

REAL ESTATE COMMISSION[193E]

Adopted and Filed

Rulemaking related to seller property condition disclosure

The Real Estate Commission hereby rescinds Chapter 14, “Seller Property Condition Disclosure,” Iowa Administrative Code, and adopts a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted 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 rulemaking is to provide criteria for the seller’s property condition disclosure. The disclosure is required to be provided by the seller to the purchaser on each transaction pursuant to Iowa Code chapter 558A. This rule provides guidelines for when the disclosure must be provided, the licensee’s duties in representing the seller or buyer in a transaction and the required information that must be stated on the disclosure.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on January 10, 2024, as **ARC 7455C**. Public hearings were held on January 30 and 31, 2024, at 11 a.m. at 6200 Park Avenue, Des Moines, Iowa. No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Commission on March 7, 2024.

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.

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).

Effective Date

This rulemaking will become effective on May 22, 2024.

The following rulemaking action is adopted:

ITEM 1. Rescind 193E—Chapter 14 and adopt the following **new** chapter in lieu thereof:

CHAPTER 14
SELLER PROPERTY CONDITION DISCLOSURE

193E—14.1(543B) Property condition disclosure. The criteria of this chapter applies to transfers of real estate subject to Iowa Code chapter 558A. For purposes of this chapter, “transfer” means the same as Iowa Code section 558A.1(5) and “agent” means the same as Iowa Code section 558A.1(1).

14.1(1) Additional disclosure. Nothing in this rule is intended to prevent any additional disclosure or to relieve the parties or agents in the transaction from making any disclosure otherwise mandated by law or contract.

14.1(2) Licensee responsibilities to seller. At the time a licensee obtains a listing, the listing licensee obtains a completed disclosure signed and dated by each seller represented by the licensee.

a. A licensee representing a seller delivers the executed statement to a potential buyer, a potential buyer’s agent, or any other third party who may be representing a potential buyer, prior to the seller’s making a written offer to sell or the seller’s accepting a written offer to buy.

b. The licensee representing a seller attempts to obtain the buyer’s signature and date of signature on the statement and provides the seller and the buyer with fully executed copies of the disclosure and maintains a copy of the written acknowledgment in the transaction file. If the licensee is unable to obtain the buyer’s signature, the licensee obtains other documentation establishing delivery of the disclosure and maintains the written documentation in the transaction file.

c. If the transaction closes, the listing broker maintains the completed disclosure statement for a minimum of five years.

d. The executed disclosure statement is delivered to the buyer(s) or the buyer’s agent in accordance with Iowa Code section 558A.2(2). If there is more than one buyer, any one buyer or buyer’s agent may accept delivery of the executed statement.

14.1(3) Licensee responsibilities to buyer. A licensee representing a buyer in a transfer notifies the buyer of the seller’s obligation to deliver the property disclosure statement.

a. If the disclosure statement is not delivered when mandated, the licensee notifies the buyer that the buyer may revoke or withdraw the offer and follows Iowa Code section 558A.2(2).

b. Reserved.

14.1(4) Inclusion of written reports. A written report or opinion prepared by a person qualified to render the report or opinion may be included in a disclosure statement. A report may be prepared by those authorized by Iowa Code section 558A.4(1) “b.”

a. The seller identifies the necessary disclosure items which are to be satisfied by the report.

b. If the report is prepared for the specific purpose of satisfying the disclosure criteria, the preparer of the report follows Iowa Code section 558A.4(1) “b.”

c. A licensee representing a seller provides the seller with information on the proper use of reports if reports are used as part of the disclosure statement.

14.1(5) Amended disclosure statement. A licensee’s obligations with respect to any amended disclosure statement are the same as the licensee’s obligations with respect to the original disclosure statement. A disclosure statement is amended if authorized by Iowa Code section 558A.3(2).

14.1(6) Acknowledgment of receipt of disclosure statement by electronic means. Whether or not a licensee assists in a real estate transaction, electronic delivery of any property disclosure statement mandated by Iowa Code chapter 558A is not deemed completed until written acknowledgment of receipt is provided to the transferor by the transferee or the transferee’s agent. Acceptable acknowledgment of receipt includes return of a fully executed copy of the property disclosure statement to the transferor by the transferee or the transferee’s agent; or a letter, electronic mail, text message, or other written

correspondence to the transferor from the transferee or the transferee's agent acknowledging receipt. A computer-generated read receipt, facsimile delivery confirmation, or other automated return message is not deemed acknowledgment of receipt for purposes of this rule.

14.1(7) Minimum disclosure statement contents for all transfers. All property disclosure statements, whether or not a licensee assists in the transaction, contain at a minimum the information mandated by the following sample statement. No particular language is necessary in the disclosure statement provided that the necessary disclosure items are included and the disclosure complies with Iowa Code chapter 558A. To assist real estate licensees and the public, the commission recommends use of the following sample language:

RESIDENTIAL PROPERTY SELLER DISCLOSURE STATEMENT

Property address: _____

PURPOSE:

Use this statement to disclose information as mandated by Iowa Code chapter 558A. This law obligates certain sellers of residential property that includes at least one and no more than four dwelling units to disclose information about the property to be sold. The following disclosures are made by the seller(s) and not by any agent acting on behalf of the seller(s).

INSTRUCTIONS TO SELLER(S):

1. Seller(s) completes this statement. Respond to all questions, or attach reports allowed by Iowa Code section 558A.4(2);
2. Disclose all known conditions materially affecting this property;
3. If an item does not apply to this property, indicate that it is not applicable (N/A);
4. Please provide information in good faith and make a reasonable effort to ascertain the necessary information. If the necessary information is **unknown** or is **unavailable** following a reasonable effort, use an **approximation** of the information, or indicate that the information is **unknown (UNK)**. All **approximations** are identified as **approximations (AP)**;
5. Additional pages may be attached as needed;
6. Keep a copy of this statement with your other important papers.

1. Basement/Foundation: Any known water or other problems? Yes [] No []

2. Roof: Any known problems? Yes [] No []

Any known repairs? Yes [] No []

If yes, date of repairs/replacement: ____/____/____

3. Well and Pump: Any known problems? Yes [] No []

If N/A check here []

Any known repairs? Yes [] No []

If yes, date of repairs/replacement: ____/____/____

Any known water tests? Yes [] No []

If yes, date of last report: ____/____/____

and results: _____

4. Septic Tanks/Drain Fields: Any known problems? Yes [] No []

If N/A check here []

Location of tank: _____

Date tank last cleaned: ____/____/____

5. Sewer System: Any known problems? Yes [] No []

Any known repairs? Yes [] No []

If yes, date of repairs/replacement: ____/____/____

6. Heating System(s): Any known problems? Yes [] No []
 Any known repairs? Yes [] No []
 If yes, date of repairs/replacement: ____/____/____
7. Central Cooling System(s): Any known problems? Yes [] No []
 Any known repairs? Yes [] No []
 If yes, date of repairs/replacement: ____/____/____
8. Plumbing System(s): Any known problems? Yes [] No []
 Any known repairs? Yes [] No []
 If yes, date of repairs/replacement: ____/____/____
9. Electrical System(s): Any known problems? Yes [] No []
 Any known repairs? Yes [] No []
 If yes, date of repairs/replacement: ____/____/____
10. Pest Infestation (e.g., termites, carpenter ants): Any known problems? Yes [] No []
 If yes, date(s) of treatment: ____/____/____
 Any known structural damage? Yes [] No []
 If yes, date(s) of repairs/replacement: ____/____/____
11. Asbestos: Any known to be present in the structure? Yes [] No []
 If yes, explain: _____
12. Radon: Any known tests for the presence of radon gas? Yes [] No []
 If yes, date of last report: ____/____/____
 and results: _____
13. Lead-Based Paint: Any known to be present in the structure? Yes [] No []
14. Flood Plain: Do you know if the property is located in a flood plain? Yes [] No []
 If yes, what is the flood plain designation? _____
15. Zoning: Do you know the zoning classification of the property? Yes [] No []
 If yes, what is the zoning classification? _____
16. Covenants: Is the property subject to restrictive covenants? Yes [] No []
 If yes, attach a copy or state where a true, current copy of the covenants can be obtained:

17. Shared or Co-Owned Features: Any features of the property known to be shared in common with adjoining landowners, such as walls, fences, roads, and driveways whose use or maintenance responsibility may have an effect on the property? Yes [] No []
 Any known "common areas" such as pools, tennis courts, walkways, or other areas co-owned with others, or a Homeowner's Association which has any authority over the property? Yes [] No []
18. Physical Problems: Any known settling, flooding, drainage or grading problems? Yes [] No []
19. Structural Damage: Any known structural damage? Yes [] No []

You need to explain any "YES" response(s) above. Use the back of this statement or additional sheets as necessary: _____

SELLER(S) DISCLOSURE:

Seller(s) discloses the information regarding this property based on information known or reasonably available to the Seller(s).

The Seller(s) has owned the property since ____/____/____. The Seller(s) certifies that as of the date signed this information is true and accurate to the best of my/our knowledge.

Seller(s) acknowledges that Buyer(s) be provided with the "Iowa Radon Home-Buyers and Sellers Fact Sheet" prepared by the Iowa Department of Health and Human Services.

Seller_____ Seller_____

Date ____/____/____

Date ____/____/____

BUYER(S) ACKNOWLEDGMENT:

Buyer(s) acknowledges receipt of a copy of this Real Estate Disclosure Statement. This statement is not intended to be a warranty or to substitute for any inspection Buyer(s) may wish to obtain.

Buyer(s) acknowledges receipt of the "Iowa Radon Home-Buyers and Sellers Fact Sheet" prepared by the Iowa Department of Health and Human Services.

Buyer_____ Buyer_____

Date ____/____/____

Date ____/____/____

This rule is intended to implement Iowa Code chapters 17A, 272C, 543B, and 558A.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/17/24.