

REAL ESTATE COMMISSION [193E]

Notice of Intended Action

The Iowa Real Estate Commission hereby proposes to amend 193-Chapter 12 “Disclosure of Relationships”, Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in 543B.18.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, 544B, 2024 Iowa Acts, House File 2326, 2394, 2291 and 17A.

Purpose and Summary

This proposed rulemaking complies with 2024 Iowa Acts, House File 2291. The amendments set forth supporting guidance to licensees regarding brokerage agreements and compensation negotiation.

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 Commission for a waiver of the discretionary provisions, if any, pursuant to IAC 481-Chapter 6.

Public Comment

Any interested person may submit 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 . Comments should be directed to:

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

March 11, 2025
1:30 p.m.

6200 Park Avenue, Suite 100
Des Moines, Iowa

Zoom:https://www.google.com/url?q=https://meet.google.com/zqb-qnex-nyz?hs%3D224&sa=D&source=calendar&ust=1738508446896781&usg=AOvVaw33NjiJRidKLe_7BeDF9YXp

Persons who wish to make oral comments at the 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 the 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 proposed:

ITEM 1. Amend paragraph 193E-12.2(3)(b)(543B), as follows:

12.2(3)b. The written disclosure is acknowledged by separate signatures ~~of all parties to the transaction~~. A change in the licensee's representation that makes the initial written disclosure incomplete, misleading, or inaccurate obligates that a new verbal disclosure be made which is followed by a new written disclosure signed by all parties to the transaction as soon as practical.

ITEM 2. Amend subrule 193E-12.2(6)(543B), as follows:

12.2(6) Nothing contained in this rule bars a party from entering into a written ~~listing or~~ brokerage agreement with a broker which contains duties, obligations, and responsibilities that are in addition to those specified in Iowa real estate license law and commission rules.

ITEM 3. Amend subrule 193E-12.2(10)(543B), as follows:

12.2(10) If the seller, landlord, buyer, or tenant ~~rejects representation, or~~ refuses to sign the agency disclosure document, or refuses to sign acknowledging receipt of the disclosure, the licensee notes that fact and includes the date, place, time, and the names of others in attendance on a copy of the agency disclosure document and obtains other documentation establishing delivery of the disclosure and maintains the written documentation, including but not limited to copies of facsimile, restricted delivery certified mail, and other communications, in the transaction file.

ITEM 4. Amend subrule 193E-12.2(17)(543B), as follows:

12.2(17) The licensee offering brokerage services to a person as a buyer's or tenant's agent, or who is providing brokerage services to a person as a seller's or landlord's agent, discloses in writing to that person the type or types of brokerage relationships the broker and affiliated licensees are offering to that person before entering into a ~~listing or~~ brokerage agreement with that person.

ITEM 5. Amend subparagraph 193E-12.3(1)(c)(7)(543B), as follows:

193E—12.3(1)(c)(7) Providing brokerage services ~~to all parties to the transaction~~ honestly and in good faith;

ITEM 6. Rescind paragraph 193E-12.3(2)(c)(543B) and amend and reletter 193E-12.(3)(d) as follows:

12.3(2)e. ~~A seller or landlord may agree in writing with an exclusive seller's or exclusive landlord's agent that other designated brokers may be retained or compensated as subagents, and any broker acting as a subagent on the seller's or landlord's behalf is an agent with the same obligations and responsibilities to the seller or landlord as the primary broker of the seller or landlord.~~

~~d. c.~~ A real estate brokerage engaged by a seller or landlord in a real estate transaction may provide assistance to an unrepresented buyer or tenant by ~~performing such acts as preparing offers and conveying those offers to the seller or landlord and~~ providing information and assistance concerning professional services not related to real estate brokerage services.

ITEM 7. Amend paragraph 193E-12.3(3)(543B) as follows:

12.3(3) Alternative properties. The licensee may show alternative properties not owned by the seller or landlord to ~~prospective~~ prospective buyers or tenants and may list competing properties for sale or lease without breaching any duty or obligation to the seller or landlord.

ITEM 8. Amend subparagraph 193E-12.4(1)(c)(7)(543B), as follows:

12.4(1)(c)(7) Providing brokerage services ~~to all parties to the transaction~~ honestly and in good faith;

ITEM 9. Rescind paragraph 193E-12.4(2)(c)(543B) and amend and reletter 193E-12.(3)(d) as follows:

12.4(2) ~~c. A buyer or tenant may agree in writing with a buyer's or tenant's agent that other designated brokers may be retained or compensated as subagents, and any broker acting as a subagent on the buyer's or tenant's behalf is a single agent with the same obligations and responsibilities to the buyer or tenant as the primary broker of the buyer or tenant.~~

~~d. c.~~ A real estate brokerage engaged by a buyer or tenant in a real estate transaction may provide assistance to an unrepresented seller or landlord by ~~performing such acts as preparing offers and conveying those offers to the buyer or tenant and~~ providing information and assistance concerning professional services not related to real estate brokerage services.

ITEM 10. Amend subrule 193E-12.(3)(543B), as follows:

12.4(3) Competing buyers or tenants. The licensee may show properties in which the buyer or tenant is interested to other ~~prospective~~ prospective buyers or tenants, may assist other competing buyers or tenants, and may enter into brokerage ~~service~~ agreements with other competing buyers or tenants without breaching any duty or obligation to the buyer or tenant.

ITEM 11. Amend subparagraph 193E-12.5(4)(b)(543B), as follows:

12.5(4)(b) The potential dual agency agreement should be provided to the buyer or tenant prior to entering into a buyer or tenant ~~agency agreement or a contract for buyer or tenant brokerage services.~~

ITEM 12. Amend subrule 193E-12.6(2)(543B), as follows:

12.6(2) The designated broker may decide that since both seller and buyer, or landlord and tenant, brokerage relationships are being offered to consumers by the broker's company, only the affiliated licensee who, on behalf of the designated broker, entered into the listing agreement with the seller or leasing agreement with the landlord will represent the seller or landlord as that client's agent. In that scenario, ~~all~~ other licensees affiliated with the designated broker may ~~will~~ represent buyers or tenants as their agents in any transactions dealing with the subject property.

ITEM 13. Adopt subrule 193E-12.6(3)(543B) and renumber as follows:

12.6(3) The designated broker may decide that since both seller and buyer, or landlord and tenant, brokerage relationships are being offered to consumers by the broker's company, only the affiliated licensee who, on behalf of the designated broker, entered into the buyer representation agreement with the buyer or leasing agreement with the tenant will represent the buyer or tenant as that client's agent. In that scenario, other licensees affiliated with the designated broker may represent sellers or landlords as their agents in any transactions dealing with the subject property.

12.6(~~3~~ 4) If any seller, landlord, buyer, or tenant who is a client of the broker refuses to sign and consent to the appointed agent within the brokerage appointed by that same broker for the other party to the transaction, then the broker and licensees affiliated with the broker cannot act as an appointed agent for that other party.

ITEM 14. Amend subrule 193E-12.7(1)(543B), as follows:

12.7(1) Prior to entering into a ~~listing or~~ brokerage agreement, a real estate brokerage notifies a client in writing of the real estate brokerage's appointed agent policy and those affiliated licensees in accordance with Iowa Code section 543B.59(1). The appointed agent disclosure includes, at a minimum, the following provisions: