the agreement, a statement that explains why obligated funds are being held by the property manager and a statement of when and to whom the obligated funds will be disbursed by the property manager;
- d.* May disburse any unobligated funds only to the owner or, with the proper written authorization of the owner, to another property manager designated in writing by the owner;
- e.* Immediately notifies each tenant that the conditionally refundable deposit will be transferred to the owner or to a new property manager and, at the same time, provides the name and address of the owner or the new property manager to whom these deposits will be transferred.

**15.1(6)** If any of the unobligated funds held by the property manager under the terminated agreement represent tenants' conditionally refundable deposits received from current tenants, the property manager:

- a.* Cannot expend any tenant's conditionally refundable deposits for payment of any expenses or fees not otherwise allowed by the tenant's rental or lease agreements, and
- b.* If any tenant terminates tenancy at the same time as or prior to the termination of the management of the rented or leased property, the licensee completes any final accounting, inspection or other procedure obligated by the tenant's rental or lease agreement, by the Uniform Residential Landlord and Tenant Law, Mobile Home Parks Residential Landlord and Tenant Law, or by the property management agreement, unless the owner directs otherwise in writing.

**15.1(7)** Financial dealings under a property management agreement are conducted subject to the following:

- a.* A check is not issued or presented for payment prior to sufficient funds being in the owner's account to cover the check.
- b.* Transfers of funds between two or more accounts maintained for the same owner may be made if proper entries are made on the ledgers of the accounts affected and the broker maintains the specific written authorization of the owner.

Transfers of funds between an individual owner's accounts are done by writing billings and receipts debiting and crediting the appropriate accounts. Transfers are not done by ledger entries alone.

*c.* The broker cannot withdraw, pay or transfer money from the owner's account in excess of the remaining credit balance at the time of withdrawal, payment or transfer.

*d.* Management fees are withdrawn from the owner's account at least once a month unless the agreement provides otherwise. The fees are identified by property name or account number for which the fees were earned and withdrawn by the broker and deposited into the broker's business operating account. Fees are not paid directly from the owner's trust account to the broker.

*e.* Conditionally refundable deposits are placed in a trust account until refund is made or until all or a portion of the deposit accrues to the owner under the tenant's agreement.

If refundable deposits are not maintained in a separate trust account, the running balance of the account does not, at any time, go below the total of the refundable deposits being held in the account.

*f.* The total of balances of the individual property management accounts of the broker equals the balance shown on the journal, the account ledgers, and the reconciled bank balance of the broker.

All accounts and records are in compliance with Iowa Code section 543B.46 and rule 193E—13.1(543B).

g. Except as otherwise specifically allowed or provided in Iowa Code sections 562A.12(2) and 562B.13(2), if refundable deposits and funds are received from others pursuant to a property management agreement, deposited in an interest-bearing trust account, and there is not a separate written agreement to pay the interest earned to the owner or tenant, the interest is paid to the state pursuant to Iowa Code section 543B.46. The property manager does not receive or benefit from the interest.

The written approval agreement is signed by each party having an interest in the funds, fully disclosing how the funds are to be handled by the property manager, who will benefit from the interest earnings, how and when interest earnings will be paid and any limitations that may be provided for on the withdrawal of the funds deposited in the interest-bearing trust account.

This rule is intended to implement Iowa Code chapters 17A, 272C, and 543B.