

REAL ESTATE COMMISSION[193E]

Adopted and Filed

Pursuant to the authority of Iowa Code section 543B.9, the Real Estate Commission hereby amends Chapter 7, “Offices and Management,” Chapter 16, “Prelicense Education and Continuing Education,” and Chapter 17, “Approval of Schools, Courses and Instructors,” Iowa Administrative Code.

These amendments implement 2017 Iowa Acts, House File 541, section 4, which amends Iowa Code section 543B.31 to allow for a real estate broker to be the designated broker of more than one branch office within the state. The amendments are also a result of the five-year rolling review of administrative rules outlined in Iowa Code section 17A.7(2), along with input from and concerns expressed by leadership of the professional association of real estate licensees in regard to the prelicense education requirements for real estate brokers and in regard to establishing a passing score standard for distance learning courses and paper and pencil home-study courses.

Chapter 7 describes the general requirements for real estate offices and management. The amendments to Chapter 7 allow for a real estate broker to be the designated broker of more than one branch office within the state, allow for licenses to be electronically submitted to the Commission, and provide for a general cleanup of the chapter. Chapter 16 describes the general requirements for prelicense education and continuing education for real estate licensees. The amendments to Chapter 16 remove old education requirements that have since been updated, change the prelicense education courses for real estate brokers beginning January 1, 2020, and provide for a general cleanup of the chapter. Chapter 17 describes the general requirements for approval of schools, courses, and instructors that provide prelicense and continuing education to real estate licensees. The amendments to Chapter 17 give instructors discretion on whether or not to issue an attendance certificate to a student and establish a passing score standard for distance learning courses and paper and pencil home-study courses.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 3154C** on July 5, 2017. A public hearing was held on July 25, 2017, and no comments were received. Since publication of the Notice, one change has been made in subrule 16.5(2) to change the word “approved” to “granted.”

These rules are subject to waiver or variance pursuant to 193—Chapter 5.

The Real Estate Commission adopted these amendments on September 7, 2017.

After analysis and review of this rule making, the Professional Licensing and Regulation Bureau determined that there will be no impact on jobs and no fiscal impact to the state.

These amendments are intended to implement Iowa Code section 543B.9 and section 543B.31 as amended by 2017 Iowa Acts, House File 541.

These amendments will become effective January 10, 2018.

The following amendments are adopted.

ITEM 1. Amend rule 193E—7.1(543B) as follows:

193E—7.1(543B) Real estate offices and licenses required.

7.1(1) and 7.1(2) No change.

7.1(3) Branch office. A ~~resident~~ licensed Iowa real estate firm or ~~proprietor~~ sole-proprietor broker maintaining a branch office shall display ~~two~~ a commission-issued branch office license in that location. ~~One~~ The branch office license is issued in the name of the firm or proprietor sole-proprietor broker and one is issued in the name of the designated broker or broker associate assigned to supervise the branch office shall include the license number and the physical address of the branch office. (EXCEPTION: A sole-proprietor broker who is the designated broker for a branch office location and not the main office location is required to display only one branch office license in that location.) The main office and every branch office shall be directly supervised by a broker or broker associate assigned to that location as the designated broker. ~~No broker or broker associate shall be the designated broker of more than one location.~~ The branch office license shall be issued at a reduced fee and shall have the same expiration date of the primary license.

~~7.1(4)~~ No change.

~~7.1(5)~~ A licensed officer of a corporation or partnership may be licensed as an officer or partner of more than one corporation or partnership. The main or primary license for which the full license fee was paid must be maintained in active status to keep any additional licenses that were issued at a reduced fee active and in effect. A broker officer licensed to more than one corporation or partnership may be the designated broker of more than one corporation or partnership.

Continuing education is required only for renewal of the main or primary license.

~~7.1(6)~~ When the designated broker of a branch office transfers to a different office, terminates employment, or otherwise ceases to be in charge of the branch location, the branch office license must be returned to the commission. A new designated broker for the branch must be assigned before a new branch license can be issued. If the branch office is assigned to a corporation or partnership, the corporation or partnership license displayed in the branch office must also be returned to the commission a branch office closes, notice in writing, electronic or otherwise, shall be given to the commission.

~~7.1(7)~~ A broker associate employed or engaged to be in charge of the branch office shall have the same responsibilities of supervision of the licensees working from that location as are imposed on the employing, sponsoring, or affiliated broker.

~~7.1(8)~~ 7.1(7) Each actively licensed broker associate and salesperson shall be licensed under a broker.

~~7.1(9)~~ 7.1(8) A broker associate or salesperson shall not be licensed under more than one broker during the same period of time.

ITEM 2. Amend rule 193E—7.2(543B) as follows:

193E—7.2(543B) Notification required.

7.2(1) Partnerships, associations, and corporations are required to obtain a license before acting as a real estate broker. Failure of a broker to inform the commission in writing, electronic or otherwise, within five working days that the broker has formed a new partnership, association or corporation, or has changed the type of the business, is prima facie evidence of a violation of Iowa Code section 543B.1.

7.2(2) Failure of a broker to inform the commission in writing, electronic or otherwise, within five working days of a change in type of license as ~~proprietor~~ sole-proprietor broker, partner, officer or broker associate is prima facie evidence of a violation of Iowa Code sections 543B.1 and 543B.29(1).

7.2(3) Failure of a broker to inform the commission in writing, electronic or otherwise, within five working days of a change of address of a proprietorship, partnership, or corporation is prima facie evidence of a violation of Iowa Code section 543B.32.

7.2(4) Failure of a broker to return a license or make a reasonable effort to deliver, ~~or mail, preferably by certified mail,~~ or electronically submit the license to the commission office to ensure that it is received within 72 hours after a salesperson or broker associate is discharged or terminates employment is prima facie evidence of a violation of Iowa Code section 543B.33.

~~7.2(5)~~ Each real estate broker who returns a license to the commission office shall include the last known permanent mailing address of the licensee.

~~7.2(6)~~ 7.2(5) Failure of a licensee to inform the commission in writing, electronic or otherwise, within five working days of a change of residence address or mailing address is prima facie evidence of a violation of Iowa Code sections 543B.16 and 543B.18.

~~7.2(7)~~ 7.2(6) When a broker is notified that a license is inactive, suspended, revoked, or canceled, the broker shall ~~return the license or mail the license, preferably by certified mail, to the commission office and make every~~ make a reasonable effort to deliver, mail, or electronically submit the license to ensure that the license is received by the commission within 72 hours after notification.

ITEM 3. Amend rule 193E—7.3(543B) as follows:

193E—7.3(543B) Suspended and revoked licenses. A suspended or revoked license must be returned to the commission as provided in Iowa Code section 543B.33 and subrule ~~7.2(7)~~ 7.2(6).

7.3(1) No change.

7.3(2) When a sole-proprietor broker, corporation or partnership license is suspended or revoked, all licensees associated with or assigned to that sole-proprietor broker, corporation or partnership shall automatically be placed on inactive status for the duration of the suspension or revocation, unless transferred to another sole-proprietor broker, corporation or partnership.

a. The broker whose license is suspended or revoked shall return, before or immediately upon the effective date of the suspension or revocation, all licenses that are assigned to or associated with the broker or the firm as provided in Iowa Code section 543B.33 and subrule ~~7.2(7)~~ 7.2(6).

b. When a suspension or revocation is determined, the commission shall also determine if the corporation or partnership license shall be automatically ~~placed on inactive status or~~ canceled.

~~*c.* If the broker whose license is suspended or revoked is also the designated broker of a firm or branch office, that firm or branch office shall automatically be placed on inactive status until a new broker is designated.~~

~~*c.* If the broker whose license is suspended or revoked is the only licensed broker officer of a corporation, the corporation license will automatically be placed on inactive status~~ canceled.

7.3(3) to 7.3(6) No change.

ITEM 4. Amend rule **193E—16.1(543B)**, definitions of “Distance education” and “Live instruction,” as follows:

“*Distance education learning*” means a planned teaching/learning experience with a geographic separation of student and instructor that utilizes a wide spectrum of technology-based systems, including computer-based instruction, to reach learners at a distance. Home-study courses that include written materials, exercises and tests mailed to the provider for review are included in this definition.

“*Live instruction*” means an educational program delivered in a traditional classroom setting or by electronic means whereby the instructor and student have real-time visual and audio contact to carry out their essential tasks while together.

ITEM 5. Amend rule 193E—16.2(543B) as follows:

193E—16.2(543B) Salesperson prelicense and postlicense requirements.

16.2(1) Required course of study.

a. The required course of study for the salesperson licensing examination shall consist of 60 classroom live instruction or computer-based distance learning hours of real estate principles and practices to comply with the requirements of Iowa Code section 543B.15. The curriculum shall include, but not be limited to, the following subjects:

- Introduction to Real Estate and Iowa License Law 12 hours
- Ownership, Encumbrances, Legal Descriptions, Transfer of Title and Closing 12 hours
- Contracts, Agency and Antitrust 12 hours
- Valuation, Finance and Real Estate Math 12 hours
- Property Management/Leasing, Fair Housing, Environmental Risks
and Health Issues 12 hours

b. At the time of submission of an application, an applicant applying for an original salesperson license must also provide evidence of the following live instruction courses: 12 hours of Developing Professionalism and Ethical Practices, 12 hours of Buying Practices and 12 hours of Listing Practices. All the required education must be completed during the 12 months prior to the date the application is postmarked or received.

~~**16.2(2)** Maintaining active status. All first-time salespersons renewing licenses to maintain active status shall complete 36 commission-approved classroom hours by December 31 of the third year of licensure. The following courses satisfy the first license renewal continuing education requirement:~~

- ~~Developing Professionalism and Ethical Practices 12 hours~~
- ~~Buying Practices 12 hours~~
- ~~Listing Practices 12 hours~~

~~**16.2(3)** Beginning January 1, 2009, and thereafter, an applicant applying for an original salesperson license must provide evidence of successful completion of the following courses: 12 hours of Developing~~

Professionalism and Ethical Practices, 12 hours of Buying Practices and 12 hours of Listing Practices. This education is in addition to the 60-hour salesperson prelicense course. The applicant must complete all the required education during the 12 months prior to the date of application.

~~16.2(4)~~ All salespersons licensed on January 1, 2009, or thereafter, as a requirement of license renewal and to maintain active status, must complete a minimum of 36 hours of approved courses. The continuing education must be completed during the three calendar years of the license term and cannot be carried over to another license term. Approved courses in the following subjects shall be completed to renew to active status: 8 hours of Law Update, 4 hours of Ethics and 24 hours of electives.

~~16.2(5)~~ **16.2(2)** Completion of prelicense education. Successful completion of the salesperson prelicense education includes passage of an examination(s) designed by the approved provider that is sufficiently comprehensive to measure the student's knowledge of all aspects of the course(s). Times allotted for examinations may be regarded as hours of instruction.

~~16.2(6)~~ **16.2(3)** Substitution of courses. Written requests for substitution of the salesperson prelicense and postlicense education courses specified in 16.2(1), 16.2(2) and 16.2(3) may be granted if the applicant submits evidence of successful completion of a course or courses which are substantially similar to the courses specified in 16.2(1), 16.2(2) and 16.2(3). Any course Courses completed more than 12 months prior to commission consideration for approval shall not qualify for substitution.

ITEM 6. Renumber subrules **16.3(2)** and **16.3(3)** as **16.3(3)** and **16.3(4)**.

ITEM 7. Adopt the following new subrule 16.3(2):

16.3(2) *Required course of study beginning January 1, 2020.* Beginning January 1, 2020, the required course of study to take the broker examination shall consist of at least 60 classroom hours. Approved courses shall be completed within 24 months prior to the applicant's taking the broker examination and shall include the following subjects:

Contract Law and Contract Writing	6 hours
Iowa Real Estate Trust Accounts.	6 hours
Principles of Appraising and Market Analysis.	6 hours
Real Estate Law and Agency Law	6 hours
Real Estate Finance	6 hours
Federal and State Laws Affecting Iowa Practice	6 hours
Real Estate Office Organization, Administration and Human Resources	12 hours
Real Estate Technology and Data Security.	6 hours
Ethics and Safety Issues for Brokers.	6 hours

ITEM 8. Amend renumbered subrule 16.3(3) as follows:

16.3(3) *Completion of prelicense education.* Successful completion of the broker prelicense education includes passage of an examination(s) designed by the approved provider that is sufficiently comprehensive to measure the student's knowledge of all aspects of the course(s). Times allotted for examinations may be regarded as hours of instruction. ~~Effective January 1, 2005, and thereafter, all persons applying for a broker license within their first renewal term must complete the 36-hour salesperson postlicense courses, including 12 hours of Developing Professionalism and Ethical Practices, 12 hours of Buying Practices and 12 hours of Listing Practices, before a broker license can be issued.~~

ITEM 9. Amend rule 193E—16.4(543B) as follows:

193E—16.4(543B) Continuing education requirements.

16.4(1) No change.

16.4(2) As a requirement of license renewal in an active status, each real estate licensee shall complete a minimum of 36 hours of approved programs, courses or activities. The continuing education must be completed during the three calendar years of the license term and cannot be carried over to another license. Approved courses in the following subjects shall be completed to renew a license to active status, ~~except in accordance with 16.2(2):~~

Law Update.	8 hours
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Ethics 4 hours
Electives 24 hours

16.4(3) No change.

16.4(4) A maximum of 24 hours of continuing education may be taken by distance ~~education~~ learning each three-year renewal period.

16.4(5) A licensee unable to attend educational offerings because of a disability may make a written request to the commission setting forth an explanation and verification of the disability. Licensees making requests must meet the definition of a person with a disability found in the Americans with Disabilities Act as amended by the ADA Amendments Act of 2008 (ADAAA).

16.4(6) No change.

ITEM 10. Amend rule 193E—16.5(543B) as follows:

193E—16.5(543B) Continuing education records. Applicants for license renewal pursuant to Iowa Code section 543B.15 shall certify that the number of hours of continuing education required to renew a license was completed as described in ~~16.2(2) and~~ 193E—16.4(543B).

16.5(1) The commission will verify by random audit or on a test basis the education claimed by the licensee. It shall be the responsibility of the licensee to maintain records that support the continuing education claimed and the validity of the credits. Documentation shall be retained by the licensee for a period of three years after the effective date of the license renewal.

16.5(2) It will not be acceptable for a licensee to ~~complete the required continuing education after the fact, pursuant to 16.2(5) and 16.3(3)~~ include on a renewal application continuing education which has not yet been completed, is outside the renewal period, or for which prior approval or postapproval has not been previously granted.

16.5(3) No change.

16.5(4) Filing a false affirmation is prima facie evidence of a violation of Iowa Code ~~sections~~ section 543B.29(1) and (3).

ITEM 11. Amend rule 193E—16.7(543B) as follows:

193E—16.7(543B) Full-time attendance. Successful completion of continuing education requires full-time attendance throughout the program, course or activity. A student who arrives late, leaves during class or leaves early ~~shall~~ may not receive a certificate.

ITEM 12. Amend rule 193E—16.8(543B) as follows:

193E—16.8(543B) Education requirements for out-of-state licensees. ~~Subrules 16.2(2) and Subrule 16.4(2)~~ shall apply to every Iowa real estate licensee unless exempted by Iowa Code ~~subsection~~ section 272C.2(5).

ITEM 13. Amend rule 193E—16.9(543B) as follows:

193E—16.9(543B) Examination as a substitute for continuing education.

16.9(1) A salesperson may satisfy all continuing education deficiencies by taking and passing the real estate salesperson examination. An authorization letter must be obtained from the commission prior to scheduling the examination with the examination administrator.

a. and *b.* No change.

16.9(2) A broker may satisfy all continuing education deficiencies by taking and passing the real estate broker examination. An authorization letter must be obtained from the commission prior to scheduling the examination with the examination administrator. If the broker takes and passes the broker examination within the six months immediately preceding the expiration of the license, the broker examination score report may be substituted for the required hours of continuing education credits for the current license term and will satisfy all previous deficiencies.

ITEM 14. Amend rule 193E—16.10(543B) as follows:

193E—16.10(543B) Use of prelicense and postlicense courses as continuing education.

16.10(1) Salespersons and brokers may take up to 24 hours of the salesperson prelicense ~~and postlicense~~ courses specified in 16.2(1) ~~and 16.2(2)~~ as continuing education. However, a newly licensed salesperson cannot use credits from the salesperson prelicense course(s) to meet the continuing education requirement of the first renewal term.

16.10(2) and 16.10(3) No change.

ITEM 15. Amend rule 193E—16.11(543B) as follows:

193E—16.11(543B) Requests for prior approval or postapproval of a course(s). A licensee seeking credit for attendance and participation in a course, program, or other continuing education activity that is to be conducted by a school not otherwise approved by the commission may apply for approval to the commission at least 21 days in advance of the beginning of the activity. The commission shall approve or deny the application in writing within 14 days of receipt of the application.

16.11(1) The application for prior approval of a course or an activity shall include the following information:

1. School or organization or person conducting the activity.
2. Location of the activity.
3. Title and brief description of the activity or title and course outline.
4. Credit hours requested.
5. Date of the activity.
6. Principal instructor(s).

16.11(2) The application for postapproval of a course or an activity shall include the following information:

1. School, firm, organization or person conducting the activity.
2. Location of the activity.
3. Title, ~~and~~ description of activity, and course outline.
4. Credit hours requested for approval.
5. Date of the activity.
6. Principal instructor(s).
7. Verification of attendance.

ITEM 16. Amend subrule 17.1(3) as follows:

17.1(3) Evidence of compliance with or exemption from Iowa Code sections ~~714.14~~ 714.18 to 714.25 must be furnished to the commission.

ITEM 17. Amend rule 193E—17.2(543B) as follows:

193E—17.2(543B) Certificates of attendance.

17.2(1) Each approved school under rule 193E—17.1(543B) shall provide an individual certificate of attendance to each licensee upon completion of the program, course, or activity. The certificate shall contain the following information:

- a. School name and number;
- b. Program, course or activity name and number;
- c. Name and address of licensee;
- d. Date on which the program, course or activity was completed;
- e. Number of approved credit hours;
- f. Signature of coordinator or other person authorized by the commission; and
- g. A notation as to whether credit hours are to be used as ~~prelicense~~ distance learning or as ~~continuing education~~ live instruction.

17.2(2) and 17.2(3) No change.

17.2(4) An attendance certificate shall not be issued to a licensee who is absent from a continuing education program, course, or activity. The program, course, or activity must be completed in its entirety. A student who arrives late, leaves during class or leaves early ~~shall~~ may not receive an attendance certificate.

ITEM 18. Rescind subrule **17.6(3)**.

ITEM 19. Renumber subrules **17.6(4)** to **17.6(6)** as **17.6(3)** to **17.6(5)**.

ITEM 20. Amend rule 193E—17.10(543B) as follows:

193E—17.10(543B) Standards for approval of distance education learning courses. The commission may approve distance ~~education~~ learning courses, subject to the following requirements:

17.10(1) to **17.10(3)** No change.

17.10(4) The course must be designed to ensure that student progress is evaluated at appropriate intervals and mastery of the material is achieved before a student can progress through the course material.

a. Students completing distance learning continuing education must complete a final examination containing 10 questions for a one-hour course, 20 questions for a two-hour course, 30 questions for a three-hour course, 40 questions for a four-hour course, and 60 questions for a six- or eight-hour course.

b. A passing score of 80 percent is required for course credit to be granted. There is no limit to the number of times a final examination may be taken to achieve a passing score.

17.10(5) to **17.10(12)** No change.

ITEM 21. Amend rule 193E—17.11(543B) as follows:

193E—17.11(543B) Standards for approval of paper and pencil home-study courses. The commission may approve paper and pencil home-study courses, subject to the following requirements:

17.11(1) to **17.11(3)** No change.

17.11(4) ~~Final examinations must contain a minimum of 30 questions for a three-hour course and 60 questions for a six-hour course.~~ Students completing paper and pencil home-study continuing education must complete a final examination containing 10 questions for a one-hour course, 20 questions for a two-hour course, 30 questions for a three-hour course, 40 questions for a four-hour course, and 60 questions for a six- or eight-hour course.

17.11(5) A passing score of ~~90~~ 80 percent is required for course credit to be granted. There is no limit to the number of times a final examination may be taken to achieve a passing score.

17.11(6) to **17.11(11)** No change.

[Filed 11/6/17, effective 1/10/18]

[Published 12/6/17]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/6/17.

REAL ESTATE COMMISSION[193E]

Adopted and Filed

Rule making related to trust accounts and seller property condition disclosure

The Real Estate Commission hereby amends Chapter 13, “Trust Accounts and Closings,” and Chapter 14, “Seller Property Condition Disclosure,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 543B.9 and 2017 Iowa Acts, House File 541.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 543B.9 and section 543B.31 as amended by 2017 Iowa Acts, House File 541.

Purpose and Summary

The amendments implement 2017 Iowa Acts, House File 541, section 4, which amends Iowa Code section 543B.46 and provides clarification of when a licensed real estate broker will be required to maintain a trust account in a federally insured depository institution. The amendments implement 2017 Iowa Acts, House File 541, sections 14 and 16, which require that the Commission adopt rules that define what acknowledgment of receipt is when a seller disclosure statement form is delivered electronically. The amendments are also a result of the five-year rolling review of administrative rules outlined in Iowa Code section 17A.7(2).

Chapter 13 describes the general requirements for real estate trust accounts and closings. The amendments to Chapter 13 provide clarification of when a licensed real estate broker will be required to maintain a trust account in a federally insured depository institution and provide for a general cleanup of the chapter. Chapter 14 describes the general requirements for the property condition disclosure form. The amendments to Chapter 14 define what acknowledgment of receipt is when a seller disclosure statement form is delivered electronically and provide for a general cleanup of the chapter.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on January 17, 2018, as **ARC 3564C**. A public hearing was held on February 6, 2018. No one attended the public hearing. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Commission on March 1, 2018.

Fiscal Impact

After analysis and review of this rule making, the Professional Licensing and Regulation Bureau determined that there will be no fiscal impact to the state.

Jobs Impact

After analysis and review of this rule making, the Professional Licensing and Regulation Bureau determined that there will be no impact on jobs.

Waivers

These amendments are subject to waiver or variance pursuant to 193—Chapter 5.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making 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 rule making will become effective on May 2, 2018.

The following rule-making actions are adopted:

ITEM 1. Amend rule 193E—13.1(543B) as follows:

193E—13.1(543B) Trust account. All earnest payments, all rents collected, property management funds, and other trust funds received by the broker in such capacity or broker associate or salesperson on behalf of the broker’s client shall be deposited in a trust account maintained by the broker in an identified trust account, with the word “trust” in the name of the account, in a federally insured ~~bank, savings and loan association, savings bank, or credit union located in Iowa~~ depository institution and, for the purposes of this rule, may be referred to as the “depository.”

13.1(1) All money belonging to others received by the broker, broker associate or salesperson on the sale, rental, purchase, or exchange of real property located in Iowa are trust funds and must be deposited in a trust account as directed by the principals to a transaction constituting dealing in real estate. This shall include, but not be limited to, receipts from property management contracts; rental or lease contracts; advance fee contracts; escrow contracts; collection contracts; earnest money contracts; or money received by a broker for future investment or other purpose, except a nonrefundable retainer need not be placed in an escrow account if specifically provided for in the written agreement between the broker and the broker’s principal.

a. All trust funds must be deposited into the broker’s trust account by no later than five banking days after the date indicated on the document that the last signature of acceptance of the offer to purchase, rent, lease, exchange, or option is obtained.

b. Money belonging to others shall not be invested in any type of fixed-term maturity account, security or certificate without the written consent of the party or parties to whom the money belongs.

c. A broker shall not commingle personal funds in a trust account; provided, however, that not more than ~~\$500~~ \$1,000 of the broker’s personal funds may be maintained in each separate account if (1) such personal funds are separately accounted for and (2) such personal funds are intended to be used by the broker to pay for expenses directly related to maintaining the account.

The broker shall ensure that personal funds are deposited to cover bank service charges as specified in Iowa Code section 543B.46; and that at no time are trust moneys used to cover any charges. Upon notification that the broker’s personal funds are not sufficient to cover service charges initiated by the bank that are above the normal maintenance charges, the broker shall deposit personal funds to correct the deficiency within 15 calendar days of the closing date of that bank statement.

d. Money held in the trust account, which becomes due and payable to the broker, shall be promptly withdrawn by the broker.

e. The broker shall not use the trust account as a business operating account or for personal use. Commissions, salaries, related items and normal business expenses shall not be disbursed directly from the trust account.

13.1(2) to 13.1(4) No change.

13.1(5) A broker shall be required to open and maintain one or more trust accounts if the broker ~~receives or expects to receive trust funds~~ is in the practice of depositing funds in a trust account. For each separate trust account opened, the broker shall file with the commission a written Consent to Examine and Audit Trust Account form, which irrevocably authorizes the commission to examine and audit the trust account. The form of consent shall be prescribed by and available from the commission, and shall include the account names and number, and the name and address of the depository.

a. If the broker ~~does~~ is not expect to receive in the practice of depositing trust funds in a trust account, the broker shall file an affidavit with the commission on a form prescribed by and available from the commission.

b. If trust funds are received by the broker after filing an affidavit, the broker must immediately open a trust account and file the appropriate Consent to Examine and Audit Trust Account form with the commission.

c. As provided by Iowa Code section 543B.46(3), a consent to examine is not required for a separate farm business operating account in the name of the owner or owners and used by either the farm owner or farm manager or agent to conduct business as a part of a written farm management agreement.

d. As provided by Iowa Code section 543B.46(3), a consent to examine is not required for a separate property management account in the name of the owner or owners and used by either the property owner or property manager or agent to conduct property management as a part of a written property management agreement.

13.1(6) to 13.1(14) No change.

ITEM 2. Amend rule 193E—14.1(543B) as follows:

193E—14.1(543B) Property condition disclosure requirement. The requirements of this chapter shall apply to transfers of real estate subject to Iowa Code chapter 558A. For purposes of this chapter, “transfer” means the transfer or conveyance of real estate by sale, exchange, real estate contract, or any other method by which real estate and improvements are purchased, including rental or lease agreements which contain any option to purchase, if the property includes at least one but no more than four dwelling units unless the transfer is exempted by Iowa Code section 558A.1(4), and “agent” means an individual designated by a transferee to accept delivery of a disclosure statement from a transferor.

14.1(1) No change.

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

a. A licensee representing a seller shall deliver 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 shall attempt to obtain the buyer’s signature and date of signature on the statement and shall provide the seller and the buyer with fully executed copies of the disclosure and maintain a copy of the written acknowledgment in the transaction file. If the licensee is unable to obtain the buyer’s signature, the licensee shall obtain other documentation establishing delivery of the disclosure and maintain the written documentation in the transaction file.

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

d. The executed disclosure statement shall be delivered to the buyer(s) or the buyer’s agent by ~~either~~ personal delivery, or by certified or registered mail, or electronic delivery. 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 shall notify the buyer of the seller’s obligation to deliver the property disclosure statement.

a. If the disclosure statement is not delivered when required, the licensee shall notify the buyer that the buyer may revoke or withdraw the offer.

b. If a buyer elects to revoke or withdraw the offer, the licensee shall obtain a written revocation or withdrawal from the buyer and shall deliver the revocation or withdrawal to the seller within three

days following personal delivery or five days following delivery of the disclosure by electronic delivery or mail to the buyer or the buyer's agent.

c. Following revocation or withdrawal of the offer, any earnest money deposit shall be promptly returned without liability pursuant to Iowa Code chapter 558A and rule 193E—13.4(543B).

14.1(4) and 14.1(5) No change.

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 required by Iowa Code chapter 558A shall not be deemed completed until written acknowledgment of receipt is provided to the transferor by the transferee or the transferee's agent. Acceptable acknowledgment of receipt shall include 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 shall not be deemed acknowledgment of receipt for purposes of this rule.

~~14.1(6)~~ **14.1(7)** *Minimum disclosure statement contents for all transfers.* All property disclosure statements, whether or not a licensee assists in the transaction, shall contain at a minimum the information required by the following sample statement. No particular language is required in the disclosure statement provided that the required 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 required by Iowa Code chapter 558A. This law requires 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) must complete 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 required information. If the required 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** must be 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 []

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 []
 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 **MUST** 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 requirement that Buyer(s) be provided with the "Iowa Radon Home-Buyers and Sellers Fact Sheet" prepared by the Iowa Department of Public Health.

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 Public Health.

Buyer _____ Buyer _____
Date ____/____/____ Date ____/____/____

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

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